

**Noncitizen Voting Rights:  
A Survey of an Emerging Democratic Norm**

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. . . the citizenship qualification carries the aura of inevitability that once attached to the property, race and gender [voter] qualifications.<sup>1</sup>

As Raskin (1993) suggests in the epigraph, to many observers it seems only natural that citizenship is a *prima facie* qualification for the right to vote. Yet, like previously "natural" qualifications for voting such as race, gender or property, states and citizens of democracies across the globe have questioned both the practicality and the morality of limiting the franchise to those who are citizens. In an era of large-scale migration, democracies today host populations of aliens that reside within their borders for years--if not decades or lifetimes--that pay taxes, face compulsory obligations like the draft, and often share more political interests with their local neighbors than they do with the citizens in their home countries.<sup>2</sup> It is little surprise, then, that in the last four decades governments and citizens have come to embrace voting rights for aliens.

What is surprising, however, is the extent of alien suffrage today. As this chapter shows, there are twenty-two states in which resident aliens have at least some voting rights, and two others whose constitutions explicitly permit their legislatures the discretion to enfranchise resident aliens. Though rights in these states differ widely in their scale--that is, the right to vote in local versus national elections--and in their scope--the right belongs to specific alien nationalities versus a general right for all resident aliens--this variability raises important questions about the sources of these rights. Why do some states limit rights to specific nationals, while others extend the rights to all resident aliens? Why can resident aliens vote in national elections in some states, and only in local elections in others? Why can resident aliens within a given nation-state vote in some municipalities, but those in other municipalities have no voting rights? There are six states, furthermore, which have considered alien suffrage but have rejected it. These six states--plus two others that "rolled back" or rescinded the rights--offer important opportunities for comparison. Why did the Netherlands enact alien suffrage with nearly universal support, for example, but Belgium failed to do so? Why did Australia roll back the rights it extended to British nationals, but New Zealand expanded its voting rights for resident aliens to become the most permissive state in the world?

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<sup>1</sup> Jamin B. Raskin, "Legal Aliens, Local Citizens: The Historical, Constitutional, and Theoretical Meanings of Alien Suffrage." *University of Pennsylvania Law Review*, v. 141 (April 1993), p. 1394.

<sup>2</sup> Again it is worth quoting Raskin: "While my Canadian and Brazilian neighbors and I may have different interests or approaches on international issues like acid rain or regional trade, we presumably have identical interests in efficient garbage collection, good public schools, speedy road repair, and so on." (Raskin 1993, p. 1452)

These cases are in addition to the consideration that international law gives to the voting rights of resident aliens, in particular the Maastricht Treaty of the European Union as amended by the Treaty of Amsterdam. Taken together, there are 31 democratic states that have alien franchise rights, have rescinded such rights, or have considered but specifically rejected such rights. This represents one in four of the world's democracies, a substantial democratic practice that deserves broader investigation.

This paper surveys the practice of voting rights for resident aliens in the world today. It shows that although the practice is surprisingly widespread--from Europe to South America, to Australia and New Zealand--the specific institutions that each state has adopted vary considerably. Some states have enacted rights that discriminate on the basis of the resident alien's nationality, others have nondiscriminatory rights, and some have moved from a discriminatory regime to a nondiscriminatory one. Some democracies allow resident aliens to vote only in local elections, while others permit resident aliens to vote in national or parliamentary elections. The paper proceeds to develop a typology of voting rights on the basis of two criteria--the discriminatory or nondiscriminatory nature of the right, and the type of election in which resident aliens may vote. I conclude the paper with a discussion of the implications of this typology for an investigation of the reasons why states have adopted voting rights for resident aliens.

It is important to note that while I attempt to be comprehensive, the cases this paper identifies may not include every example of a state that enfranchises resident aliens.<sup>3</sup> There are a number of reasons to suspect it is not exhaustive. For one, as this paper shows, some states allow municipalities and sub-national jurisdictions to determine their own qualifications for the franchise. This is typical of federal states such as the United States and Switzerland. As a consequence there may well be a number of cities, towns, or provinces in which resident aliens can vote but may not participate in national elections. Vienna, Austria just recently enfranchised its entire population of resident aliens, for example, even though national law limits the right to citizens of EU member states. (Meran 2003) As the case of the United States shows, in which only a few small towns offer the franchise to resident aliens, these cases may be obscure and easy to overlook.<sup>4</sup> Because the political rights of resident aliens may vary within states as well as between them, can vary over time, and may even vary on the basis of issues (such as the practice in Chicago and New York City of allowing resident aliens to vote in school board elections) one can reasonably surmise that a number of observations may be omitted from this paper. Another reason to suspect this paper is not exhaustive is that the practice of enfranchising resident aliens remains controversial. The German Federal Constitutional Court argued

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<sup>3</sup> Jordan (1993) mentions Argentina as a state that allows all resident aliens to vote, for example, though I have found no other sources to confirm this.

<sup>4</sup> Of the six towns in Maryland that allow resident aliens to vote in all municipal elections, for example, by far the largest is Takoma Park, with a population of 17,299 according to the 2000 census.

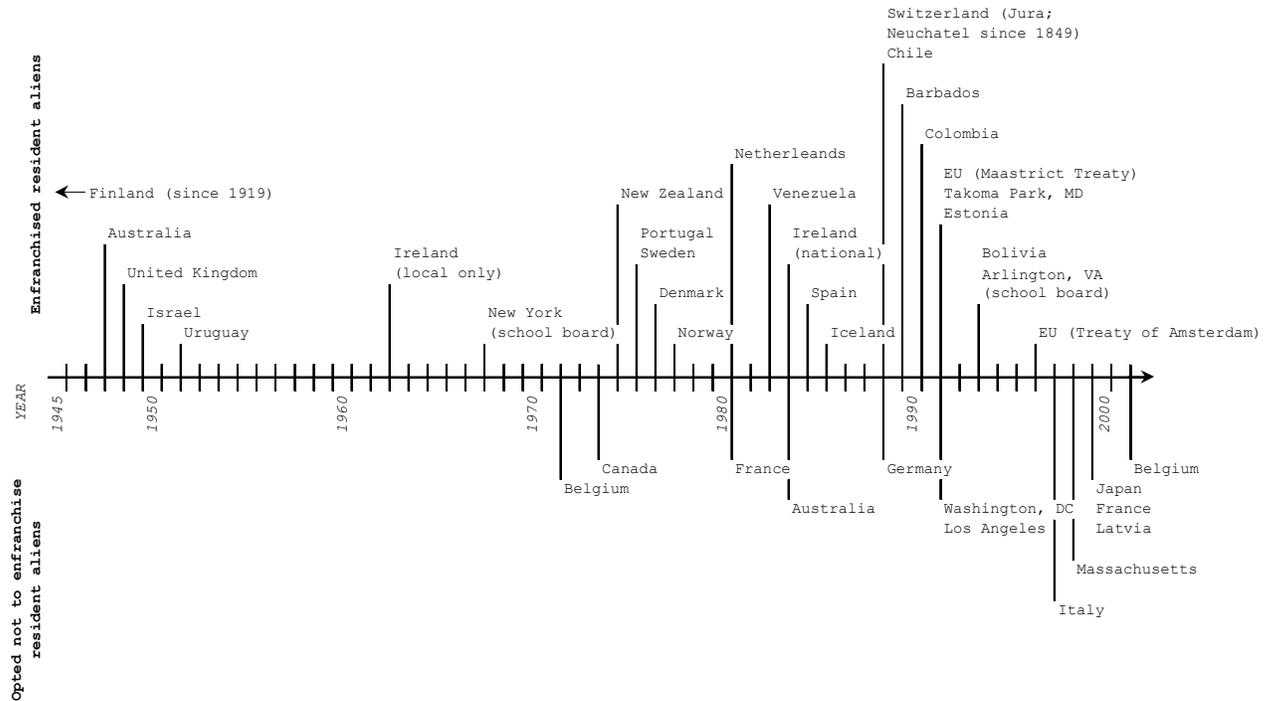
that such rights undermined democratic legitimacy when it struck down the voting rights which Schleswig-Holstein and Hamburg allotted to their resident aliens. (Tomforde 1990) Negative observations by their nature are difficult to observe; the controversy surrounding the enfranchisement of resident aliens makes them more so.

