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Title: Immigrants, Emigrants, and the Right to Vote: A Story of Double Standards

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Abstract: International migration simultaneously creates populations of emigrants living outside their state of nationality, and of immigrants living in states the nationality of which they do not hold. The discrepancy between resident and national populations has produced protracted situations of mass disenfranchisement, but also triggered new forms of re-enfranchisement beyond nationality and/or residence. The chapter compares the double trend in contemporary democracies of extending the right to vote to non-resident citizens and to non-citizen residents. It shows that notwithstanding significant interstate variations, states have been far more prone to expand the franchise to their own nationals abroad, than to foreigners durably settled within their territorial jurisdiction. These uneven policy developments contradict two central assumptions in the field of citizenship studies, namely that citizenship in today's democracies has become *more liberal* and *less valuable* than in the past. Instead, they reveal a growing inequality of treatment between immigrants and emigrants also visible in other migration policy areas. They tell a story of double standards, where emigrants are represented as benevolent *tourists* whose right to participate is taken for granted, whereas immigrants take the suspicious traits of *vagabonds*, whose right to participate must be earned through naturalisation.

Keywords: Immigrants, Emigrants, Voting rights, Citizenship, Franchise

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Immigrants, emigrants and the right to vote: A story of double standards

The opposition between the tourists and the vagabonds is the major, principal division of the postmodern society. We are all plotted on a continuum stretched between the poles of the "perfect tourist" and the "vagabond beyond remedy" – and our respective places between the poles are plotted according to the degree of freedom we possess in choosing our life itineraries.

Zygmunt Baumann, 1995

Introduction

Take a Spanish national who, unable to find a job matching his qualifications in his economically ailing homeland, migrated from his native Andalusia to the greener shores of New Zealand in 2016. Over the past four years, he could vote in local and national parliamentary elections in New Zealand, making use of a right granted to all foreigners who can document one year of lawful residence in the country. As an '*Español del Exterior,*' he could also participate in the elections to the Parliament of the Autonomous Community of Andalusia and in the Spanish general elections through postal voting, a relatively convenient method which spared him the burden of a cross-country trip to the Spanish consulate. Now consider a New Zealand national who moved to Andalusia the same year. His nationality bars him from voting in any elections held in Spain. After four years of lawful residence, he must wait for another six years before he qualifies for ordinary naturalisation, provided he is willing to renounce his previous citizenship (and anecdotally, to swear an oath of allegiance to the King of Spain). After over three years of physical absence from

New Zealand, he was recently notified that his name had been written off the national electoral register, though he may be re-enfranchised should he decide to return to his 'home' country. For the time being, however, he is deprived of the right to vote in any elections held in his countries of nationality and of residence, thereby losing his capacity to contribute in the democratic making of laws that he perceives as seriously affecting his own interests. While ruminating on the limits of universal suffrage in a transnational context, he cannot help but feel envy towards his Colombian neighbour, who by virtue of a reciprocity agreement between Spain and his country of origin, was able to cast a ballot in the municipal elections of Granada, the city where they both live. Besides being entitled to vote in Spanish local elections, his Colombian passport gave him the opportunity to directly elect his own deputy in the National Assembly of his home country, where one seat is reserved to the representation of emigrants.

This short vignette is illustrative of the opportunities and constraints shaping international migrants' access to the ballot, which essentially depends upon home and host country policy contexts and their mutual interaction. International migration simultaneously creates populations of emigrants living outside their state of nationality, and of immigrants living in states the nationality of which they do not hold. The discrepancy between resident and national populations has produced protracted situations of mass disenfranchisement, but also triggered new forms of re-enfranchisement beyond nationality and/or residence.

The chapter examines the double trend in contemporary democracies of extending the right to vote to non-resident citizens and to non-citizen residents. In doing so, it brings together two strands of the literature that were long kept separate but have recently started to be examined through a single analytical lens. In Europe, the scholarship on immigrants' political participation gained ground in

the 1980s, in reaction to the thesis of migrants' 'political quiescence', according to which migrants had neither the will nor the means to participate in politics (Martiniello, 2005: 4). By contrast, research on emigrants' participation remained rather less developed until the late 1990s, with the surge of diaspora studies (Brubaker, 2005). While the largely artificial divide that once neatly separated immigration and emigration scholars has not completely disappeared, the 'transnational turn' in migration studies decisively contributed to bring them together (Faist, 2004). The chapter thus builds on this emerging scholarship (e.g. Chaudhary, 2018, Barker and McMillan, 2017, Arrighi and Bauböck, 2017), with the aim of encouraging others to follow suit, for at least three reasons. The most obvious one is that immigrants are by definition also emigrants, and there is *a priori* no reason to assume their ties and bonds spanning international borders have no political implications.

