

Testimony from Ron Hayduk to the City Charter Revision Commission 2010

Dear Chairman Goldstein and Director Goodman:

The city charter can play a key role in encouraging greater voter participation and civic integration. In advance of your June 2nd discussion of this issue, I write you to detail one specific suggestion designed to maximize voter involvement and to increase government accountability to all New Yorkers: restoring voting rights to legal noncitizens in municipal elections.

I urge the Charter Commission to consider this idea as you move forward with your deliberations. This suggestion is grounded on the view that the City has substantial authority over municipal elections. This notion is based on the substantial authority the City has exercised over campaign financing practices of all municipal candidates, including the ones who do not volunteer to be in the City's highly regarded campaign finance program. Moreover, The Brennan Center for Justice issued a memo stating New York City has proper authority to enact such a change to its charter on its own and the New York City Bar Association's Election Law Committee also came to the same conclusion. I have elaborated on this subject in greater detail in my book *Democracy for All: Restoring Immigrant Voting Rights in the United States* (Routledge, 2006). Finally, this idea is supported by a broad range of groups in New York City as described by the Coalition to Expand Voting Rights on their website at <http://ivotenyc.org>).

Restore the right to vote to legal noncitizen New Yorkers in municipal elections

I urge the New York City Charter Revision Commission to restore the right to vote in municipal local elections to the city's 1.3 million adult noncitizens immigrants. It is one of the best and proven ways to facilitate voter participation, immigrant incorporation and government accountability.

From 1969 to 2002, noncitizens voted in New York City's 32 Community School Board elections. Noncitizens also ran and held office in those bodies. They did so successfully and to good ends. It is time we restore this effective way to boost voting and civic engagement.

Although the idea of allowing noncitizens to vote may sound odd to many Americans, resident voting has a long track record in history and contemporary practice.

In considering resident voting there are four things to keep in mind:

1. It's legal. The U.S. Constitution does not preclude it and the courts -- including the Supreme Court -- have upheld voting by noncitizens. Moreover, noncitizens have enjoyed voting rights for most of U.S. history and continue to do so today.
2. It's rational. There are moral and practical reasons to restore immigrant voting -- including notions of equal rights and treatment -- as well as mutual benefits that accrue to all community members, citizen and noncitizen alike.

3. It's feasible. Resident voting is being revived in many parts of the U.S.—noncitizens currently vote in Chicago school elections and in municipal elections in six towns in Maryland—and it is practiced in 45 countries worldwide.

Americans are usually surprised to learn that immigrants enjoyed voting rights for most of our history and throughout the vast majority of the country. In fact, from 1776 to 1926, forty states permitted noncitizens to vote in local, state and even federal elections. Noncitizens also held public office, such as alderman, coroner, and school board member. In practice, voting and holding office promoted civic education and citizenship while also facilitating the political incorporation of immigrants. In short, the notion that noncitizens should have the vote is older, was practiced longer, and is more consistent with democratic ideals than the idea that they should not.

Noncitizen voting affirmed the hallowed principle of the American Revolution: “no taxation without representation.” Our forefathers embraced alien suffrage as a logical way to encourage newcomers to build a stake in America's emerging democracy. And it worked. As America's experience during the nineteenth century demonstrated, immigrants who declared their intent to naturalize were allowed voting rights because it encouraged acquisition of knowledge about the U.S. and hastened civic integration and acculturation. Yet this sensible policy became a casualty of the anti-immigrant backlash and wartime hysteria during the early twentieth century.

The Civil Rights Movement swept away poll taxes and literacy tests but part of its work remains undone. An alarmingly large part of the population remains disenfranchised. Today, after more than three decades of high immigration, over 1 million New Yorker noncitizens—one out of five residents—cannot vote. These newest New Yorkers are lawfully present, pay taxes, work in every sector of the economy, own businesses, send their children to school, have revitalized neighborhoods, contribute to the social and cultural life of the city in countless ways, serve in the military and even die defending this country. Yet they cannot vote on issues that affect their daily lives. What does it mean that more than 22% of the population is excluded from being able to select representatives who make laws and public policy? It certainly raises troubling questions about the nature of our democracy.

In at least 22 of the 51 New York City Council districts, more than 20% of the voting-age population cannot vote due to their citizenship status. In several City Council districts this proportion rises to more than 30% to 40% of the resident population. We do not have a truly functioning democracy when such a sizable portion of the voting-age population can't vote. This is on the order of the political exclusion of women and blacks who historically were citizens but could not vote.

These newest New Yorkers are by no means marginal to the vitality of New York City. Take the economy. New York's immigrants are responsible for \$229 billion in economic output in New York State, according to a 2007 report by the Fiscal Policy Institute. That's 22.4 percent of the total New York State GDP, a share slightly larger than immigrants' share of population, and slightly smaller than their share of the workforce.