A final reason to suspect this paper may overlook important examples is that, at least in recent years, political scientists largely have ignored "technical" issues like voter qualification requirements. Most political science data on electoral systems today, such as the Comparative Study of Electoral Systems dataset, collect data only on electoral institutions such as legislative, executive and judicial structures, electoral rules for the counting and casting of votes, and apportionment. It seems as if political scientists treat voter eligibility as an axiomatic, technical-legal issue that is largely apolitical; if so, this is an ironic assumption since legal scholars have argued that the reasons for and barriers to alien enfranchisement, at least in the United States, are political rather than legal (Neuman 1992, pp. 322-330; Raskin 1993, pp. 1431-1442; Harper-Ho 2000). The issue of voting rights for resident aliens reminds us that, just as in the era of suffragettes and the civil rights movement, voter eligibility requirements remain a highly contested political process that is centrally constitutive to politics, since it defines the body politic. Alien suffrage is an important example of an expansion of the franchise for another reason, furthermore: resident aliens are perhaps the first social group to receive voting rights in the absence of large-scale social unrest or war. Unlike the women's suffrage and civil rights movements, resident aliens have received the franchise without an attendant social upheaval. Voter eligibility requirements remain highly political, yet at least for resident aliens the nature of this contestation has changed.

Despite these reasons for possible oversights, the available evidence shows that the practice of enfranchising resident aliens is prevalent among democracies. As the timeline in Figure 1 shows, furthermore, the practice is spreading. This growth begs important questions that I address in another study (Earnest, forthcoming): does the growth of these rights indicate an emerging norm of democratic practice? If so, to what degree do states exercise discretion over the institutional implementation of the norm? As this empirical overview shows, furthermore, there is considerable variation in the scope and scale of the rights that states have provided to resident aliens. This variation itself is an important puzzle.

### **A Typology of Resident Alien Suffrage**

The voting rights that aliens have vary widely from state to state both in their scope and scale. For the purposes of this survey, the "scope" of resident-alien voting rights refers to the size of the alien population in a given state that has the franchise. Some states extend voting rights to resident aliens of all nationalities, while other states offer the franchise only to resident aliens who have migrated from specific countries. The "scale" of voting rights refers

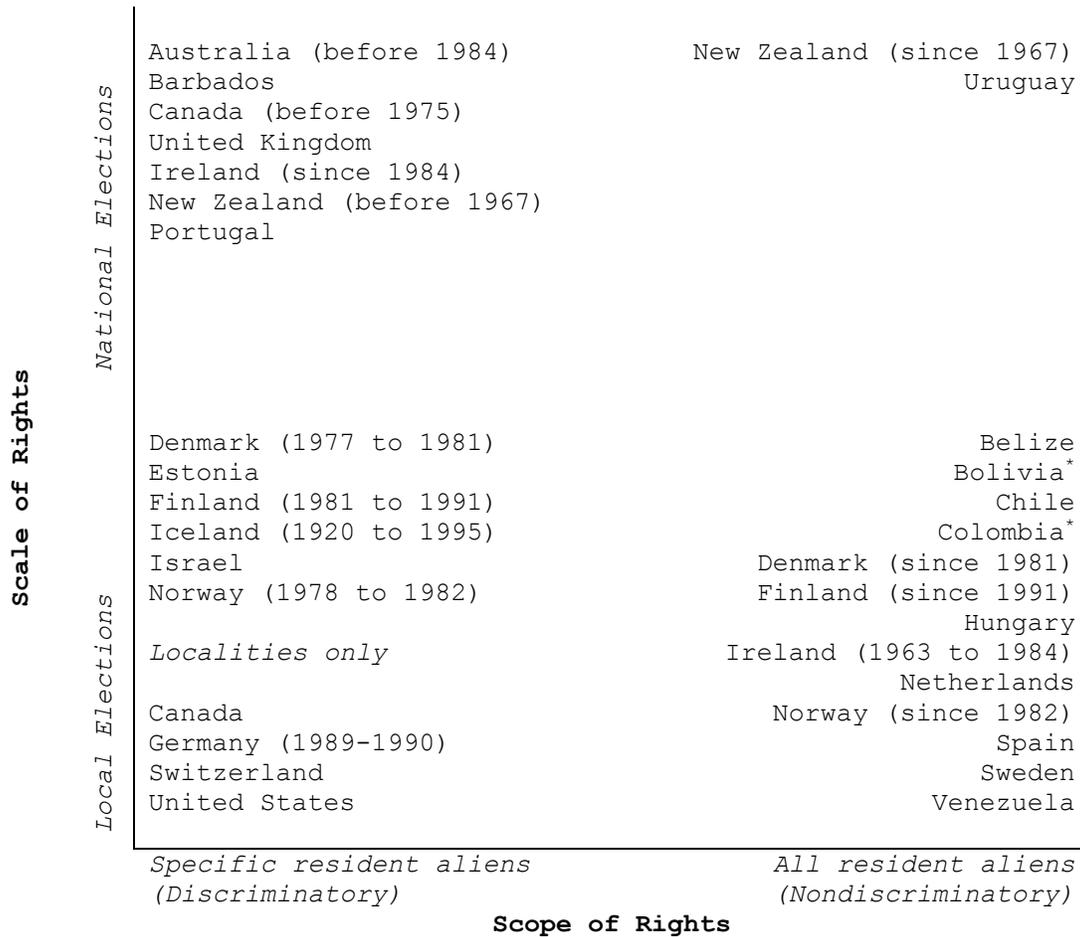


to the types of elections in which resident aliens may vote. In some states, resident aliens can vote only in municipal, local or state

**Figure 1:** Postwar timeline of resident-alien voting rights.

elections, while in others they have the right to vote in elections for national executive or parliamentary office. Using the scope and scale of voting rights as axes, one can typify the cases of states that enfranchise resident aliens into different categories. This paper categorizes the states that have considered or that allow voting rights for resident aliens into six groups: (a) those states that have considered but rejected such rights; (b) those states in which the national government does not grant a right to vote, but localities, cities, or provinces may offer voting rights to resident aliens for local elections only; (c) states in which the national government enfranchises specific nationalities only, but only for local elections; (d) states in which the national government enfranchises specific nationalities only, but these nationalities may vote in parliamentary or national elections; (e) states in which the national government enfranchises all resident aliens irrespective of nationality, but these aliens may vote only in local elections; and (f) states in which the national government enfranchises resident aliens irrespective of nationality, and these resident aliens may vote in parliamentary or national elections.<sup>5</sup> It is important to note that states within these

<sup>5</sup> This typology may be inexact, however. At least one state (Sweden) has allowed resident aliens to vote in national referenda, even though



**Figure 2:** The scope and scale of resident-alien voting rights in 26 states. \*National constitution provides for an act of law to enfranchise resident aliens, but legislature has not enacted such a law.

categories vary as well. Uruguay and New Zealand each allow any resident alien to vote in national elections, for example. Uruguay requires the alien, however, to have resided in Uruguay for fifteen years before qualifying for the franchise, a stark contrast to New Zealand's residency requirement of one year. Likewise, several states have constitutional provisions that permit the legislature to enact law that would enfranchise resident aliens, but have not done so. Figure 2 graphs those states that allow resident aliens to vote according to the discriminatory nature of and scale of the rights.

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it normally permits them to vote only in local elections. (Beiming and Thorson, 2003)

### **Voting Rights Granted by Localities**

In federal systems, local or provincial governments may enjoy the constitutional authority to determine voter eligibility qualifications for their own local elections, and may determine qualifications for national elections as well (some may even have "citizens" who are not citizens of the nation-state). In several of these federal states municipalities or provinces have granted resident aliens the right to vote. As a consequence, several federal states have produced a variety of resident-alien voting regimes that differ not only from other nation-states but from other jurisdictions within the federal system as well. In this respect, the practice of enfranchising resident aliens is a "bottom-up" phenomenon that emerges first at the local level. There are four important examples of resident-alien voting rights emerging at the local level in federal systems: the Federal Republic of Germany, Switzerland, Canada and the United States.

In the Federal Republic of Germany, two states and West Berlin established limited voting rights for resident aliens in 1989. Hamburg enfranchised all resident aliens who had resided in the state for more than eight years to vote in local elections, while Berlin required only five years of residency (Neuman 1992; Soysal 1994, p. 128). Schleswig-Holstein also limited the voting of resident aliens to local elections only but further limited these rights to Danish, Irish, Dutch, Norse, Swedish and Swiss residents who had five or more years of residency. The franchise rights in these two German states were short-lived, however; the Federal Constitutional Court ruled in 1990 that both the Hamburg and Schleswig-Holstein laws violated the Basic Law (Neuman 1992).