A second reason is that policies targeting one or the other population are often causally related, as states are confronted with the fact that how they treat the citizens of other states residing within their jurisdiction potentially affects how their own citizens are being treated abroad. The logic of reciprocity is thus inherent to the politics of international migration (Zolberg, 1981), a crucial aspect too often overlooked in immigrant-centric scholarship. The third and most decisive reason for the purpose of this chapter is that paying symmetric attention to immigrants and emigrants reveals empirical patterns that would otherwise be hidden from the observer's eye.

The chapter is divided into 5 parts. Following this introduction, part 2 provides a historical backdrop of the evolution of the franchise, and conceptualises the distinct challenges that international migration mounts to the democratic principle of universal suffrage. Part 3 compares the characteristics of the two policy trends of expanding the franchise to non-resident citizens and to non-citizen residents across the globe, based upon existing empirical scholarship. The survey

shows that notwithstanding significant interstate variations, states have been far more prone to expand the franchise to their own nationals abroad than to foreigners durably settled within their territorial jurisdiction, in spite of the comparatively higher administrative and electoral costs incurred by bringing the ballot to expatriates. Part 4 asks whether these uneven policy trends can be normatively justified, and finds that they run counter to prevailing arguments in political philosophy, which widely support the extension of the franchise to all residents irrespective of their citizenship status, but look rather suspiciously at its unconditional expansion beyond residence. Part 5 takes an interpretive turn, and challenges two central assumptions in the citizenship literature, namely that citizenship in today's democracies has become *more liberal*, and *less valuable* than in the past. On the contrary, the trend analysis of actual transformations of democratic boundaries across the world suggests the opposite: citizenship has become more ethnicised, and its value has been reasserted. It reveals a growing inequality of treatment between immigrants and emigrants also visible in other migration policy areas, and which are at odds with democratic principles. Such double-standards are illustrative of the nation-state's two-faced and inconsistent response to one and the same phenomenon of people crossing international borders.

Universal suffrage and its limits

Casting a ballot in periodic elections is not the only channel of political participation available to migrants to make their voice heard and have their interest represented in the politics of their country of origin or of residence. Yet, it is widely regarded as the core component of democratic citizenship and universal suffrage, an essential requirement for a political system to be deemed *fully* democratic (Dahl, 1989: 130). The right to vote, or the franchise, was a hotly debated issue in the nineteenth century and first half of the twentieth century, when the exclusion of women, the

working class or even religious or racial minorities was customary (Acemoglu et al., 2000). In Europe, the expansion of the suffrage from a narrow elite of male property-owners to traditionally excluded subjects corresponds to what Stein Rokkan referred to as the 'second threshold of democratisation', a long historical process stretching from the French Revolution to the aftermath of WWII (Rokkan,1999: 251).

By the 1950s, the principle of universal suffrage of all adults had finally become an international democratic norm, established as a fundamental right in the 1948 Universal Declaration of Human Rights. To be sure, a number of restrictions remained, some of them persisting to this date. For instance, countries often have provisions restricting the right to vote of persons found mentally incapacitated (Beckman, 2014) or who committed a criminal offense (Tripkovic, 2018), although the trend in contemporary democracies has decisively been towards further inclusion (Schmid et al. 2019). But more importantly for our purposes, the franchise long remained defined by the normative constraints of the territorial nation state. On the one hand, the nationalist underpinning of democratisation facilitated the inclusion of all members of the national community in the name of citizens' equality as much as it legitimised the exclusion of foreign residents. On the other hand, the territorial basis of the modern state meant that the right to vote could only be exercised by citizens residing within its jurisdiction, thereby excluding expatriates.

Because of this dual restriction of citizenship and residence, migrants automatically and durably lost the right to vote in any democratic elections upon crossing an international border. While it could be recovered, it came at the price of either returning to one's country of citizenship, or meeting the more or less demanding conditions of naturalisation in the country of residence, including a widespread requirement of renouncing one's citizenship of origin. With few exceptions,

the two paths to re-enfranchisement were mutually exclusive, in accordance with an indivisible and singular conception of political loyalty (Spiro, 2016).

Yet, in the past thirty years, the conjunction of three policy changes profoundly transformed international migrants' electoral participation prospects. The first and arguably most significant one has been the spectacular spread of multiple citizenship toleration across the world. Historically regarded as an abomination, akin to polygamy and strongly discouraged by international law (Spiro, 2016), multiple citizenship has become a near global norm in a matter of a few decades. A recent survey found that as of 2016, 80 percent of states worldwide formally allowed their emigrants to retain their nationality upon naturalisation in a foreign country and almost as many extended that right to naturalised immigrants, against 30 percent in 1960 (Vink et al., 2019). Though the empirical implications are hard to evaluate in the absence of cross-country statistical data, anecdotal evidence suggests that the proportion of dual citizens has grown sharply, especially in those countries that have long been exposed to international migration. The case of Switzerland, that has allowed dual citizenship since 1992, offers a telling example. In 2015, one Swiss citizen resident out of nine and one Swiss expatriate out of four were found to have at least two passports (Schlenker et al., 2017). As full and equal members of several political communities, dual nationals are the quintessential transnational citizens, free to cultivate – or shun away from – their ties and bonds across international borders. In this chapter, the focus is placed more narrowly on the two sides of what has been called 'expansive citizenship' (Bauböck, 2015), that is the double extension of the franchise to nationals durably settled abroad (non-resident citizens) and to long term resident aliens (non-citizen residents).

