

A Pending Task: The Political Rights of Migrants, Refugees and Displaced Persons

Summary

Forced To Flee is a non-profit organization focused on helping migrants, displaced people, refugees, and asylum seekers by researching public policies that improve their situation and well-being and protect their human rights.

This policy brief is dedicated to one of the most important pending tasks regarding displaced persons: political rights. Migrants and refugees suffer a temporary or permanent regime of stateless because of the limits to political involvement in their country of origin and their host country.

This brief contextualizes the importance of migrants' political rights as part of their dignity. At the same time, it presents both dimensions of the political rights of migrants: First, political rights in their host country (mentioning the examples of the European Union and the British Commonwealth) and second, political rights in their native country from abroad.

Finally, the brief denounces the situation of lack of political rights of Venezuelan migrants and refugees, who were massively excluded from participating in

the presidential election of their country held in 2024.

Migrants voting rights: Why are the political rights of migrants important?

Almost 3.6% of the world's population lives in a different country than their country of birth, representing 281 million people worldwide (IOM, 2022).

Being a migrant or a refugee could imply many challenges in social, economic, and cultural aspects, such as discrimination and racism, economic vulnerability, problems with language and communication in the host country, or an identity crisis product of the forced assimilation into the new cultural context of the displaced person. Nevertheless, one of the most forgotten aspects of migration and its consequences is related to the political status of the migrant or refugee, specifically with the political right of involvement and participation not only in their country of origin but also in their host country, where they are trying to build a new life.

While political participation in the host country could be a more controversial debate, it is clear that external voting of migrants, for elections held in their origin

countries, is a fundamental pillar for the preservation of their identity and their membership in a political and national group. Without external voting and migrants' political inclusion measures, migrants are submitted to a stateless regime, untied to their home country, and the political decisions are taken within it (which may be part of the factors that forced the displacement of people to other countries). This situation, adding limited political rights in the host country, could produce a lack of political rights, which are a fundamental condition for the citizenship and dignity of the migrant.

The Marshall's theory of citizenship and the political rights of migrants

To understand the importance of political rights for the preservation of the migrant's dignity, it could be useful to take a look at the T.H. Marshall theory of citizenship (2015) in his most famous book titled "Citizenship and Social Class".

According to Marshall, being a citizen is a status of membership to a specific society which is characterized by the shared rights of their members, equalizing them in function of those rights. Analyzing the example of England, Marshall described the evolution of the institution of citizenship based on the developments in the rights associated with it.

Marshall understands that a holistic conception of citizenship is composed of civil, political, and social rights, which are all crucial elements for the dignity of a person within a society.

Firstly, civil rights are those related to individual freedom and liberties in front of the State and others, such as the freedom of speech, freedom of faith, or the right to private property. Those rights are the fundamental core of citizenship

oriented to preserve the respect of the autonomy of the individual.

Secondly, political rights imply the possibility to vote for the legislature or the representatives of the citizens, to participate in political decisions of importance for society, to form and be part of political associations, and the right to run as a candidate to occupy positions of public responsibility. These rights are essential for the expression of the preferences and desires of the individual in the affairs related to the management of his society.

Finally, social rights are those that appear with the introduction and expansion of the Welfare State and which consist in the abolition of obstacles (especially material and economic difficulties) for the exercise of civil and political rights. Social rights include not only the social and economic benefits oriented to reduce poverty but also identitarian and cultural rights to avoid discrimination and social exclusion.

Only the combination of these three realms of rights is the one that allows a full conception of citizenship in all its dimensions, guaranteeing dignity, autonomy, and a certain living standard for the individuals within a political community. All over the world, across different countries, there are different degrees of fulfillment of these rights, but they are the three basic spheres of the ideal citizenship conception.

