

**JUSTIFYING THE EXTENSION OF THE FRANCHISE: ON WHY PERMANENT RESIDENTS IN  
THE US SHOULD BE GRANTED THE RIGHT TO VOTE**

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In this election cycle, we would be hard-pressed to ignore the issues raised by the rates of immigration – both legal and illegal – into the United States. Each day we are reminded about the questions raised by the presence of new immigrants in the United States, and we are asked to consider what role they do, and should, play in the political, economic and social life of this country. Should we extend equal social and economic rights to new immigrants? Will new immigrants take the jobs that ‘rightfully’ belong to ‘natives’, or will they take jobs that ‘natives’ will not carry out in any case? What, if any, are good grounds to restrict entry to immigrants waiting in line – indeed, in many cases, pounding at our doors – to get in? Should we offer amnesty to illegal immigrants presently living with our borders? Will that serve to encourage additional illegal immigration? Although the United States is undoubtedly well-described as a ‘nation of immigrants’ – indeed, perhaps, as *the* ‘nation of immigrants’ – it is clear that this status does little to resolve the normative tensions presented by ongoing influx of newcomers and, perhaps, it only serves to make these tensions more acutely felt. It is no different with respect to the question that occupies this paper: should ‘permanent residents’ or ‘resident aliens’ be granted the right to vote in American elections? This paper answers this question in the affirmative: granting permanent residents the right to vote is a matter of justice, or so this paper shall argue.

The thrust of the paper is that extending the right of permanent residents (the terms ‘permanent residents’, ‘resident aliens’, and ‘aliens’ will be used synonymously here) to vote is consistent both with the historical trajectory of the United States, which has progressively extended the franchise, and recent Supreme Court decisions, which have systematically eroded most of the significant economic and social distinctions between citizen and alien. In the context of the United States, history suggests that the next step in

extending the franchise is to extend it to permanent residents. It is not enough, however, that the thrust of history points in an obvious direction; as John Stuart Mill observed, history can progress without necessarily being progressive. There is, additionally, an important normative argument that runs through decisions to extend the franchise, as well as decisions to minimize the differences in the ways in which aliens and citizens are treated, which demands application to the status of permanent residents. This normative argument is the one traditionally adopted by republican political philosophers, namely, that self-government – the right to participate in political activity of the community in which one resides – is justified in terms of the intense vulnerability of individual citizens to the government to which they are subject. The right – indeed the moral obligation – to participate in politics, for republicans, emerges precisely from the view that we must guard ourselves from the guardians. This republican commitment, with its dedication to permitting/requiring political participation on the grounds of self-protection from arbitrary power, underpins the argument made in this paper for extending the vote to permanent residents.<sup>1</sup>

There are some caveats and specifications to be made before the paper gets going, and I begin with these. The paper then turns to an account of why it is that we must see the exclusion of permanent residents – from the political decisions that most impact their lives – as an element of the democratic deficit that concerns this conference. Once it is clear that the status of non-citizen immigrant as non-voters is a genuine cause for democratic concern, the paper considers very briefly the history of permanent resident voting in the United States, as well as the general justifications for extending the franchise over time. It then points to series of relatively recent Supreme Court decisions – well-rehearsed in the literature on voting rights for permanent residents – which suggest the diminishing of distinctions between citizens and aliens, and then presses the justifications offered by the Court to account for its commitment to distinguishing so clearly between political rights (to which only citizens are entitled) and economic and social rights (which are extended, equally, to aliens). These justifications – it is argued – rely on the principles developed from within republication political theory, and

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<sup>1</sup> This is the republican tradition connected to Philip Pettit and Quentin Skinner.

consistency demands that the vote be granted to permanent residents. The paper moreover suggests that the arguments that are standardly given to justify the rights of permanent residents to vote – the ‘all-affected’ principle and the ‘membership’ principle – at their heart, both rely on the principle defended here, namely, the right of individuals to protect themselves. The right of permanent residents to vote emerges *in particular* from their status as vulnerable to arbitrary, exploitative power: the best suited to protect the interests of this group is the group itself. The argument is indeed a stronger one than this – the struggles that each of these principles must deal with, in order to offer justifications for the right of aliens to vote, can be remedied by an acknowledgement that, at their heart, they are committed to the republican view that the best suited to protect one’s interest is oneself.