The narrow focus of this chapter on the latter two phenomena requires a word of caution. The

sociological categories of immigrants and emigrants do not neatly correspond to the legal categories of non-citizen residents and non-resident citizens (Schmid et al., 2019). Instead, these are shaped by the legal framework regulating the acquisition and loss of nationality status, marked by considerable variations across countries (Vink and Bauböck, 2013). For instance, a person emigrating to Portugal or Belgium, two countries which offer, by European standards, a relatively easy path to naturalisation, may rapidly turn from foreigner to citizen. Conversely, foreign status may be far stickier and even stretch over subsequent generations in those countries combining demanding conditions for naturalisation with no privileged path to citizenship for the children of foreigners born in the territory, such as Switzerland or Latvia.[1] By the same token, a person emigrating from the Netherlands or Denmark faces the risk of losing her citizenship in her lifetime, whereas a country like Italy that allows third generation emigrants to 'reacquire' the citizenship of their ancestors has created a large population of citizens abroad who neither stepped foot in their putative homeland nor speak their 'native' language (Lepoutre,2020). The distinction is not a mere conceptual casuistry but has far-reaching empirical and normative implications, which will be touched upon in this chapter but deserve a more extensive discussion that has hitherto been lacking in existing scholarship (though see Owen, 2011).

Immigrant versus immigrant enfranchisement

By disrupting the isomorphism between national and resident populations, international migration brings to the fore the limits of universal suffrage. In response, it triggered two forms of democratic adaptation: expanding the franchise beyond nationality to foreign residents, and beyond residence to nationals abroad. As both trends have been studied in relative isolation from one another, few attempts have been made to assess their relative significance. How significant are they, how do

they fare compared to each other, and what conclusions can be drawn from them? Based upon existing empirical scholarship, this section compares the similarities and differences between the two sides of expansive citizenship along four dimensions: their relative strength (based on the number and geographic distribution of countries that adopted the principle), their scale (referring to the level of elections where either category of persons may vote), their scope (whether or not there exists additional eligibility restrictions), and timing (when they were adopted).

Non-citizen residents

Recent global surveys found some 40 countries have legislations granting the right to some categories of resident aliens, mainly in local elections, and almost as many have held parliamentary debates on the issue in the past thirty years (Pedroza, 2019, Earnest, 2015). They tend to be geographically concentrated in Europe, Latin America and Oceania, although instances can be found in other continents. In Africa, Malawi grants national voting rights to noncitizens after seven years of residence, while in Morocco, the 2011 reform of the Constitution introduced the right for foreign nationals to vote in local elections, though the provision is yet to be implemented. In Asia, South Korea recently pioneered the practice and the issue was debated in Parliament in other Asian democracies, chiefly Japan (Mosler and Pedroza, 2016). The cohort of positive cases, however includes relatively marginal ones, such as the United States (US), where noncitizens are allowed to vote in only three cities of the state of Maryland, or Australia, where only British citizens who were registered as voters before 1984 are enfranchised. In fact, evidence of a genuine postnational trend where the franchise is becoming clearly disconnected from nationality gets scarcer as one looks into the details of actual legislations, which exhibit severe limitations in terms of *scope* and *scale*.[2]

The scope refers to the population of resident aliens that is eligible to vote and encompasses restrictions of two kinds: residence, and / or nationality. All countries tie the right to vote to a minimum length of residence, which ranges from one year in New Zealand to 15 years in Uruguay. Besides, all countries but Ecuador restrict that right to *legal* residents, thus excluding those who are most subjected to the coercive power of the state and have the least resources for mobilisation. This aspect is often overlooked in existing scholarship. While the case could be made that irregular migrants represent a relatively small population in Europe – estimated between 1.9 and 3.8 million in the European Union (EU) in 2009 (Vogel et al., 2011) -, the proportion is likely to be much higher in the Global South (Sadiq, 2008). A number of states also restrict the franchise to citizens of specific nationalities, either based on a common membership to an international association of states or reciprocity agreements. As to the former, the most obvious example is the EU, where since the 1992 Maastricht Treaty, EU citizens residing in another Member State may vote in European Parliament and municipal elections there under similar conditions as nationals. Likewise in the United Kingdom (UK), citizens of Member States of the Commonwealth of Nations may vote and stand as candidates in all elections, a provision inherited from Britain's imperial past and reciprocated in several Commonwealth countries. Spain and Portugal have also signed reciprocity agreements with several former colonies, in recognition of historical and cultural affinities, predominantly in Latin America (Escobar, 2015, Arrighi and Bauböck, 2017). The scale of the policy considers the level of elections in which noncitizens may vote. With a handful of exceptions, the alien suffrage does not go beyond the local level. Only five countries – Malawi, Uruguay, New Zealand, Chile and Ecuador – enfranchise all long-term residents in all types of elections, while a limited number of countries – such as Portugal, Brazil, or the UK – limit that right to certain nationalities.