Challenges to local resident alien voting laws in Switzerland, by contrast, have survived constitutional scrutiny because Article 39(1) of the Swiss constitution reserves for states the explicit power to regulate the exercise of political rights in all cantonal and municipal matter. Two cantons, Neuchâtel and Jura, have constitutions that permit resident aliens to vote. Neuchâtel's practice of alien suffrage dates to 1849 and was restored after a decade-long suspension in the late 19th century; Jura's practice dates to its inception as the twenty-third Swiss canton in 1979. Seven other cantons have considered but rejected initiatives to enfranchise resident aliens.

In North America, resident aliens cannot vote in national elections in either the United States or in Canada. But in both nation-states a few jurisdictions have extended voting rights to resident aliens. The Canadian constitution expressly limits voting rights in federal elections to citizens, but in Saskatchewan and Nova Scotia British citizens may vote in provincial elections.<sup>6</sup> (Soysal 1994, p. 128; Galloway 2001, p. 192) In the United States, there currently are a few municipalities that allow resident aliens to vote in municipal elections. In New York and Chicago, resident aliens with children who attend public schools can vote in school board elections (Raskin 1993, p. 1429; Harper-Ho 2000, p. 319 and fn. 3 and 4). In May

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<sup>6</sup> It is worth noting the discriminatory nature of these rights. See the following section that identifies other regimes that discriminate on the basis of the resident alien's nationality.

1994, Arlington, Virginia also allowed resident aliens with children in public schools to vote in the county's school board election (Chung 1996, p. 176). In Takoma Park, Maryland, by contrast, since 1991 resident aliens have had the right to vote in any civic election, a practice that has since been adopted by five other townships in Maryland.<sup>7</sup> The Maryland state assembly has endorsed these initiatives by passing the necessary home-rule legislation to make these practices constitutional under state law (Raskin 1993). In Massachusetts, citizens in both Cambridge and Amherst approved referenda in 1999 to enfranchise resident aliens, though unlike in Maryland the state legislature failed to pass the necessary home-rule legislation to enable the Cambridge and Amherst laws (Harper-Ho 2000, p. 312-13). It is important to note, furthermore, that the Takoma Park initiative prompted a number of unsuccessful movements elsewhere in the United States. In Washington, DC, San Francisco and Los Angeles, rights activists sought to obtain civic voting rights for resident aliens, but voters in all three municipalities rejected the initiatives. Most recently, the city council of Rockville, Maryland also considered a measure to allow resident aliens to vote, and the mayor of Washington, DC once again raised the issue. (Gowen 2002; *Washington Post* October 1, 2002)

The current patchwork of resident-alien voting rights in the United States is an historical anomaly only in the limits of its scale. The member states of the United States have a rich tradition of enfranchising resident aliens that dates from the founding of the republic to the early 20th century. Raskin (1993) and Harper-Ho (1999) both observe that historically, states have used alien suffrage to serve a number of different political aims, particularly during the era of weak federalism in which states had broader authority over matters of citizenship. As westward expansion progressed, territories used the offer of voting rights to encourage immigrants from Europe to settle and thus speed the territory's admittance to the Union. Similarly, following the Civil War southern states offered resident aliens the right to vote in order to attract the workers who would replace the slave labor force and to expedite Reconstruction. A second goal was political socialization. Following Wisconsin's lead of enfranchising aliens who had declared their intent to naturalize (so-called "declarant aliens"), during the mid-19th century resident alien voting became a means of educating aliens about the interests and issues of their communities. Other political goals of alien suffrage were less salutary, however, as the process became intertwined with the racial, social and political divides of the country. Raskin notes that Northern states sought to expand alien suffrage while Southern states sought to limit it, since legislators on both sides believed most immigrants were opposed to slavery. Similarly, Raskin and Harper-Ho both note that the practice of resident alien suffrage was a subtle form of discrimination against other disenfranchised groups like women and African Americans. It is well known that during the 19th century race, property and gender requirements prohibited most American citizens from voting. By giving the vote to propertied immigrant white men, the resident alien franchise underscored that voting was not a right of citizenship (see Raskin 1993, pp. 1425-1430). It became an

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<sup>7</sup> These are Chevy Chase sections 3 and 5, Martin's Additions, Somerset, and Barnesville. See Raskin 1993, p. 1462.

implicit means of reinforcing discriminatory voter eligibility practices. For this reasons, states continued to discriminate not only against citizens but between resident aliens as well, as they chose to offer voting rights only to European immigrants but not to the burgeoning Chinese immigrant population of California and other western states. In these respects, the 19th century practice of enfranchising resident aliens in the United States was as much about excluding groups of citizens from political rights as it was about including resident aliens.

Nevertheless, the 19th century practices in the various states of the Union have left a case-law legacy that leads most legal scholars to argue that alien suffrage is neither prohibited nor required by the U.S. constitution. Since the Constitution reserves for states the right to define "electors," furthermore, past practices suggest resident aliens in the United States may legally vote even in elections for national office. By law, any voter in a state of the Union is a federal elector. For this reason, in the past resident aliens in the United States who voted at the state level could vote in federal elections as well. Thus Aylsworth (1931) notes that resident aliens voted in every presidential election until 1925. At the height of the practice in the mid 1870s, 22 of the 37 states in the Union permitted declarant resident aliens to vote. The Supreme Court has consistently upheld, furthermore, the right of states to determine voter eligibility requirements and has specifically ruled that alien suffrage violates no constitutional provisions. In terms of the United States, then, the question of alien suffrage is purely a political rather than legal one.

As the history of alien suffrage in the United States suggests, the very nature of federalism produces some interesting patterns of alien suffrage both between democracies and within the democratic states themselves. The cases of Switzerland, Canada, Germany and the United States suggest that geography provides few obvious explanations for the patterns of passage or rejection of resident alien franchise rights. Schleswig-Holstein's and Hamburg's proximity to the Baltic suggests the influence of Scandinavian norms of resident alien voting along the lines of regimes in Denmark, the Netherlands, Norway and Sweden (see below), though this cannot explain either Berlin or the Swiss cantons of Neuchâtel and Jura (though contiguous to each other, both cantons border on France).<sup>8</sup> Likewise, initiatives to enfranchise legally resident aliens in the United States have sprung up in some of the largest cities--Chicago, New York and the suburbs of Boston and Washington, DC (though interestingly they have failed in Los Angeles, San Francisco and the District of Columbia itself). This is similar to the pattern in the Federal Republic of Germany, where the initiatives took hold in Berlin, Hamburg and the other Baltic ports of Schleswig-Holstein. Another recent example is the city of Vienna, which enfranchised its resident aliens irrespective of nationality. (Meran 2003) In Switzerland, by contrast, the cantons with the largest cities--Geneva, Zurich, Vaud (where Lausanne is located) and Bern--all

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<sup>8</sup> One possible explanation for Jura's enfranchisement, if not Neuchâtel's, is that Jura is the newest canton in the Swiss federation. It was established in 1979, a time when several European states had started to enfranchise resident aliens.

rejected resident alien voting initiatives.<sup>9</sup> These variations within federal systems themselves are an interesting puzzle.

### **Discriminatory Regimes**

Several states have enacted voting rights regimes that discriminate on the basis of the resident alien's nationality. In some cases the nationality criterion reflects historical relationships between a state and its former colonies, such as Portugal's policy of allowing Cape Verdean and Brazilian resident aliens to vote in parliamentary elections.<sup>10</sup> (Katz 2000, p. 174) Another important example is Estonia's enfranchisement of its Russian-speaking minority. (Laitin 1998) It is important to note, however, that these "discriminatory" regimes may themselves reflect a latent form of postnational citizenship. The United Kingdom's practice of allowing citizens of Commonwealth nations and the Republic of Ireland to vote in Parliamentary elections--a practice that several other Commonwealth states follow or have followed--reflects the Commonwealth's largely unrealized goal of a common citizenship.<sup>11</sup> (Soysal 1994, p. 127; Rath 1990, p. 136) Likewise, as I discuss later, the European Union's Treaty of Amsterdam enshrines voting rights that discriminate in favor of EU nationals who reside in other member states. These examples show that while rights may discriminate, the nationality criterion in fact may reflect supranational organizations if not postnational norms of inclusion. In this respect, even discriminatory voting rights for resident aliens may foreshadow the eroding link between citizenship and political incorporation.