## **TWO PRELIMINARY CAVEATS**

One caveat concerns which elections, in particular, we are concerned with when arguing for the right of permanent residents to vote. Pragmatic advocates of alien voting rights tend to limit themselves to the view that aliens ought to be permitted to vote in local elections only. Indeed, all of the successes achieved thus far have been at the local level – permanent residents have achieved the right to vote in several municipalities, including several in Maryland, Connecticut and Illinois (among others).<sup>2</sup> There are movements afoot in many other states, as well (for interest, several local municipalities in Massachusetts – Cambridge among them – have passed legislation permitting permanent residents to vote. But the state must pass ‘enabling legislation’ to permit this right to be implemented, and the state legislature has thus far refused to consider doing so). Advocates of granting the right to vote to permanent residents recognize the near impossibility – in the United States, especially – of securing the right of aliens to vote in national elections, and restrict their claims to local elections.<sup>3</sup> In some instances, efforts are made to justify this restriction – it is claimed, for example, that services provided at

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<sup>2</sup> Include details of the status of PR voting, here.

<sup>3</sup> To my knowledge, New Zealand is the only country that allows permanent residents – regardless of their country of origin – to vote in national elections. British permanent residents in Ireland are permitted to vote in Irish national elections.

the local level, such as education and garbage collection, are those that have the most direct impact on their daily lives. In other instances, it is suggested that since permanent residents are citizens of another country, in which they ostensibly have the right to vote in national elections, the possibility for a conflict of interest can emerge – say if the two countries are in conflict along some dimension – whereas this conflict is unlikely to emerge at the local level.<sup>4</sup> Yet, at the normative level, it seems difficult to sustain the distinction between the right to vote in local elections and the right to vote in national elections – if any of the justifications for granting the right to vote prove to be justified, and I'll discuss these below, none offers us sufficient normative resources for distinguishing between the levels of voting.<sup>5</sup>

A second caveat concerns the question of *length* of residence required to grant the vote, even if the vote is permitted to aliens only at the local level. The focus on length of residence 'is defended on the ground that one should be integrated in a local community before being allowed to be involved in the determination of its future' (Blais et al., 2000, p. 54). At the national level, states are prevented from imposing more than a 30-day residency requirement for new residents to vote in the presidential election (and, if the election occurs in this period, citizens are permitted to cast absentee ballots in the state they have left behind) (Keyssar, 2001, p. 275). If the right to vote is tied to the status of permanent residency, of course, the vote is not granted in direct relation to the length of time one has resided in the country; it is rather granted in relation to the extension of a status, and how long it takes for one to achieve this status varies along many dimensions (e.g., how busy the immigration service is at the time of application, the motivation for the application, whether one is able to employ a competent lawyer to navigate the process and so on). That said, there seem to be few normative considerations to bring to bear to

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<sup>4</sup> In these arguments, no effort is made to distinguish between countries which permit ex-patriots to participate in their national elections and those that tie voting in national elections to residency, thereby removing the right of ex-patriots to vote in the country in which they are a citizen (this has the consequent effect that permanent residents are sometimes in the position of having no opportunity to vote at all – since, for example, Israel requires that voters be in the country to vote, Israeli permanent residents have no vote at all). On the normative questions connected to the right (or otherwise) of expatriots to vote, see C. Lopez-Guerra, 'Should Expatriates Vote?'

<sup>5</sup> It is also worth noting that the United States is perhaps a bit backwards on this issue – the 1993 Maastricht Treaty, for example, guaranteed the right of citizens of the EU to vote in the local elections of the country in which they reside.

the question of how long a residency period it is justified to require of residents (if the right to vote is not tied to the status of permanent residency in the first place) before granting them the vote.<sup>6</sup> Countries who do grant the right to vote – at the local level – to non-citizen residents vary in their decisions (insert evidence). That said, as one scholar suggests, ‘living in a democratic polity for more than six years without having full political rights – and obligations – strikes me as troubling...admittedly, however, any time limit would be somewhat arbitrary’ (Lopez-Guerra, 2005, p. 226). This paper will have no more to say on the moral considerations connected to the length of time that can justifiably be required of a resident to reside in a location before granting the vote.<sup>7</sup>