Non-resident citizens

A survey of electoral laws around the world conducted in 2017 found that 146 countries had enacted legislations allowing their citizens abroad to cast a ballot from the state where they reside (Ellis et al. 2007, IDEA, 2017).[3] The trend shows no clear geographical pattern. Instead, it is a truly global phenomenon, spanning across Sub-Saharan Africa (Hartmann, 2015), the Middle East and North Africa (Brand 2014), the Americas (Escobar, 2007), Oceania (Barker and McMillan, 2017) and to a lesser extent, Asia (Ho and Wei, 2018). Paradoxically, extending the right to vote to nationals abroad is not the prerogative of consolidated democracies, but is also frequent in quasi-authoritarian states. For instance, Morocco introduced the franchise and direct representation in its lower house for emigrants as early as 1984, at a time when the kingdom hardly met the standards to be considered a democracy, let alone a liberal one (Collyer, 2014). As with non-citizen enfranchisement, policies on external voting are marked by considerable variations, regarding not only their scope and scale, but also the voting methods available to expatriates and how their votes are aggregated into seats (Schmid et al. 2019).

The scope of the policy may be restricted either by professional qualifications, reserving the right to vote to civil servant or military personnel posted abroad (e.g. Ireland, Nicaragua), or by residence requirements, making eligibility conditional upon past residence in the country (e.g. Sweden, Norway) or a maximum period of stay abroad (e.g. four years in New Zealand and 15 years in the UK). However, in most states, the national franchise has become a general right of all citizens abroad, irrespective of their biographical ties with their 'home' country other than a passport (Lafleur, 2015, Collyer, 2014). As for the scale, policies extending the right the vote to citizens

abroad usually are limited to national elections. While we find instances of external enfranchisement in regional elections in some federal states, such as Mexico, the US, or Switzerland, these are extremely rare in local elections, thus revealing the exact opposite pattern as the non-citizen franchise (Arrighi and Bauböck, 2017). Another interesting variation has to do with the mode of representation. The question is irrelevant in presidential elections or referendums, where the entire electorate is aggregated into a single constituency and each vote is weighted equally. It has more serious implications in parliamentary elections. In most cases, external votes are assimilated into the domestic constituency where the expatriate has biographical ties, which mechanically tends to disperse and therefore dilute the weight of the external vote (Hutcheson and Arrighi, 2015). The alternative is to create special seats in Parliament for the representation of external citizens who directly elect their own representatives, a solution that has gained traction in recent years and can be found in a growing number of countries, such as Italy, Romania, France, Croatia, Portugal, Colombia, and Tunisia (Palop-Garcia, 2018).

Comparative analysis

Thus far, our trend analysis reveals a clear asymmetry between the two sides of expansive citizenship. On the one hand, the enfranchisement of resident aliens only exists in a small minority of states. Its diffusion across countries has been slow, its scale has been largely limited to local elections and its scope has remained restrictive, as qualifications based on residence or nationality have persisted over time (Pedroza, 2019). Conversely, the external franchise has spread globally, irrespective of countries' level of economic development or quality of democracy. Its diffusion across countries has thus been strong and irreversible and its scope expansive as legislations have become more inclusive over time (Lafleur, 2015, Collyer, 2014).

A closer examination of the timing of each phenomenon reveals another significant difference. Until the 1960s, the right to vote from abroad was either explicitly prohibited, reserved to a narrow category of civil servants and military personnel whose allegiance to the state could hardly be questioned, or tied to an obligation of returning to the country and cast a ballot there on election day (Hutcheson and Arrighi, 2015). But in the past thirty years, the number of states that have extended the franchise to their citizens abroad has ballooned dramatically: In the 1990s alone, 27 states adopted and implemented external voting legislations for the first time, and 29 others did so in the 2000s (Lafleur, 2015). Besides, policies that were initially restrictive have become more inclusive, as eligibility requirements were waived and more convenient voting methods were introduced. As Mike Collyer (2014: 15) put it, 'even in cases where a strict territorial approach to voting has been maintained, as in Albania or where emigrants are officially excluded, as in Sri Lanka, change is promised or planned.' No such enthusiasm can be observed with regards to resident aliens' political rights, which, as a prominent scholar in the field conceded, 'is the one aspect of citizenship that has changed least and has not opened up in response to immigration' (Joppke, 2010: 146). Yet, the alien suffrage is almost as old as democracy itself. Its modern origins can be traced back to the French revolution. The 1793 ('year I') Constitution, albeit never enforced, provided for the right to vote to 'every alien who has been domiciled in France for one year, and lives from his labour (…).' Conversely, the term '*émigré*' designated, in Revolutionary France, those aristocrats remained faithful to the King who found a shelter in neighbouring monarchies. Needless to say, revolutionaries were more concerned with finding a way to bringing them under the cold blade of the guillotines than to the polls (Arrighi, 2014).