### *Discriminatory Rights for Local Elections*

Several states allow resident aliens from their former colonies to vote, but only in local elections. In Portugal, for one, Article 15(4) of the constitution gives resident aliens the right to vote in local elections "subject to reciprocity" (Flanz 2000, vol. XV). Katz (2000) notes that these special voting rights are for citizens of Brazil residing in Portugal. In a surprising reversal of the colonial relationship, Estonia has created limited voting rights to accommodate what Laitin (1998) calls a "beached diaspora" of native Estonians who

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<sup>9</sup> The three other Swiss cantons that considered but failed to pass alien voting measures are Aargau, St. Gallen and Solothurn.

<sup>10</sup> Colonial relationships created other unexpected voting rights as well. Under the Fourth Republic (from 1946 to 1948) "residents of the French *Territoires d'Outre Mer* and *Territoires sous Tutelle* were allowed to elect representatives to the French parliament" (Katz 2000, p. 174). In other words, resident aliens residing in French possessions overseas elected representatives to Parliament. In essence, they had resident-alien voting rights without migrating to France, highlighting an implicit--but neither necessary nor sufficient--relationship between migration and resident-alien voting rights.

<sup>11</sup> Galloway (2001) argues by contrast that although Nova Scotia and Saskatchewan allow British subjects to vote in provincial elections, these rights are "anomalous" and should be considered a "legal anachronism."

speak only Russian.<sup>12</sup> Since the Estonian constitution does not recognize such Russian speakers as citizens, the grant of resident-alien voting rights is one way the government has sought to incorporate this population. But the right is limited to local elections only and requires the Russian-speaking resident aliens to have established permanent residence. Such resident aliens are prohibited not only from voting in national parliamentary elections, but are prohibited from joining parties or holding office as well.<sup>13</sup> These facts suggest the voting rights of Russian-speaking aliens in Estonia are the result of changes in Estonian citizenship law after the demise of the Soviet Union, which in effect revoked the citizenship of Russian-speaking residents.

Other states' discriminatory practices may also reflect specific nationality concerns. Since 1950, Israel has allowed resident aliens to vote in local elections, for example, but only those immigrants who come to Israel under the Law of Return but who refuse to take Israeli citizenship. (Aleinikoff and Klusmeyer 2002, p. 49) While the Israeli practice does not discriminate on the basis of nationality per se, its dependence on the Law of Return indicates the franchise discriminates on the basis of religion.

It is worth noting that in a number of the Scandinavian states, all of which today have nondiscriminatory voting rights for resident aliens, these rights emerged from practices that originally discriminated in favor of only a few specific nationalities. When they first enacted voting rights for resident aliens, Norway, Finland and Denmark all permitted only resident aliens from other Nordic states to vote in local elections. (Soysal 1994; Rath 1990, pp. 136-139; Aleinikoff and Klusmeyer 2002, p. 48) Denmark expanded the right to all resident aliens in 1981, Norway in 1982, and Finland in 1991. All three now require resident aliens only to have lived in the country for a specific time. Norway requires three years of continuous residency, Finland stipulates four years of residency, while Denmark requires only one year (see below).

#### *Discriminatory Rights in National Elections*

The voting rights of resident aliens in Portugal, Estonia and Israel are circumscribed when compared to the broad rights enjoyed by resident aliens from Commonwealth states who reside in the United Kingdom. There citizens of Commonwealth nations and the Republic of Ireland may register to vote in national parliamentary elections.

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<sup>12</sup> The ETA news agency reports that 194,525 resident aliens were eligible to vote in the 1999 elections. In the October 1999 local elections, resident aliens cast 11.7 percent of the total votes. (BBC October 16, 1999)

<sup>13</sup> Perhaps these rights have less to do with colonial relationships *per se* than they have to do with the state's formation. Much like Estonia, Iceland and Finland also are secessionist states that originally made the franchise available to nationals from the parent state. Since then, however, both Iceland and Finland have broadened the franchise to all resident aliens.

Several other Commonwealth states or former British colonies make similar provisions. Ireland reciprocates Britain's extension of voting rights to Irish citizens by allowing British citizens to vote in national parliamentary elections (though Ireland also allows resident aliens of any nation to vote in local elections after six months residency) (Soysal 1994, p. 127-128; Rath 1990, p. 139). Until 1984, Australia allowed British citizens to vote in parliamentary elections. Though Australia has since rescinded this right, those British citizens who were previously enfranchised were granted a grandfather exception, which in 1999 amounted to about 17,000 (Slattery 1999). Similarly, Barbados allows those Commonwealth citizens who have resided for at least three years prior to the election to vote in parliamentary elections (Election Process Information Collection 2002).

### **Nondiscriminatory Regimes**

Nondiscriminatory voting rights regimes are those in which resident aliens do not need to satisfy a nationality qualification for the franchise. These nondiscriminatory rights typically have residency qualifications, however, that in some cases are quite lengthy. Some nondiscriminatory regimes provide the right to vote only in local elections; others provide the right to vote in national and parliamentary elections; and some regimes--like Ireland's and Portugal's--are hybrids because they do not discriminate for the right to vote in local elections, but only resident aliens from specific states qualify to vote in national elections.

#### *Nondiscriminatory Rights for Local Elections*

The most common form of resident-alien voting rights today is a nondiscriminatory right to vote in local elections only. Eleven states allow aliens who satisfy a residency requirement to vote in municipal, provincial or other local elections; two others (Bolivia and Colombia) make explicit constitutional provision for the national legislature to provide such rights at its discretion. The nondiscriminatory local-rights model differs in important ways in both scale and scope from the discriminatory national and local regimes of states like the United Kingdom, Estonia or Israel: while it permits voting only in local elections, it does not discriminate among the nationalities of the states' immigrant populations. It is also broader in scope than the limited rights offered by jurisdictions in Federal states like Switzerland and the United States, since it is a right provided by the national government rather than sub-national ones, and applies to all municipalities, boroughs, states or other localities in a given nation-state. In this respect it is neither geographically discriminatory (as in federal states) nor ethnically or nationally discriminatory. In all cases of local nondiscriminatory voting rights, however (indeed in all cases of voting rights for resident aliens irrespective of their scope and scale), resident aliens must reside for a given number of years before they can vote in local elections.

This model typifies the resident-alien voting rights regimes of Sweden, Denmark, Norway, the Netherlands, Finland, Iceland, Ireland, Hungary, Venezuela and perhaps Belize. With the obvious exceptions of

Belize and Venezuela (more on Belize later), the states that utilize this model of resident-alien voting rights are European democracies. All except Ireland and Belize have proportional representation systems, and of these all except Venezuela have party-list electoral rules. Belize has a plurality first-past-the-post system, Ireland has a single-transferable-vote proportional representation system, and Venezuela has a mixed-member proportional representation system. The Republic of Ireland first allowed resident aliens to vote in local elections in 1963; today Ireland has the most permissive residency requirement, allowing aliens to vote after only six months residency in the Republic. Sweden enfranchised resident aliens for local elections in 1976, requiring only that the alien voter have resided in Sweden for three years. Denmark followed suit in 1977, requiring only one year of residency, followed by Norway in 1978, which required three years of residency (Soysal 1994). The Netherlands, in which Rotterdam and Amsterdam first established resident-alien voting rights in 1979 and 1981 respectively,<sup>14</sup> has a longer residency requirement of five years (Rath 1990, p. 139). Another more recent example is Hungary. Upon the collapse of the Soviet Union, the newly constituted legislature passed the Local Elections Act of 1990, which Nagy (1995) notes provides voting-rights in municipal elections for "non-citizen permanent residents" (p. 125).

Interestingly, Iceland has a longer history of resident-alien voting rights, perhaps reflecting its history as secession states (Rokkan 1999). The history of alien voting rights in Iceland is somewhat convoluted. Article 75 of the 1920 constitution granted voting rights to Danish nationals resident in Iceland, rights that were eventually expanded to other Nordic immigrants (Raskin 1993, p. 1459). Article 33 of the Icelandic constitution of 1995 stipulates, however, that only citizens can vote. Interestingly, the 1995 constitution accommodates "foreign nationals" who had previous voting rights under Article 75 of the 1920 constitution in a "Temporary Provisions" section at the end of the document. This section effectively grandfathers the resident-alien voting rights that foreign nationals had previously received. In this respect, the Icelandic case is an interesting one: although the 1995 constitution eliminates resident-alien voting rights, it does so only prospectively for future immigrants to the country.