### **NON-CITIZEN RESIDENTS AND THE DEMOCRATIC DEFICIT**

As mentioned in the introduction, the United States is veritably *the* nation of immigrants. In 2000, over 11 percent of the population was foreign-born – of the 31 million first-generation immigrants living in United States, approximately 18 million are non-citizens and 12 million are legal permanent residents (Hayduck, p. 502-3). Additionally, it is estimated that there are an additional five million illegal immigrants living in the United States. It is well-known – or at least, it is frequently reported – that immigrants pay more in taxes than they receive in benefits and, indeed, that immigrants on average pay more in taxes than does the average non-immigrant American (Ibid., p. 508). For example, a 1997 study conducted by the National Academy of Sciences revealed that on average immigrants contribute \$1800.00 more in taxes than they are likely to receive in benefits (Brozovich, 2002, p. 438).

Definitions of the democratic deficit abound – indeed, as this conference suggests, there are multiple dimensions along which we might diagnose a democratic deficit. Certainly,

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<sup>6</sup> It is possible that the *reason* that justifies granting the vote to aliens will give us better guidelines. If the reason is to promote a sense of membership, for example, then we might have good reason to grant the right to vote based on a short residency period. If the reason to grant the vote is on the grounds that we object to ‘taxation without representation’, we might like to wait for the permanent resident question to contribute a certain degree of her money to taxes before granting the right to vote.

<sup>7</sup> The question is additionally complicated, in the case where the right to vote extends only to local elections – if the right to vote is granted solely in response to residency period, it seems unjust that a non-citizen resident of the United States is penalized each time she moves locality.

we would agree, at least at the level of principle, that when adults who are contributing members of a community do not have the right to participate in the political process by which governors are selected, we are facing an obvious democratic deficit. As Alexander Keyssar suggests, ‘whether legal or illegal, these noncitizens lacked political rights...aliens by far were the largest group of adults barred from participation in American politics’ (Keyssar, 2001, p. 309). He continues:

The argument for stretching the boundaries of the franchise [to aliens] was straightforward: in many communities, thousands of noncitizens paid taxes, owned homes, held jobs, and had children in public schools. They contributed to the public purse, were affected by public policies, and sometimes were subject to military service: consequently, they ought to have a voice in government. Stated somewhat differently, they were *de facto* if not *de jure* citizens; they behaved as citizens, even if they lacked official status (Ibid., p. 310).

Or in the words of Ron Hayduk, co-director of the Immigration Voting Project, ‘today, the US is home to more partial members than at any time in its past, creating a crisis in our democracy’ (Hayduk, 2006, p. 58). The *central* problem generated by this ‘political apartheid’ is one of democratic legitimacy – we need to, says Ruth Rubio-Marin, understand the situation as ‘a democratic legitimacy concern’ (Varsanyi, 2005, p. 115; Rubio-Marin, 2000, p. 5). That noncitizen immigrants pay in taxes without being able to participate in choosing their representatives ‘challenges the very legitimacy of our American democracy’ (Brozovich, 2002, p. 438). The normative urgency of granting the right to vote to non-citizen residents, moreover, is only increasing as the foreign-born population in the United States increases.

#### **THE HISTORICAL CONNECTION BETWEEN CITIZENSHIP AND THE RIGHT TO VOTE**

It is almost natural at this point to connect citizenship and the right to vote: the *defining* feature of a political adult in a democratic country is that she is permitted to participate, fully, in the democratic procedure that elects the governors who fashion the law to which she is subject. The reason for this connection is clear enough: ‘on the grounds of political liberty, individuals have a rightful claim to participate in the process of making the laws

and decisions that will bind them, and this can only occur in a democratic polity' (Lopez-Guerra, 2005, p. 220). But, at least historically, the connection was less tight than it is now: many American citizens – citizens of an ostensible democracy – have been denied the vote at some point in our history, not least of whom are women and African Americans: 'having citizenship has not always been a guarantee of being able to vote and being able to vote has not always meant that one was a citizen' (Varsanyi, 2005, p. 114). Or, as Gerald Rosberg explains, 'the historical experience rebuts the argument that the terms "citizen" and "voter" are synonymous and that one cannot, therefore, speak coherently of a right of aliens to vote. In this country aliens have often enjoyed the right of suffrage. And, by the same token, a great many citizens have not' (Rosberg, 1977, p. 1093). Indeed, many factors *other* than citizenship determined the right to vote in elections, among them gender, race and, property qualifications. Since – especially – property qualifications were seen as determining the right to vote, it is not surprising that, historically, non-citizens who met the property qualifications were often allowed to vote in American elections.