The practice was also common currency in the United States, where it was periodically enforced

in 25 states until 1914, when it was 'finally undone by the xenophobic nationalism attending WWI' (Raskin, 1993: 1397). In post-War Europe, it was pioneered in Sweden in 1976, and then spread relatively rapidly to neighbouring countries, including Denmark (1977), Norway (1983), the Netherlands (1985) and Finland (1991). But at the time of writing (2020) only a minority of 13 EU Member States have passed legislation enfranchising non-citizens beyond the requirements of EU law, and in the current political climate, prospects for advancing the rights of immigrants at the European or national level look rather grim. The most recent attempt by an EU Member State to extend the franchise to long term resident occurred in Greece in 2010. But the legislation was immediately struck down by the Constitutional Court, which found it violated the principle of popular sovereignty, narrowly understood as reserved to the Greek 'people' (Triandafyllidou, 2015). Conversely, the political rights of non-resident citizens are still being strengthened, including in those countries that were long reluctant to give them a voice. In 2019, for instance, the Canadian government waived the five-year expatriation cap on the external franchise following a Supreme Court judgment which found that denying the right to vote after five years abroad 'improperly applies to many individuals with deep and abiding connections to Canada and to Canadian laws, and that it does so in a manner that is far broader than necessary.'[4]

Likewise, the Greek Parliament recently passed an implementing legislation allowing Greek expatriates to exercise their right to vote from abroad in national parliamentary elections, thus finally turning a long-standing constitutional promise into a practical reality.[5]

The double standards between immigrant and emigrant enfranchisement are particularly striking when placed into perspective with the fact that, from a logistical or an electoral standpoint, bringing the ballot to non-residents comes at a much higher cost than to non-citizens. First, the logistical challenges surrounding the organisation of free and fair elections, including creating, maintaining

and updating electoral registers, systematically collecting individual data, and providing for accessible and reliable means to cast a vote from abroad, necessitates the mobilisation of considerable administrative resources. The profound differences between the domestic and international arena severely complicates the state's capacity to implement external voting legislations, even in developed and consolidated democratic states endowed with an efficient bureaucracy and dense diplomatic network (Hutcheson and Arrighi, 2015). In developing countries, it may spark allegations of electoral mismanagement or fraud, thus undermining citizens' trust in the electoral process (Pallister, 2019). By contrast, the practical cost of enfranchising resident aliens is minimal: individual voters may be added to existing local electoral rolls with information that have already been gathered and compiled by municipal authorities.

Second, the consequences of external voting on electoral outcomes are potentially far greater, for at least two reasons. The first one is a matter of sheer numbers. The enfranchised population of expatriates includes non-naturalised mono-nationals living as foreigners and dual nationals who naturalised in their country of residence. The example of Switzerland mentioned above is again telling: Only one quarter of Swiss expatriates are foreigners in their country of residence, whereas three quarter are dual citizens. Second, the voting rights of resident aliens are hardly extended beyond the local level, whereas expatriates are given a voice in national elections. Without dismissing their significance, local government's scope of authority is essentially limited, a reality encapsulated in the political science notion of 'second order elections' to designate any electoral competitions above or below the state level.

In sum and to put it bluntly, states have been much more prone to mobilise considerable administrative resources to expand the national franchise to a sizeable electorate of citizens abroad

than to let a relatively smaller constituency of long-term foreign residents participate in the election of municipal councillors. Can these empirical developments be justified, from the normative standpoint of democratic theory?

Normative theories

Do immigrants and/or emigrants have a legitimate claim of inclusion in the *demos*, that is the population that enjoys the right to vote? The question has revived an old debate in political theory, and the past decade has seen an outpouring of normative scholarship on the so-called 'problem of inclusion' (Dahl, 1989: 60-61), or 'democratic boundary problem' (Wheelan, 1983). In the previous section, we saw that the dominant pattern of democratic adaptation in contemporary democracies is to reserve the franchise to all persons who hold the nationality of the state, but only such persons. However, there may a discrepancy between what *is* in real-world democracies, and what *ought to be* in an ideal democratic world. Moving away from the equation of the demos with nationhood, most political philosophers have defended either a principle of including all those whose interests are affected by political decisions, all those who are subject to political coercion, or all those who hold a stake in the political community.