While Norway, Denmark and Finland today allow all resident aliens to vote in local elections, it is important to recall that these states originally discriminated among immigrants of different nationalities. Just as Iceland limited the rights to immigrants from Nordic countries only, Norway, Denmark and Finland originally extended the alien franchise to immigrants from the Nordic states. In this respect, the alien franchise rights in these states originally were discriminatory. Two important questions are how and why these rights evolved in scope

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<sup>14</sup> It is interesting to note that alien suffrage in the Netherlands first emerged in municipalities, suggesting a "bottom-up" evolution of rights that evokes the current rights in municipalities in the United States and Switzerland. How do rights evolve from localities to become a nationwide right? This bottom-up process, particularly when compared to the United States and Switzerland, may provide us with insights about the evolution of resident alien rights in other states and in other models.

to encompass all alien residents, not merely those from Nordic states? A related but equally important question is, why were Norway and Denmark's alien voting rules originally discriminatory, but the Netherlands' and Sweden's were nondiscriminatory?

Belize, the last state that I have categorized as having nondiscriminatory rights for local elections, offers the franchise in municipal elections only to alien residents of three years or more (United States Library of Congress). Unlike the northern European parliamentary democracies, however, Belize's government is a first-past-the-post plurality parliamentary system, undoubtedly a reflection of its historic relationship with the United Kingdom. Like these institutional variables, Belize's colonial history also begs an important question: why did Belize opt for the local model instead of the discriminatory national-rights model that typifies the United Kingdom, Barbados, and (until 1984) Australia?<sup>15</sup> For this reason, Belize offers an interesting anomalous case: it neither fits the institutional pattern of the northern European democracies, nor the scale of rights typical of other states with historic colonial ties to the United Kingdom.

#### *Nondiscriminatory Rights for National Elections*

Only one nation-state offers universal resident-alien voting rights for all elections, local to national, with only a brief residency requirements. Prior to 1975, New Zealand allowed immigrants from the United Kingdom to vote in parliamentary elections. Since then, however, any immigrant who has resided in New Zealand for one year may register to vote in national elections (Soysal 1994, p. 128; Katz 2000). The case of New Zealand therefore is the ideal type of resident-alien voting rights: the residency requirement is minimal (only Ireland's six-month requirement is shorter); and the rights are nondiscriminatory--any resident alien can register to vote.

Alien suffrage in New Zealand is interesting for two reasons. First is the timing of New Zealand's expansion of voting rights to resident aliens. This occurred in the mid-1970s when the Scandinavian states and the Netherlands first offered the franchise to resident aliens. Yet the Netherlands, Sweden, Denmark and Norway opted for a local-voting approach to alien suffrage, whereas New Zealand opted for national voting rights. The proximate timing of the cases may offer an

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<sup>15</sup> These examples suggest a possible relationship between the Commonwealth--or at least the United Kingdom's colonial legacy--and certain forms of resident-alien franchise rights. Indeed, if common political rights were a goal of the Commonwealth, then why did some Commonwealth states extend voting rights to all immigrants, while other member states restricted rights to Commonwealth citizens or offered none at all? Why did New Zealand opt for a liberal regime that included resident aliens of all nationalities, while Belize adopted a narrower scale of alien voting rights? Given the variation in rights among the 38 democracies that are members of the Commonwealth (not to mention the inclusion of 20 non-democracies in the Commonwealth), the relationship between alien voting rights and the Commonwealth seems problematic at best.

opportunity to control for as-yet-unspecified transnational or global phenomena, such as norms of "personhood" (in Soysal's words (1994)). Second is the hypothesized relationship between colonial history and alien suffrage. States with historical colonial relationships may discriminate in favor of each other's citizens by offering limited voting rights to immigrants from colonial possessions (or from the imperial state). As noted above, this may explain Australia's enfranchisement of British citizens prior to 1984 as well as rights in other Commonwealth states. A key feature of this practice is, however, their discriminatory rights; states offer voting rights only to specific nationalities. Yet New Zealand switched in 1975 from a discriminatory regime to a nondiscriminatory permissive one. Given New Zealand's colonial history, its continuing membership in the Commonwealth, and its geographic proximity to Australia (where the government rescinding the franchise rights of British resident aliens only nine years after New Zealand), New Zealand's liberal alien suffrage regime is an interesting case.

It is important to note that at least in a *de jure* sense, Uruguay also allows any alien to vote in both local and parliamentary elections. Uruguay differs from New Zealand in one substantive way, however. Uruguay's residency qualification is the most exclusionary of any nation-state that allows resident aliens to vote. Only after an alien has resided in Uruguay for fifteen years can he or she qualify for the franchise. This stands in marked contrast to Ireland (which requires only six months of residency to qualify for the right to vote in local elections) and New Zealand (which requires only a year of residency to qualify for the right to vote in parliamentary elections). While Uruguay's right to vote is nondiscriminatory in a *de jure* sense, then, its residency qualification raises the question of how other qualifications for the franchise may discriminate against resident aliens. As I note below, Venezuela also allows resident aliens to qualify for the vote in local elections, but only after ten years of residency. These residency requirements arguably mitigate the nondiscriminatory nature of the *de jure* voting rights, and raise issues of comparability to states like New Zealand.

### **Discrimination through Residency Qualifications**

Three South American democracies permit resident aliens to vote, but only after an extended period of residency that effectively discriminates against most resident aliens. In this respect, the residency requirement for resident aliens limits these franchise rights to a very small number. In Chile, Articles 13 and 14 of the Constitution entitle aliens with five years of residency to vote in national parliamentary elections (Flanz 2000, vol. IV). The Venezuelan constitution (Tit. III, Ch. 4, Art. 64) entitles aliens with 10 years of residency to vote in municipal and state elections only, while the Uruguayan constitution (Sect. III, Ch. 2, Art. 78) requires 15 years of residency (Katz 2000). Given that all three states have zero or negative migration rates, it is doubtful that many resident aliens satisfy such onerous residency requirements to qualify for and claim their franchise rights.

It is difficult if not impossible to say when a residency requirement becomes onerous to the point of being restrictive rather than expansive. While Uruguay's 15-year requirement clearly curtails the voting opportunities of most aliens, Chile's five-year provision is the same as the Netherlands' residency requirement. The scale of resident alien rights in Chile is greater, furthermore, than in the Netherlands; unlike in the Dutch case, resident aliens in Chile can vote in national elections as well as local or regional elections. So why might one categorize the Chilean case as more restrictive than the Dutch case? Though the Chilean requirements are more permissive in principle, the levels of immigration to Chile mean that in fact far fewer aliens receive voting rights than the Netherlands grants to its resident aliens. While Chile, Venezuela and Uruguay had zero or negative immigration rates in 1999, the northern European democracies offering nondiscriminatory local rights have net inflows of migrants (United Nations Population Division 2002). Similarly, the number of migrants as a percentage of the total population is much lower in the Latin American democracies. Only one percent of Chile's population were migrants in 2002, though Uruguay and Venezuela had slightly higher percentages (2.65 and 4.16 respectively). These figures suggest that the total number of resident aliens eligible to vote is greater in countries that host larger numbers of migrants. While one might argue that the Chilean case parallels the nondiscriminatory national rights of New Zealand, it seems disingenuous to overlook the overall migration levels and net flows of these states as well as their extended residency requirements when categorizing their alien voting rights.<sup>16</sup>

### **Alien Suffrage in National Constitutions**

Curiously, the constitutions of two South American democracies explicitly address the issue of alien suffrage. Colombia's constitution, dating to 1991, stipulates that the legislature may pass an act to allow foreign citizens to vote in municipal or district elections (Tit. II, Ch. 2, Art. 100, see Flanz 2000, vol. IV). The

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<sup>16</sup> Of the 31 states discussed in this chapter, in 2002 nine (Barbados, Belize, Bolivia, Chile, Colombia, Estonia, Hungary, Latvia and Uruguay) had negative net migration rates per 1,000 citizens. One other (Venezuela) had a net migration rate per 1,000 citizens totals of approximately zero. Of the 21 states with positive net migration, it is interesting to note that migration rate alone does not appear to predict whether or not a state will extend voting rights to resident aliens. While notable negative cases like the Federal Republic of Germany (2.26 migrants per 1,000 citizens) and the United States (4.53 per 1,000) have relatively high net migration rates, some of the states offering the franchise to resident aliens have higher rates: Canada is 4.79 per 1,000 and Ireland is 4.86 per 1,000. Other notable negative observations have relatively low migration rates, furthermore: Belgium is 1.27 per 1,000 and France is 0.66 per 1,000 (all figures are from United Nations Population Division 2002). Of course, net migration rates might be significant in a comprehensive model, or alternative measures of migration such as absolute levels might be more reliable. But the *prima facie* impression is that migration rates alone are not sufficient to explain the variation among states offering resident aliens the right to vote.