Until the 1920s, non-citizens were often permitted to vote American elections. During the nineteenth century, 22 states and territories gave voting rights to citizens. In some cases, the right to vote was extended solely in response to the meeting of property qualifications; in others, it was extended as an incentive to newcomers to settle in particular locations. As Harper-Ho explains, 'through the colonial and early federal period, alien suffrage was often uncontested because voting rights were not based on citizenship, but on property ownership and race, as well as residence' (Harper-Ho, 2000, p. 275). In some instances, non-citizens were required to declare their intention to become citizens – 'the declarant alien' requirement – in order to be granted the right to vote (Wisconsin was the first state to add this proviso, in 1848, and other states followed suit). The requirement that newcomers declare their intention to apply for citizenship suggested that not only should the right to vote be used as 'inducement to settlement', but that voting would offer 'good preparation for shouldering the full rights and responsibilities for citizens upon naturalization' (Ibid., p. 280). The number of states granting the right to vote to aliens peaked in 1875. By the end of the nineteenth century,

however, this practice was disappearing in response to a rise in ‘anti-foreigner sentiment’; 1928 is the first year in which no alien residing in the United States was permitted to vote (Ibid., p. 282). Gerald Rosberg explains wistfully of this period:

The irony of it all is that the disappearance of alien suffrage corresponded almost perfectly with the end of an era of open and unlimited immigration. At the same time that the national government was making increasingly difficult to get into the United States, the states were taking political privileges away from the aliens who had managed to demonstrate the necessary qualifications and gain admission (Rosberg, 1977, p. 1100).

### **LESSONS WE CAN DRAW FROM THE AMERICAN EXPERIENCE**

It is not the place to delve into this past here – not least because it is well-covered ground – but a quick look at the history of the United States suggests a history of, in general, expansion of the franchise. The history is not smooth – the story of the bumps along the road is beautifully captured in Alexander Keyssar’s book *The Right to Vote* – but there exists nevertheless ‘a deeply embedded, yet virtually unspoken, notion that the history of suffrage is the history of gradual, inevitable reform and progress’ (Keyssar, 2001, p. xvii). That one story we can tell about the progress of political participation in the United States is about the steady expansion of the franchise is, however, not the only reason to think that we are being pressed towards extending at least some form of the right to vote to resident aliens.

Another reason has to do with a set of relatively recent Supreme Court rulings, which have steadily eroded the distinctions made between citizens and non-citizens in the United States. Historically, and not only in the United States, states have generated all kinds of distinctions – legal, political, social, economic – between citizens and noncitizens. Foreigners have, says William James Booth, ‘historically been the targets of “internal” closure, that is, the denial of access to various rights accorded to members: voting, protection under the law, social welfare benefits’ and so on (Booth, 1997, p. 272). Yet, he continues, ‘the justice of this internal closure, of distinguishing sharply between

members on the one hand and strangers here to stay on the other, has become, in stages and falteringly, open to dispute' (Ibid.). It is not only the expansion of immigration that suggests the need to revisit these sharp distinctions, though the rate of immigration certainly does force us to think more seriously about what justifies seemingly unequal treatment of citizens and noncitizens. It is equally our increasingly deep commitment to liberal principles, principles that tell us that all individuals deserve equal respect; the logic of these principles suggests a need to rethink the sharp division we have drawn with respect to insiders and 'outsiders', and which have led to inequalities in the way each group is treated (Booth, p. 262 & p. 276-7).<sup>8</sup>

The Supreme Court of late has shown distaste for distinguishing sharply between the treatment of citizens and noncitizens, at least along economic and social dimensions. Among other relevant decisions, the Supreme Court has ruled that the children of illegal immigrants cannot be barred from free public education; that legal aliens cannot be denied access to state benefits; that the Equal Protection Clause applies to all residents of the United States, regardless of citizenship. These rulings suggest that, for many important purposes, there is no legal – that is to say, legitimate – basis on which to distinguish between citizens and noncitizens (and, in many cases, even when these noncitizens are illegal immigrants). Yet, as many scholars observe, these rulings have remained committed to an important distinction between economic rights and political rights. Whereas there is little cause to discriminate against noncitizens with respect to economic and social rights, the Court has remained comfortable with discriminating against them with respect to political rights: 'a line seems to be drawn between social and economic inclusion on the one hand, and political inclusion on the other' (Rubio-Marín, 2000, p. 43).<sup>9</sup> It is not clear, however, that this line can be effectively drawn, at least not from a normative perspective.<sup>10</sup>

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<sup>8</sup> Cosmopolitan political philosophers have been at the vanguard of this shift, and have worked very hard to persuade us that the priority we place on state sovereignty – which serves in part to justify the differential treatment of citizens and noncitizens. Since, they say, the state in which we live is arbitrary from a moral point of view, we have no grounds for treating insiders and outsiders differently.