The first principle holds that all those who are subject to the coercive power of a political authority should have an equal say in how that power is exercised (Song, 2012). It is premised on the importance of individual autonomy and consent as the main sources of democratic legitimacy. Coercion constitutes a severe invasion of individual autonomy, which may only be justified if 'those subject to law as its addressees can at the same time understand themselves as authors of law' (Habermas, 1996: 120). Since states exercise their sovereignty over clearly demarcated

territorial jurisdictions, refusing political rights to long term resident aliens amounts to a form of citizens' tyranny (Walzer, 2008). By the same token, expatriates find themselves beyond the coercive reach of the state. Therefore, so the argument goes, they should not be allowed to participate in the making of laws and binding decisions that they themselves do not have to comply with and should therefore 'be excluded from the citizen body of a democratic polity' (Lopez-Guerra, 2005: 226). While other advocates of the 'all subjected to coercion' principle have defended a more circumstantial assessment of the emigrant person's biographical ties with her country of citizenship, their claim for inclusion in the demos is considerably weaker (Owen, 2011).

A second principle defends the view that every person who is 'affected by the decision of a government should have the right to participate in that government' (Goodin, 2007: 51). It is premised upon a different conception of democracy, the primary purpose of which is to guarantee the fair and equal representation of all affected interests in collective decision-making processes. The argument naturally leads to enfranchise all long-term residents, irrespective of their citizenship status, so as to provide them with the means to defend their collective interests. In turn, their enfranchisement provides political parties with incentives to compete for the *vote of immigrants*, instead of the *anti-immigrant vote* (Koopmans et al., 2012). T.H. Marshall's historical account of the development of citizenship in England, which portrays the gradual extension of the franchise to the working class in the nineteenth century as a necessary precondition to the emergence of social rights in the twentieth century, is illustrative of the transformative power of political citizenship (Marshall, 1949/1998). As for expatriates, they often have specific interests affected by home-country decisions, such as those regarding military conscription, nationality laws, or taxation. In the U.S. for instance, expatriates gained the right to vote soon after Congress decided to tax their income earned abroad by alluding to the Boston Tea Party Slogan 'No Taxation without

Representation'. However, the fact that expatriates have some interests that are affected by the laws of their country of origin does not imply that they should have an equal voice in the election of that government.

The latter point invites us to reflect on the danger of an over-inclusive franchise, which has been more fully elaborated on by the supporters of the so-called 'stakeholder principle' (Bauböck, 2015, Arrighi and Bauböck, 2017). It is rooted in the importance of collective self-government for individual's well-being and flourishing. Now, the conditions for self-government differ between states and municipalities, and so do the conditions of membership to the national and local demos. In order to be self-governing, states must be recognised as equal members of the international state system and the legal status and protection of rights of individuals depends fundamentally on being recognised as a citizen of a state. This is why emigrants should be able to retain a voice in home country politics, at least as long as they have not chosen to naturalise in their country origin. By contrast, municipalities are internally dependent polities that are self-governing insofar as they have democratic authorities elected by local citizens and legislative competencies in local matters. Because they are nested within states, municipalities cannot legitimately discriminate between natives and immigrants or require that newcomers have to naturalise before being granted local voting rights. The argument thus supports a 'level-sensitive' theory of democratic inclusion, translated into the double extension of national voting rights to emigrants, and of local voting rights and strong entitlements to naturalisation to immigrants.

Unsurprisingly, there is no consensus among political philosophers as to what constitutes the *ideal demos* in a context of international migration. However, all three principles outlined above support the inclusion of long-term foreign residents as a shield against citizens' tyranny or the arbitrariness

of state authority, at least in the local demos. By contrast, the enfranchisement of citizens abroad is more contested. While the continued subjection, interests and stakes of first-generation emigrants with their home states may justify their enfranchisement in national elections, granting voting rights to subsequent generations born abroad is widely seen as democratically contentious, for three main reasons: compared to the domestic resident population, their interests are less affected by electoral outcomes, they are less subjected to the coercive power of the state, and their individual well-being is less dependent upon decisions made in a state they have few genuine links with other than a nationality. Our brief detour in the scholarship on the 'problem of inclusion' in democratic theory thus reveals a significant gap between normative expectations in an ideal world, and empirical developments in the real world.

Tourists and vagabonds

This final section proposes to revisit some long-standing debates in the field of citizenship studies through the lens of our comparative observations thus far. It deliberately takes a more interpretive – if not speculative – stance, the main purpose of which is to highlight the connections between the narrow and recent literature on migrants' voting rights with the relatively broader and more mature scholarship on citizenship and the analytical value of bringing them closer together.