Bolivian constitution (of 1967 as amended in 1994) has a similar clause: the legislature explicitly has the discretion to enfranchise aliens to vote in local elections (Tit. IX, Ch. 1, Art. 220, see *Constitutions of the Countries of the World*, vol. VII). It is interesting to note not only that these constitutions came into being relatively recently, but also that they explicitly give discretionary power over resident-alien voting rights to the legislatures. Neither legislature so far has exercised this unique constitutional authority, however. But the mere fact that constitutional framers considered the issue important begs the question of why?

### **Resident-Alien Voting Rights in International Law**

In addition to the 24 states that have varying degrees of voting rights for resident aliens, two important pieces of international law address the issue of political rights for resident aliens. One is the Consolidated Version of the Treaty Establishing the European Community, as Amended by the Treaty of Amsterdam (1997; hereafter referred to as the Amsterdam Treaty). The other is the Universal Declaration of Human Rights.

The Amsterdam Treaty of 1997 amended, consolidated and reordered the Maastricht Treaty of 1993 to become the legal foundation for common foreign and security policies for the European Community member states and for cooperation among members on issues relating to justice and home affairs. Though the amended and consolidated version changed some of the contentious issues of the Maastricht Treaty, it preserves an important article that addressed voting rights for EU citizens. Part II, Article 19(1) of the Amsterdam Treaty, echoing Article 8 of the Maastricht Treaty, commits EU member-states to establishing voting rights for those aliens from other EU states who reside in their country. The language reads:

Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and stand as a candidate at municipal elections in the Member State of which he resides, under the same conditions as nationals of that State.  
(Amsterdam Treaty 1997)

The rights enunciated by the treaty therefore appear to be a hybrid type. The Treaty stipulates that resident alien be allowed to vote only in municipal elections, reflecting the scale of rights typical of the local voting rights regimes used by the Nordic states, the Netherlands and others. But the Treaty also adds a discriminatory nationality requirement; EU member states will extend the right only to EU nationals, not to immigrants of any nationality. In this respect, the Treaty combines the discriminatory nationality requirements typical of the voting rights regimes of the United Kingdom, Ireland and Portugal with the restrictive scale of the local regimes of Sweden, Norway, the Netherlands, Spain and others.

Article 19(1) therefore is a curious hybrid that defies easy explanation. Given the pre-existing heterogeneity of resident-alien voting rights among European Union states, it is puzzling that the Treaty articulated this particular set of rights with discriminatory

scope and limited scale. Perhaps more surprisingly, some states have revised their voter eligibility requirements to comply with Article 19(1) while others have not (notably Italy; see Aleinikoff and Klusmeyer 2002, p. 51). Answers to these puzzles may offer some important insights into the evolution of alien suffrage. The EU member states' resistance to Article 19(1) may help explain, furthermore, a number of important negative cases (which are elaborated below).

The other notable piece of international law is the Universal Declaration of Human Rights. Raskin (1993) argues that the Declaration is ". . . written in such a way as to leave open the possibility that resident aliens will have the right to vote" (p. 1458). Indeed, Article 21 of the Declaration, which enunciates basic political rights, uses the ambiguous term "everyone" instead of "every citizen": Art. 21(1) states "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives."<sup>17</sup> (Universal Declaration of Human Rights 1948) Nowhere does the Declaration specify citizenship as a requirement for political rights (or any rights for that matter); it is mute, furthermore, on voter eligibility requirements. While the phrasing of the Declaration falls short of explicit advocacy of alien suffrage, Raskin's argument deserves consideration. It is telling that an important articulation of principals of human rights decouples the ideas of citizenship and political rights. In this respect, the Universal Declaration of Human Rights approximates the historical condition of many states granting at least some resident aliens the right to vote and participate in elections.

Raskin (1993, p. 1458) also notes that the International Covenant on Civil and Political Rights of 1966 contrasts with the Universal Declaration of Human Rights by explicitly confining the right to vote to citizens. Article 25 (a through c) uses the term "citizen" when articulating a vision of political rights (International Covenant on Civil and Political Rights 1966). The contrast with the Universal Declaration of Human Rights begs two obvious questions: why do the two documents have competing visions of political rights? And do these competing visions reflect some broader phenomenon or mechanism that might explain the variation in the observed cases of alien suffrage?

### **Negative Cases: States That Have Rejected Alien Suffrage**

There are a number of cases where either states considered franchise rights for resident aliens but failed to offer them, or rescinded voting rights it had extended previously to resident aliens. Though these failed cases vary over time, they offer both an important theoretical counterweight and possible cases against which to test hypotheses. These negative observations fall into two categories: states whose governments considered resident aliens voting rights but failed to adopt them (hereafter referred to as "failed cases"); and states that rescinded alien voting rights (or "rolled back" cases).

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<sup>17</sup> This language creates another ambiguity, however. When it asserts the right of the individual to take part in the government of his or her "country," it is unclear whether this refers to his or her country of citizenship, or his or her country of residence.

The failed cases include Belgium, France, Italy, Japan, Latvia and perhaps Switzerland and the United States (because the latter two are federal nation-states, their constituent jurisdictions present both positive and negative examples of municipalities adopting voting rights for resident aliens). Rath (1990) notes that Belgium has considered numerous initiatives dating back to 1972. All have failed to garner much support, and often have faced nearly universal opposition from parties across the political spectrum (Rath 1990, pp. 128-130). France first considered resident alien voting in 1981, when the *Partie Socialiste* (PS) first proposed an initiative to enfranchise resident aliens. Rath (1990, p. 130) reports that the PS measure faced widespread opposition. The *Assemblée Nationale* considered another measure to enfranchise resident aliens in 2000, but the measure failed due to constitutional concerns and opposition from the *Sénat* (Aleinikoff and Klusmeyer 2002, p. 51). Aleinikoff and Klusmeyer (2002, p. 51) also note that Italy has yet to enact the legislation to comply with Article 19(1) of the Amsterdam Treaty.

Latvia and Japan's consideration of voting rights for resident aliens suggest that the state faces international pressures when considering voting rights for resident aliens. Kashiwazaki (2000) reports that in 1990, eleven permanent resident Korean nationals in Japan sought from a Japanese court the right to vote in national elections. Five years later the Japanese supreme court ruled that the right to vote is reserved for Japanese nationals, but also held that the Diet has constitutional authority to enact legislation enfranchising resident aliens if it so chooses. In 2000 the Diet considered but tabled such legislation despite the championing of such voting rights by the Republic of Korea. In Latvia, the parliament rejected a measure to permit the state's resident aliens to vote in local elections despite pressure from the European local governments' Chamber of Regions and from the Latvian Human Rights committee (Baltic News Service 1998; BBC January 31, 2000; BBC July 11, 2000).

By contrast, the federal nation-states of Switzerland and the United States present numerous cases of resident alien voting initiatives at the local level that have failed to win popular support. Though as noted above two Swiss cantons have enacted resident alien voting laws for municipal and cantonal elections, seven other cantons have considered but rejected similar measures (Rath p. 128).<sup>18</sup> Similarly, the success of the Takoma Park initiative and its replication in other Maryland hamlets, not to mention the rights of resident aliens to vote in Chicago's and New York's school board elections, belies the difficulties that resident alien voting initiatives have faced elsewhere in the United States. In the early 1990s activists in Los Angeles, San Francisco and Washington, DC tried to adopt voting-rights measures similar to the one established in Takoma Park. In all three cases municipal voters failed to approve the measures (Chung 1996; Harper-Ho 2000). Similarly, though the voters in Amherst and Cambridge, Massachusetts elected by referenda to extend voting rights to resident aliens, the Massachusetts State legislature failed to enact the necessary home-rule legislation that would have

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<sup>18</sup> These are Aargau, Bern, Geneva, St. Gallen, Solothurn, Vaud, and Zurich.

enabled the Amherst and Cambridge initiatives. It is interesting to note, furthermore, that in both the Swiss case and in the United States large urban areas have rejected, for the most part, alien suffrage initiatives while smaller municipalities or cantons have enacted such measures. This pattern contrasts, furthermore, with the Federal Republic of Germany's brief history of alien suffrage, which occurred in the largely urban *länder* of Hamburg, Schleswig-Holstein and West Berlin.