<sup>9</sup> Or, as William James Booth explains, 'the Court now distinguishes between the economic and sovereign functions of government, and treats the citizen-alien divide as normally irrelevant for the former, meaning not only in the alien's access to the "common occupations" of the community but to its public resources as

## **AN ARGUMENT FOR EXTENDING THE VOTE TO PERMANENT RESIDENTS: POLITICAL VULNERABILITY AND REPUBLICAN POLITICAL THEORY**

Two arguments are generally advanced to justify extending the franchise to permanent residents. One argument appeals to the ‘all-affected principle’, namely the view that any person affected – or in some versions significantly affected – by a particular policy ought to have a say in its content. In the American context, this is often cited as an argument to combat the ‘taxation without representation’ status in which permanent residents exist (and, ‘taxation without representation’ is particularly resonant to American citizens). A variant – though demonstrably distinct – of this argument emphasizes the inherent unfairness of demanding that permanent residents participate by our rules without an opportunity to shape them. A second argument appeals to membership, and this argument appears in two variants. One variant suggests since permanent residents are veritable members of a community, and all members should be allowed to participate in the conditions that regulate their lives, permanent residents should have the vote. A second variant emphasizes that we desire that permanent residents either feel that they are welcome members of a new community, or that they begin to learn the responsibilities of membership associated with our community. Extending the vote thereby helps to signal that they are welcome or gives them the tools they need to learn to be fully participating members. The latter argument is especially invoked to aid those who hail from non-democratic countries.

Each of these views is normatively attractive, in my view. Each offers us a plausible reason to think seriously about extending the franchise to newcomers, and none is incoherent as a reason to do so. In general, moreover, as a practical matter movements

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well, but not at all irrelevant to the self-definition of the community in the vital dimension of its self-governance’ (Booth, 2001, p. 275).

<sup>10</sup> It is worth pointing to an additional argument – forcefully articulated by Ruth Rubio-Marín – that suggests the practical impossibility of separating economic and political rights, as the Supreme Court encourages. She writes: ‘to deny resident aliens the benefits of political cooperation is often impossible, as many such benefits (e.g. national security or public order) are non-excludable goods open to all members. But, even concerning excludable benefits, such as the exercise of political rights, it might also be manifestly unfair to the extent that it denies both the political relevance of the contribution of immigrants and the economic relevance of immigrants’ political exclusion’ (Rubio-Marín, 2000, p. 58).

that aim to gain support for granting the right to vote to aliens do well to focus on the argument most likely to be persuasive in the environment in which the movement itself takes place.<sup>11</sup> But – and their advocates are well aware of these challenges – each of these arguments opens questions that are difficult to resolve from within the justifications themselves. In particular, each of these arguments is problematic for this reason: the arguments are both forced to additional principles in order to resolve questions that they cannot answer independently. Each of them resolves the dilemma by relying on a more foundational argument, namely, an argument from vulnerability. The argument from vulnerability – that a population merits enfranchisement in light of its vulnerability to arbitrary power – finds its best expression in republican political theory. This argument is, equally, coheres well with the tenor of arguments that leads the Supreme Court justices consistently to argue against discriminating against aliens with respect to the extension of social and economic rights. Let me elaborate.