First, our comparative observations shed new light on the so-called 'devaluation' thesis, according to which the symbolic and utilitarian value of (national) citizenship has been gradually yet inexorably eroded. While conservative-leaning scholars have lamented it as a symptom of the deliquescence of the national community (Schuck, 1989) or the by-product of the inner contradictions of the liberal (nation)state (Joppke, 2010), progressive observers have celebrated it

as evidence of a postnational turn or cosmopolitan turn (Spiro 2008), where the universal rights of humans take precedence over the particular rights of citizens (Sassen, 2002). At first glance, our empirical findings run counter to the devaluation thesis. On the contrary, they indicate a *re-evaluation* of citizenship, as nationality has remained a necessary condition for having the right to vote (as shown by the stalled diffusion of alien suffrage), and is well on its way of becoming a sufficient condition for it (as shown by the rapid global spread of external voting legislation). However, the argument is premised upon the assumption that non-resident citizens and non-citizens residents are separate and discrete populations. Instead, they overlap to a great extent, the former embracing the perspective of the country of origin towards its own nationals abroad, and the latter, that of the country of destination towards foreign immigrants settled within its jurisdiction. In this light, the fact that non-citizen residents have the right to vote in *a* country – even though it is not *the* country where they live – gives some credence to the tenants of the devaluation thesis. If, as Spiro suggests, the right to vote is indeed the last dividing line between citizens and the most legally privileged groups of resident aliens – such as Green Card holders in the US –, then the generalisation of the right to vote in home-country elections further undermines the distinction (Spiro, 2008). But the argument overlooks the crucial importance of the particular country and level of elections where transnational migrants are enfranchised, a point that has compellingly been made in the normative scholarship on the problem of inclusion outlined in section 4 (see Arrighi and Bauböck, 2017 for a more extensive discussion).

Another recurring debate has focused on whether policy developments point towards the 'de-ethnicisation' or 're-ethnicisation' of citizenship. (Joppke, 2005, pp. 2019-50). In Joppke's terminology, the former occurs when the allocation of citizenship status and rights is based on the persons' 'individual achievements' (i.e. what the person 'does'), whereas the latter gives

precedence to her 'ascriptive characteristics' (i.e. what she 'is') (Joppke, 2005, pp. 9-11). In recent years, an emerging scholarship has shown that the two trends were not necessarily mutually exclusive, but could coexist within the same citizenship *regime* as states simultaneously seek to incorporate immigrants and emigrants in the national community through a range of policies tailored around specific groups and serving different purposes (see for instance Vink and Bauböck, 2013, Costica, 2015). As far as the right to vote is concerned, however, contemporary state practices unambiguously show that democratic boundaries have become increasingly ethnicised. On the one hand, the enduring link between nationality status and the franchise shows no sign of liberalization. On the other hand, the lifting of any kind of residence-related requirement, whether past or present, clearly steered the boat of citizenship away from the liberal shores of achievements and towards the ethnic waters of ascription. When it comes to electoral participation, states have ostensibly privileged the inclusion of emigrants over immigrants, based upon where they *come from* instead of where they *went to,* what they *are* instead of what they *do*.

We can now return to Zygmunt Baumann's distinction between 'tourists' and vagabonds' in the epigraph at the onset of this chapter. While he originally used it as a metaphor for individuals' relative position in a postmodern society, hierarchically clustered according to their freedom of choice, it also aptly captures states' ambivalent attitude to international migration. From the home country perspective, emigrants are the quintessential tourists, facing a range of choices. International law provides them with an unconditional right to leave, to return, or to stay away (Ypi, 2008). As for the right to vote, we saw that most states now let them choose between participating in elections, or abstaining from it. Whatever choices they make, their full and equal membership in the political community is hardly questioned, for just like tourists and irrespective of the length of their wanderings, where their true home is is never in doubt. We know at least since

Ulysses' long journey back to Ithaka that returning home may take much longer than expected and what 'home' means in the mind of emigrants is filtered through the diasporic experience, and is therefore often at odds with socio-political realities in the homeland (Ralph and Staeheli, 2011). But whatever home may have become, the emigrants' subjective attachment to it is taken for granted, even in the absence of tangible 'genuine links' establishing that this is the case.

Conversely, immigrants have increasingly acquired the traits of the vagabond, whose choices are greatly reduced by the coercive power of the 'host' state. While the foreign land they live in usually welcomes their short-term visit with open arm – mistaking them for tourists -, their obstinacy to stay often turns them into undesirable intruders. Unlike the right to leave one's country that has become a human right, international law offers no corollary right to enter or stay in a foreign country (Ypi, 2008). Hence, the choice to stay no longer is in the hands of the migrants, but in those of the state administration, and suspended to their ability to demonstrate that their requests fall into the triptych of family, economic or humanitarian routes that are the immigration norm in the liberal state (Joppke, 2005). Neither is voting a choice. Instead of choosing between candidates, as they are increasingly allowed to do in home country elections, they must earn the right to vote by acquiring the nationality of the country of immigration. The proliferation of 'integration requirements' in naturalisation law – including economic, cultural, linguistic, and good character criteria (Goodman, 2012, Orgad, 2019) – exhibits striking similarities with earlier restrictions on the suffrage, based on income, literacy, or social mores. With regards to national emigrants, the suffrage has become in a majority of states a 'categorical right', subjected to no other criteria but *being* a national. Conversely, immigrants' access to the suffrage has remained subjected to the 'principle of competence', for they must prove they are fit and worthy to participate by acquiring the nationality of the country of residence.[6]