These failed cases raise a number of interesting puzzles. For one, resident alien voting initiatives in France and Belgium faced strong opposition, but similar measures in the Netherlands, Norway, Denmark, and Sweden at the same time faced very little opposition. What explains this variation within Europe? The failed cases in federal systems suggest another important puzzle: the variation in outcomes within a nation-state may (or may not) be caused by the same mechanisms that cause the observed variation among nation-states. In these respects, the failed cases may present important crucial cases for a model that seeks to explain variation in voting rights for resident aliens. Finally, to what degree do settlement patterns affect the outcome of resident alien franchise initiatives within federal states? Are municipalities, cantons, *länder* or states with large immigrant populations more or less likely to enact alien suffrage? Does alien suffrage depend on the ethnic composition of immigrant groups? Does this pattern hold across the federal cases as well as other cases?

Australia, Canada and the United States present important cases of rolled-back alien voting rights that contrast with the failed cases. As noted above, in 1984 Australia eliminated the voting rights of British citizens resident in Australia (though it grandfathered the rights of those British citizens who resided in Australia prior to January 25, 1984). Canada similarly rescinded voting rights for resident aliens who were citizens of Commonwealth states in 1975 (Kondo 2001, p. 239), though Nova Scotia and Saskatchewan have at least *de jure* rights to allow British subjects to vote in provincial elections. Though of a different historical period, the United States' rollback of resident-alien voting rights was of an even greater scale. Raskin (1993) and Harper-Ho (2000) both argue that the shift in immigration sources from Northern Europe to Southern Europe and Asia, when coupled with the xenophobia that followed the First World War, caused most states of the Union to reconsider granting voting rights to declarant aliens. As Aylsworth (1931) noted, by the mid-1920s every state that had previously allowed resident aliens to vote had rescinded the right. From a high of 22 states in 1875, the member states of the United States had disenfranchised all resident aliens within the country, a remarkable reversal given what the scope and scale of resident alien rights once had been. It would be easy to dismiss the United States' rollback as belonging to another era, or as the product of a historically unique confluence of war and intolerance. Such a dismissal ignores, however, historical parallels between the 1900s and the 1980s and 1990s in the composition and size of immigration to the United States (Held et. al. 1999, pp. 283-326). So why did the states rescind the rights in an era of mass migration from non-European states when localities today once again are extending the rights in a similar era?

Finally, it is important to note three other potential negative observations. The case of the Federal Republic of Germany is difficult to categorize: is it a failed case or a rolled-back case? On the one hand, two German *länder* did extend franchise rights to specific resident aliens, but on the other, the Federal Constitutional Court ruled these rights unconstitutional a year later, implying that enfranchised resident aliens never consolidated these political rights. Given that the German courts never established the legality of alien suffrage, it seems reasonable to treat the German case as a failed observation rather than an instance of rolled-back rights. The other difficult case is that of the United Kingdom. Since the eligibility of resident aliens to vote is tied to an intergovernmental organization--the Commonwealth--the roll of resident aliens eligible to vote in parliamentary elections ebbs and flows with the membership of the Commonwealth. Although the UK's rules of eligibility may not have changed over the years, resident aliens theoretically may lose their voting rights through no action of their own. In this respect, as the case of the United Kingdom shows, the discriminatory aspect of these voting rights can cut both ways: it can exclude nonresident aliens from voting as arbitrarily as it may include them. This and the other cases of rollback highlight, furthermore, an important and perhaps theoretically interesting phenomenon: resident aliens may be the only voters in consolidated democracies to lose the franchise. Whereas voting rights for citizens, women, minorities and other previously excluded groups are now sacrosanct, states apparently may legitimately rescind the voting "rights" of resident aliens.<sup>19</sup>

The member states of the European Union represent important additional cases of the failure of states to adopt resident voting rights. Although a number of EU member states had voting rights regimes that complied with Article 19(1) before the Treaty of Amsterdam's entry into force, at least one state--Italy--has failed to amend its electoral laws to comply with the provisions of the treaty. Such legislation undoubtedly takes time to amend, and it may be that EU member states will become compliant with Article 19(1) over time. But if not, there may be a number of important additional cases of states that have failed to enact alien suffrage laws even though they have committed by treaty to doing so.

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<sup>19</sup> This begs the question as to whether or not resident aliens actually have a *right* to vote. It is interesting to note that at least in American constitutional jurisprudence, there is no "right" to vote. So the interesting case of resident alien voters highlights two important questions: to what degree is the franchise a fundamental right in the various nation-states mentioned in this paper? And to the degree it is a right, have states literally created "second-class citizens" in resident alien voters, whose franchise rights the state may arbitrarily abridge? While the case of the United Kingdom seems to affirm the vote-as-a-privilege hypothesis, Iceland's and Australia's implementation of grandfather clauses for previously enfranchised resident aliens suggest that, at a minimum, states are reluctant to abridge voting privileges.

### Hypothesized Explanations for Alien Suffrage Rights

Legal scholars who have explored the expansion of voting rights for resident aliens have proffered a number of explanations for variations in such rights. The common variables to their analyses are levels of immigration and associated xenophobic backlashes; the historical and legal evolution of national conceptions of both citizenship and of voting rights; and, in Raskin's (1993) words, "evolving international norms of community based democracy and human rights" (p. 1394). In this respect, the hypothesized causes of alien suffrage range from historical path-dependent processes to national institutions and international norms. While I derive explicit hypotheses in another study (Earnest, forthcoming), it is worth previewing that discussion by exploring what a number of researchers have written about the cases this paper presents.

Alien suffrage rights are inescapably embedded in a broader institutional and legal framework of general voting rights. For this reason, franchise opportunities for resident aliens in many countries evolve as other electoral institutions and franchise rights change. Harper-Ho (2000) and Raskin (1993) both explain the variation over time of alien suffrage in the United States as a product in part of broader debates about the gender, race and property requirements for voter eligibility. In a comparison of the recent alien voting rights successes in the United States to the failed initiatives in the Federal Republic of Germany, Neuman (1992) explains the differences in part by citing historically divergent conceptions of citizenship and democratic legitimacy. Unlike in the United States, the courts in Germany have historically viewed the right to vote as a collective, rather than individual, right. This right is historically tied, furthermore, to a historical conception of German nationality as an ethnic construct; the right to vote is not only a collective right of the *nation*, it is a collective right of the *German* nation (Neuman 1992, p. 283-287).<sup>20</sup> The absence of alien suffrage rights in Germany

. . . reflects the particular historical development of nationhood in Germany, where the rise of a linguistic and cultural nationalism at the beginning of the nineteenth century led to an emphasis on nationality rather than residence as a crucial factor in defining a polity. (Neuman 1992, p. 291)

A historically exclusive conception of the nation proscribes resident alien voting in the German case. The franchise rights of resident aliens therefore depend upon not only the franchise rights of other members of the polity, but on historically contingent constructions of the polity itself.