The all-affected principle is subject to a range of vagueness objections, with which its advocates are familiar. For one, not all policies affect resident aliens (indeed, not all policies affect all citizens), and it is impossible to generate an environment in which aliens participate only in the policies that will have an impact on them. Second, polities regularly make decisions which *affect* others who have no say in them; among the obvious examples are immigration policies, which have a tremendous impact on outsiders who wish to enter, to which they are nevertheless not permitted input. Being ‘affected’, then, is not sufficient to ground the claim that one deserves to have input into the decision being made. One standard response offers a distinction between being ‘affected by’ and being ‘governed by’, and then suggests that what is really at stake is the issue of being governed by a set of representatives whom one has no say in selecting. This is tantamount to tyranny – no resident or citizen in a democratic regime should be subject to rules that one does not participate in creating or modifying. But, this response – which alters the meaning of ‘affected’ to ‘governed’ – goes precisely to the issue at stake, without offering an answer: is the status of permanent residents such that we would

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<sup>11</sup> For an argument that attempts to distinguish between argument that will persuade ‘liberals’ and ‘conservatives’, see Tara Kini’s ‘Sharing the Vote: Noncitizen Voting Rights in Local School Board Elections’, esp. pp. 300-21.

describe them as being ‘governed’ by the rules of our state, and thereby deserving as a say in them? Or as merely ‘affected’ by them in the way that those who are, say, guest workers or foreign students or visitors are?<sup>12</sup>

It might seem that we ought to turn to the second argument – the membership argument – in order to answer the question of who we can rightly say is governed by the rules we make in such a way as to merit a say in constructing these rules. According to the membership argument – recall – we ought to grant permanent residents the vote either because they are legitimate members of our community, at least at the local level, or because we’d like to encourage in them the learning of the responsibilities connected to being a full member of the community. Again, though, this argument raises a question that it can’t answer without appealing to additional arguments: if we accept, as this paper does, that there it is acceptable in the first place to distinguish between insiders and outsiders, and thereby to impose constraints on ‘outsiders’ for some period of time, at what point are permanent residents relevantly to be described as insiders for the purpose of granting them the vote?

As I said above – and I’ll begin by bolstering this claim by pointing to movements intended to garner support for granting aliens the vote – both of these arguments rest on a foundational claim, namely, that it is especially those who are in positions of vulnerability with whom we ought to be concerned. That is, these arguments rely on our view that aliens are ripe for exploitation at the hands of arbitrary power and that, therefore, we are morally required to extend them the means by which they can protect themselves. Let me first outline the central principles of the republican tradition that I believe serves to resolve the unanswered questions raised by the all-affected and the membership principles.

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<sup>12</sup> For an argument that defends the all-affected principle – whatever its interpretation – as the right way to justify extending the franchise to aliens, see Ludvig Beckman’s ‘Citizenship and Voting Rights: Should Resident Aliens Vote?’. He writes: ‘I will argue that the vagueness of the all affected principle is no obstacle in assessing whether voting rights should be conferred on resident aliens. The reason is that the right of resident aliens to participate in the democratic process follows on any interpretation of this principle’ (Beckman, 2006, p. 158).

Republican political theory is typically described as centrally concerned with freedom, where freedom is defined in terms of ‘nondomination’. For Philip Pettit, ‘domination is subjection to an arbitrary power of interference on the part of another – a *dominus* or master – even another who chooses not actually to exercise that power. Republican freedom, I maintained, should be defined as nondomination’ (Pettit, 2002, p. 340). In Pettit’s formulation of this kind of freedom, then, we are dominated under two conditions: if our action is illegitimately constrained by government action or if our actions *are at risk of* being illegitimately constrained by government action. We are either the victims of arbitrary power, or at constant risk of being the victims of arbitrary power, and both these conditions generate an objectionable unfreedom.<sup>13</sup> To be free, therefore, is to be free from *arbitrary power* exercised by another, and so to remain independent in some important sense. We are free if our rights are not ‘precariously dependent on the government’s’ action or inaction (Goldsmith, 2000, p. 551).

When (and this is too quick to count as an argument) aliens are said to deserve the vote because they are ‘affected’ (or ‘governed’) by the policies determined in their place of residence, and when they are said to deserve the vote because they are, or are learning to be, members of a community, what is genuinely at stake is their vulnerability to arbitrary power. Because permanent residents – without the vote – are subject to a set of policies into which they have no input, they are at risk of being victims of arbitrary power (arbitrary because they do not have a say in the outcome). They are, in republican parlance, dependent on the will of their communities and thereby unfree.

Let’s now listen to some of the voices of those who organize movements for generating support for voting rights for permanent residents – we can see from their claims that a concern vulnerability to arbitrary power is central.