To be sure, Baumann's metaphor is meant to be thought-provoking, and should not place the reader under the impression that all foreign immigrants are arbitrarily disadvantaged in the state where they reside. The category itself encompasses a highly diverse crowd of individuals who have little in common other than a shared alienage in their country of residence. Yet, it brings to the fore the crude reality of the nation state's double-faced response to one and the same phenomenon of international migration. This ambivalence is not only normatively questionable but also logically inconsistent. Because immigrants and emigrants are not separate categories but the same persons seen from two distinct state perspectives, migrants find themselves in a double-knot situation, where they are expected to remain loyal members of their nation-state of citizenship while at the same time assimilating into the national community of their state of residence. In practice, those contradictory demands are greatly mitigated by individuals' ability to strategically navigate the transnational political opportunity structure in which they are embedded (Harpaz and Mateos, 2019).

Conclusion

In Europe, the scholarship on immigrants' political participation gained ground in the 1980s. The decade, which saw the extension of the local franchise to resident aliens in a variety of Northern and Western European countries, infused this emerging literature with an optimistic flavour. At the time of writing this conclusion, in 2020, we have to admit that little has changed since then, at least on the immigrant side of the issue. What we find instead is the formidable resilience of the principle of nationality as the cornerstone of universal suffrage in contemporary democracies.

Shifting the focus away from the policy context in immigrants' country of destination to emigrants' country of origin offers a very different picture. The rapid proliferation of external voting legislation in the past thirty years occurred largely by stealth and fell off the radar of academic scholarship until relatively recently. The political power of citizenship was indeed extended to international migrants. However, it did not come, as was initially expected, from countries of residence eager to encourage their integration in their own political community. Instead, it was initiated by home countries reasserting the value of nationality beyond residence. The extension of voting rights to citizens abroad is thus part of a much broader and truly global effort by states to reach out to and embrace their emigrant populations, recast as *diasporas* (Brubaker, 2005). Alan Gamlen referred to the phenomenon as 'human geopolitics', whereby states compete for populations rather than territory (Gamlen, 2019). The shift from a *territorial* to a *popular* conception of citizenship has been the main driving force behind the emergence of diaspora enfranchisement as a new democratic norm (Collyer, 2014). This has produced a world of territorially-discrete states with increasingly overlapping *demoi*.

In this chapter, my main aim has been to review a relatively large body of scholarship dispersed across several disciplinary sub-fields and dealing with those profound transformations. If it is of any originality, then it must be in its attempt to bring together and compare the two sides of 'expansive citizenship' – beyond nationality and residence – that have been studied in relative isolation from one another, reflecting the thematic division of the field between immigration and diaspora studies. Doing so tells a story of double standards, where emigrants are represented as benevolent tourists whose right to participate is taken for granted, whereas immigrants take the suspicious traits of vagabonds, whose right to participate must be earned through naturalisation.

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ENDNOTES

[1] For a global comparative survey of conditions for naturalisation in nationality laws and indicators measuring their relative inclusion across countries, see GLOBALCIT's Global Database on Modes of Acquisition of Citizenship (cf. mode A06, ordinary naturalisation) indicators (Globalcit, 2017).

[2] The comparative overview of legislations extending the right to vote to non-resident citizens and non-resident citizens is based upon GLOBALCIT's Conditions for Electoral Rights Database (Arrighi et al. 2019) and its Country Report Series on Access to Electoral Rights, available at http://globalcit.eu/publications/ (last consulted online on 12 March 2020).

[3] In its 2007 Handbook on Voting from Abroad (Ellis et al. 2007), the International Institute for Democracy and Electoral Assistance (IDEA) found there were 115 countries allowing out of country-voting, and 146 by 2017 (See IDEA's Voting from Abroad Global Database, available at http://www.idea.int/data-tools/data/voting-abroad (last consulted online on 4 December 2019).

[4] *Frank v. Attorney General of Canada* (2019 SCC 1). See 'Canada Supreme Court: disenfranchising expatriates unconstitutional', GLOBALCIT, 4 February 2019, available at http://globalcit.eu/canada-supreme-court-disenfranchisement-unconstitutional/ (last accessed online on 10 March 2020).

[5] The 1975 Greek Constitution already included a provision extending the right to vote to Greek nationals abroad. However, the main parties consistently failed to produce an implementing legislation until 12 December 2019, when such law was adopted with an extra-ordinary majority of 288 out of 300. See D. Christopoulos, 'At last, a law on expatriate vote in Greece', 16 December 2016, available at http://globalcit.eu/at-last-a-law-on-expatriate-vote-in-greece/ (last consulted on 10 March 2020).

[6] For an insightful discussion of the franchise as a categorical right derived from Dahl' 'strong principle of equality' and the franchise as a contingent right derived from the 'principle of competence', see Dahl, 1989, Chapter 10.