Scholars also cite changes in the size and composition of immigration, and the corresponding social backlashes, to explain

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<sup>20</sup> This argument is similar to Rogers Brubaker's explanation (1992) of the differences in the naturalization rates of France and Germany. Brubaker argues the greater naturalization rates in France reflect the different "cultural definitions of citizenship" embedded in the competing legal traditions of *jus soli* in France (citizenship by birth) and *jus sanguinis* in Germany (citizenship by decent or ancestry).

variations in the voting rights of resident aliens. Harper-Ho (2000, pp. 282-283) attributes the end of alien suffrage in the United States in the 1920s to both the shift in the ethnicity of the immigrant population (from northern European to southern European and Asian nationalities) and to the xenophobic backlash that followed World War I. Raskin (1993, pp. 1415-1416) comes to a similar conclusion. The absolute level of immigration, independent of its ethnic composition, may also explain the variations among the states that offer resident aliens the vote. Neuman (1992, p. 264) for one argues that the expansion of alien suffrage is inversely related to the level of immigration. Those European states that have expanded the rights are those with lower proportions of resident aliens, while those states with the highest proportion of resident immigrants—including France, the United Kingdom, Belgium and Germany—have either discriminatory or no voting rights whatsoever for their resident aliens.<sup>21</sup>

Finally, these scholars also cite the importance of international variables as well. Neuman argues that "as the interdependence of national economies deepens and regional 'common market' arrangements multiply, more nations (including the United States) may be called upon to rethink the question of alien suffrage" (Neuman 1992, p. 261). Similarly Raskin (1993, p. 1394) cites "evolving international norms of community based democracy and human rights" as one explanation for the emergence of resident-alien voting rights in several American municipalities. He thus sees alien suffrage as local response to transnational processes and emerging global norms: "the unification of national economies into a global market system at the end of this century undermines the salience of national identity and increases the historical importance of defining a citizenship of place and locality" (Raskin 1993, p. 1456). He calls this redefined citizenship a "polity of presence" (p. 1393). Such a radical redefinition of basic concepts like citizenship and the body politic may result from the deterritorializing impact of modern global trading relationships, in which labor and capital migrate unhindered across national borders but political and social rights do not. The "straitjacket of nation-state citizenship" is incapable, Raskin argues (p. 1458), of accommodating the fundamental political rights of those who participate in and sustain these widening transnational processes. In this respect, emerging global norms of community-based democracy encourage municipalities and localities to enfranchise resident aliens. The globalization of the marketplace may have created a localized response that is transforming traditional conceptions of citizenship, participatory government, and democratic legitimacy.

These hypothesized explanations for alien suffrage are complex and somewhat contradictory. Raskin cites emerging global norms for community-based participatory democracy, while Harper-Ho and Neuman cite xenophobia to explain the curtailment of resident-alien voting rights. It is unclear, however, if and when global norms of participatory democracy will override popular backlash to immigration. Similarly, Neuman cites different historical traditions of citizenship to explain variations in alien suffrage. Again, it is not clear under what conditions national institutions or historical conceptions of

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<sup>21</sup> The migration data for each of these states cast doubt upon Neuman's argument, however. See footnote 14.

citizenship rights will yield to emerging global norms. Not all municipalities within federal states respond to these norms in the same way, furthermore. Given the same institutional legacies and conceptions of citizenship, why have some municipalities in the United States, or cantons in Switzerland and provinces in Canada, enfranchised resident aliens while others have not? Clearly, the global norms of community-based democracy that Raskin identifies, or historical conceptions of the nation that Neuman identifies, are not sufficient to create resident-alien voting rights. Other factors must explain the wide variation among the states this study has discussed. These questions demonstrate the need to consider what other scholars have written about the state's incorporation of its migrant population. In another study (Earnest, forthcoming) I undertake such a consideration of the hypothesized causes of variation in the state's treatment of resident aliens.

### **Conclusions: Challenges to Future Research**

Table 1 lists the democracies around the globe that either have some form of voting rights for resident aliens, or have considered extending such rights but have failed to do so. These cases represent about one in four of the world's democracies. Yet those democracies that do extend voting rights to resident aliens vary considerably in both the scope and scale of those rights.

Given this variability among the states that enfranchise resident aliens, and given the limited number of observations, it is unclear whether or not a single model can explain all the variation among the cases. There are a number of possible research strategies. One is to conduct a comparative analysis of a smaller set of states, perhaps the twelve European Union states (plus two candidate states, Estonia and Latvia) that either allow resident aliens to vote or have rejected such measures. Such a comparative case-study design would allow the researcher to control for some variables, such as the role of Article 19(1) of the Treaty of Amsterdam. It would also allow variation in the type of voting rights states grant since, using the typology developed in this study, the EU member states represent three of the models of resident-alien voting rights (discriminatory local, discriminatory national, and nondiscriminatory local rights). With so few observations, however, such a comparative design cannot test statistically the number of divergent hypotheses that nationalist and postnationalist scholars put forth. A case-study design also raises difficult questions about the selection of cases. Given the number of dimensions along which the states that enfranchise resident aliens vary, it is unclear which cases (if any) are representative of the universe of cases.

An alternative design would address the universe of democracies to test hypotheses. While such an approach would have greater degrees of freedom, it faces the challenge of explaining such wide variation among cases. Since it is unclear that one explanation will suffice for all cases, such a broad approach risks creating a "patchwork" explanation that lacks any theoretical import. In these respects, the choice of the states to examine seems to be a difficult one between

State	Allows resident aliens to vote?	Localities, local or national rights?	Nationality requirement?
Australia	Rescinded January 1984	National	British Citizenship
Barbados	Yes	National	Commonwealth citizenship
Belgium	No	-	-
Belize	Yes	Local	None
Bolivia	Yes	Constitutional	-
Canada	Yes	Localities	Commonwealth citizenship; provinces only
Chile	Yes	National	None
Colombia	Yes	Constitutional	-
Denmark	Yes	Local	None
Estonia	Yes	Local	Russian-speaking minority
Finland	Yes	Local	None
France	No	-	-
Germany	No	-	-
Hungary	Yes	Local	None
Iceland	Yes	Local	Grandfathered rights from 1920 constitution; current law requires citizenship
Ireland	Yes	Local/National	Only British citizens allowed to vote in national elections
Israel	Yes	Local	Qualification tied to Law of Return
Italy	No	-	-
Japan	No	-	-
Latvia	No	-	-
Netherlands	Yes	Local	None
New Zealand	Yes	National	None
Norway	Yes	Local	None
Portugal	Yes	Local/National	Only Brazilians allowed to vote in national elections
Spain	Yes	Local	None
Sweden	Yes	Local	None
Switzerland	Yes	Localities	None
UK	Yes	National	Commonwealth citizenship
United States	Yes	Localities	Municipalities only; previous states' rights rescinded
Uruguay	Yes	National	None
Venezuela	Yes	Local	None

**Table 1** A list of states that allow or have considered voting rights for resident aliens.

general but valid findings, and specific findings that may not be reliable due to the degrees-of-freedom problem.

A second challenge is that of measuring the voting rights of resident aliens in a given state. Does the typology developed in this study accurately capture the differences in resident-alien voting

rights between the states it identifies? It may not, given a number of states that seem to defy easy classification. One might argue that Chile is an example of nondiscriminatory national voting rights, for example, though I have argued otherwise. Another important question is whether or not the de jure constitutional provisions of some states create de facto rights for resident aliens. The cases of Venezuela and Uruguay most explicitly raise this issue. A related question is the number of resident aliens who actually vote in each state, data that is difficult to find. Despite these concerns, however, I argue in another study that a ranking of the subject states on the criteria of scope and scale of voting rights is a reasonable measure of the national or postnational citizenship practices of a state.

A third challenge is the likelihood of omitted cases. As this paper noted earlier, the list of states presented here may not be exhaustive. It undoubtedly is difficult to find evidence of states choosing not to pursue a policy of enfranchising resident aliens. Yet more negative observations (indeed any observations) will help obviate the degrees-of-freedom problems associated with small-n studies.

The surprising number of states that allow resident aliens to vote suggests, however, that such a study is overdue. The history of suffrage movements shows that citizens and states rarely extend voting rights in the absence of social unrest, war, and agitation by excluded social groups. Alien suffrage has occurred, by contrast, with relatively little violence. This is perhaps the most provocative of the many questions this empirical overview has raised. While I have posed several questions about the democratic practice of enfranchising aliens, however, I have left them unanswered. In another study I begin a systematic undertaking of an investigation of these questions by deriving hypotheses from what might be called the "nationalist" and "postnationalist" literature. The nationalist thesis explains these variations as a product of traditional politics within the state, and asserts that such practices only reinforce the traditional relationship between the polity and the state. The postnationalist thesis argues, by contrast, that international and transnational factors explain variations in the incorporation of migrant communities in democratic states. Postnationalists cite the growth of practices such as plural nationality as evidence of a separation of the polity from traditional, nation-based conceptions of the political community. They expect a convergence of democratic practice around a common set of inclusive, nondiscriminatory principles and norms, if not a common institutional design. Informing these hypotheses is a shared commitment to a basic question: why do states vary in their policies and practices for the incorporation of resident aliens? As this survey has shown, the variation among those democracies that enfranchise resident aliens is no exception. A key task for nationalists and postnationalists is to explain not only the surprising number of states that allow their resident aliens to vote, but the surprisingly different ways in which they do so.

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