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<sup>13</sup> Philip Pettit and Quentin Skinner are jointly responsible for reframing the republican tradition – from a focus on political participation to a focus on political liberty. They both argue that this reframing serves to capture the central insights developed in the history of republican theory, and to modify it in such a way that it is made plausible to contemporary ears. Yet, they differ in their respective emphases – Skinner is keen to defend a kind of liberty described as ‘non-interference’, whereas Pettit offers a robust account of liberty as ‘non-domination’.

In explaining the motivation for working so hard to have voting rights extended to aliens, Ron Hayduk observes that ‘groups can be more easily subordinated by depriving them of the vote, and conversely, can attain greater freedoms when they possess the vote’ (Hayduk, 2004, p. 510). Elsewhere he explains the urgency of this issue in even more compelling terms: ‘the problem is not merely that immigrants pay taxes and don’t have the vote; the problem is that the U.S. is undergoing another nativist period that threatens the rights and civil liberties of immigrants who have no formal voice to protect themselves (Hayduck, 2006, p. 66). Likewise, in her analysis of the efforts made in San Francisco to grant aliens the right to vote in school board elections, Tara Kini points out that aliens ‘lack any power to protect their interests and are subject to discriminatory acts of government, through both representative government and the process of direct democracy...noncitizens currently lack this protection and are subject to the whims of the standing electorate’ (Kini, 2005, p. 306). And, again, Rainer Baubock explains that ‘by including the last big disenfranchised group of persons, namely foreign residents, into the electorate, the chance of winning elections on the basis of a campaign in which persons without electoral rights are used as scapegoats is reduced’ (Baubock, 2005, p. 6).

All of the scholar-activists are pointing to an emergent theme in movements to grant aliens the right to vote. In the movement in Washington, D.C., for example, the commission that recommended granting aliens the vote pointed first to the rampant discrimination and harassment to which Latinos – immigrants and otherwise – were subject: ‘the Civil Rights Commission said a variety of governmental and institutional obstacles denied Latinos equality of opportunity in criminal justice, employment, education and social services’ (Hayduk, 2006, p. 164). Equally in Massachusetts, the movement to grant voting rights to aliens grew out of efforts to protect new immigrants from discrimination. The movement was spearheaded by an organization called ‘Eviction Free Zone’, whose initial mandate was to protect affordable housing for low income immigrants, many (if not most) of whom are Haitian immigrants (Ibid., pp. 174).<sup>14</sup>

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<sup>14</sup> The next incarnation of this paper will, obviously, elaborate these mere gestures!

This concern to motivate support for granting rights to aliens is consistent with the motivation given by the Supreme Court to expand economic and social rights to them (even while resisting extending them political rights). The reasons for doing so have to do with its concern that aliens – because they cannot vote – are especially vulnerable to exploitation of various kinds. Alien status is a ‘suspect status’, and therefore all legislation that pertains to them is subject to additional scrutiny – scrutiny that intends to prevent them from exploitative discrimination, from which they cannot protect themselves. Says Rubio-Marín in explaining this, ‘not surprisingly, aliens’ political powerlessness has been accepted as the most obvious reason to apply heightened scrutiny’ to legislation that has an impact on their lives. She continues, alienage is ‘suspect because of aliens’ vulnerability in the political process’ (Rubio-Marín, 2000, p. 146-7).

It is precisely this powerlessness that underpins all arguments – the ‘all-affected’ argument and the ‘membership’ argument in particular – for granting the right to vote in the first place.

## CONCLUSIONS

To be clear, I thus far have only gestured at an argument that requires fleshing out. But, the argument is this: the *reason* we are morally required to extend the right to vote to permanent residents is because they are in a position of tremendous vulnerability to what is, to them, an arbitrary power. They are dependent on our decisions with respect to the conditions in which they live and operate, and they are powerless to affect them. It is because being unfree in this way is objectionable that we must extend the vote to permanent residents. I have suggested – but only suggested – that the all affected principle and the membership principle, which are the two most popular ways in which to defend extending the franchise, are dependent on a foundational principle that is best captured by our aversion to arbitrary power.

I have placed this argument in the context of some trends in American political history: the trend towards extending the franchise and the trend towards minimizing the differences in the ways that citizens and non-citizens living in the United States are treated. I suggested that both of these trends are pressed by a desire to protect all residents of the United States from being the victim of arbitrary power – from being dependent on the good or ill will of others. This motivation should, in other words, serve well to generate the support necessary to grant the right to vote to permanent residents in the United States.

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