Moreover, legal immigrants in New York pay \$18.2 billion in taxes or 15.5 percent of the state's tax income, according to the Urban Institute. Importantly, most of New York's immigrants live in New York City. Excluding such a significant portion of the population from political participation undermines the health, representativeness and legitimacy of our laws and public policies.

The political exclusion of immigrants closes off a proven pathway to political engagement and assimilation. Noncitizen voting is a logical and proven practice that facilitates political incorporation, as reflected in America's founding principles and practice of over 150 years. It gives people a stake in their communities and a sense that they can make things better. Far from being a substitute for citizenship, allowing the newest New Yorkers to vote is the best way to promote civic education and citizenship. Indeed, most immigrants want to become citizens but cannot for little reason other than red tape. The average wait time to obtain citizenship is 10 years (up from 8 years in 1960), according to the U.S. Census, more than the length of two-term elected officials from the mayor on down.

Fortunately, there are efforts to restore voting rights to noncitizens. New York City and Chicago restored the right of non-citizens to vote in school board elections, a move that affirmed parent's stake in the education of their children. More recently, several communities have embraced noncitizen voting as a way to bring community members closer together. Six towns in Maryland allow noncitizens to vote in municipal elections; Amherst, Cambridge and Newton Massachusetts voted to approve noncitizen voting, though they are awaiting a state enabling legislation to implement the law. Similar initiatives have been launched in a dozen other places from coast to coast, most recently in San Francisco and Portland Maine. Globally, forty five countries allow resident aliens the right to vote.

The New York City Board of Elections is capable of designing and implementing a system to accommodate noncitizen voting in local elections. Indeed, the technology is available and in place, including the computerization of voter registration rolls and poll lists. The Help America Vote Act, which requires that New York institute new voting machines, allows the city to create and count appropriate ballots. Noncitizen voting will not compromise the integrity of any election. Maryland and Chicago currently do it without problem and New York City has experience doing it when we had noncitizen voting in Community School Board Elections.

No one believes that resident voting is a panacea to the problem of political apathy and low voter turnout; however, it is a critical step toward creating a local governance process that is more inclusive, accessible and accountable. Resident voting will not eviscerate the palpable fear and distrust that many immigrant communities have of government. Nevertheless, by implementing a system whereby government officials need and vie for their support will give these vulnerable communities more of an equal footing in a City in which they have a vital stake. Resident voting will not guarantee that everyone eligible for Child Health Plus, Medicaid and Food Stamps will enroll in these programs but it will help to develop a culture of more civically and politically engaged communities.

Resident voting will not ensure that government is truly accountable to all New Yorkers but by giving residents a direct recourse in the ballot box will go a long way toward increasing accountability.

The vote is a tried and true mechanism to keep government representative, responsive and accountable to the people. Resident voting will help immigrants be more empowered to fight for cleaner and safer streets, affordable housing and higher quality schools and hospitals just like everyone else. Research shows us that immigrant residents vote in municipal elections in the same manner and in the similar proportions as their federal citizen neighbors. Elected officials will have greater participation from their constituents and therefore a greater mandate. Local government will be more accessible and accountable and ultimately, our democracy will be more democratic.

In conclusion, immigrant rights are the civil rights of the day, and thus, noncitizen voting is the suffrage movement of our time. The burgeoning movement to create a truly universal suffrage calls forth America's past and future as an immigrant nation. Restoring voting rights to all its residents would update our democracy for these global times. New York, home of the Statue of Liberty and Ellis Island, symbolizes America's past and future as an immigrant nation. How appropriate it would be to affirm this leadership role by restoring noncitizen voting in city elections. By doing so, we will be making history, again.

I look forward to the Charter Revision Commission's expert panel on voter participation on June 2nd. I request that his letter be entered into the record at that proceeding, as well as be provided to all panel members and charter revision commissioners.

As a former Coordinator of the Voter Assistance Commission, among other activities, I have a long-standing commitment to improving the city's electoral system and look forward to the consideration of this suggestion. I would welcome the opportunity to discuss these ideas with the commission and its staff.

CC. Charter Revision Commissioners

Sincerely,

Ron Hayduk

Professor of Political Science Borough of Manhattan Community College,
CUNY Department of Social Science 199 Chambers Street New York, N.Y. 10007 212-
220-1246 Email: rhayduk@igc.org Home address:
35-46 79th Street, #21
Jackson Heights, N.Y. 11372
(718) 651-6181

Ron Hayduk is the author of Democracy for All: Restoring Immigrant Voting Rights in the United States (Routledge, 2006) and is a co-founder of the Coalition to Expand Voting Rights, <http://ivotenyc.org>. His website is located at www.ronhayduk.com