Now then, citizenship is frequently considered only from a nation-state perspective, ignoring the rights and dignity of those who are not part of the national community as non citizens. But, with the large increment of migrants during the last decades, coincidently with the emergence of globalization, the notion of citizenship is not only considered in nation-state terms, emerging a new form of citizenship which is not bounded or limited by the frontiers of the nation-state and is, at the same time,

respecting the dignity of the individual regardless their origin, culture, race, ethnicity or religion.

Within this transnational citizenship paradigm which is emerging, the classical three spheres of rights theorized by Thomas Marshall are being continuously extended to cover the migrants and refugees and to protect their dignity and rights (Leitner & Ehrkamp, 2006). This extension of rights has been bolstered at both international and national levels. At the international level, despite all the defects and faults that could have treaties and conventions, it is a fact that the international community augmented their concern for the protection and rights of displaced people with international norms such as The Convention Relating to the Status of Refugees (1951), The International Covenant on Economic, Social and Cultural Rights (1966), The International Covenant on Civil and Political Rights (1966) the Protocol relating to the Status of Refugees (1967), The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) or The Global Compact of Refugees (2018). All these regulations have the purpose of guaranteeing international protection of civil, political, and socioeconomic rights for all people, regardless of their nationality and their legal status as migrants or refugees, extending the Marshall's citizenship conception to all the people of the world.

At the national level, more and more countries not only treat migrants and refugees according to the international normative presented before but also incorporate national legislation to extend civil rights, political rights, and economic and social benefits for displaced persons, facing the challenge of the increment of migration of the last decades.

Nevertheless, although this international framework is apparently protecting displaced persons' rights, the reality is that there is still a large number of obstacles to migrants and refugees exercising their rights. Regarding civil rights, there are new political and legislative decisions that are negatively affecting and threatening the civil rights of migrants, such for example the Migration and Asylum Pact reforms of the European Union (Amnesty International, 2024), or the Safety of Rwanda (Asylum and Immigration) Act 2024 of the UK (United Nations, 2023; Solomon & Marsons, 2023), the Italy's Anti-Migration Plan (Sunderland, 2024) or the German's latest laws to facilitate deportation of refugees (Zielke et al., 2024). All these regulations instead of improving the legal regulation to enhance the living conditions of these groups, are a risk to migrants' civil rights.

In the realm of social rights, despite receiving social benefits and having a net fiscal contribution positive (Conte & Mazza, 2019; Damas de Matos, 2021), migrants suffered bigger poverty and unemployment rates (Bollinger & Hagstrom, 2004) because of their social exclusion and discrimination. However, the obstacles that migrants and refugees face in the political realm are even more harmful to their transnational citizenship and dignity. From a political participation perspective, some migrants and refugees are barely stateless: They usually don't have political rights in their host country, and, on the other hand, they could be subjected to obstacles or limitations to participate politically in their native countries. In that sense, migrants and refugees are not only usually excluded from participating in the electoral process which affects their conditions and living standards in countries where they migrated and live, but also sometimes they could face real barriers to effectively exercise their political rights regarding their countries of origin

from abroad. That's the reason why, at least temporarily, migrants and refugees suffer a lack of political rights, and this affects their citizenship, according to Marshall's theory, at both international and national (from their native country) levels.

Political rights of non-nationals in their host countries.

Generally, migrants can only vote in the elections of their host country after a long period of obtaining that country's nationality. For both migrants and refugees, this could imply a limitation to their political involvement in the public affairs that directly affects their lives in those countries.

In general terms, practically in any country migrants are excluded from voting on national, general, or presidential elections within their host countries. In those countries where it could be found more rights for the political involvement of migrants, those rights are referred especially for elections at the local level of government and, in some cases, the subnational governments. In the same vein, the political zone where migrants' political rights are more extended is the European Union, a case of study, with the British Commonwealth, that will be detailed further.

Outside the European Union and according to the Migrant Integration Policy Index (MIPEX, 2020), only 5 countries guarantee equal political and voting rights to migrants and national citizens in local elections (which is the level of government that directly affects their well-being). Those countries are Argentina, Chile, Iceland, Norway, and New Zealand. In these countries, migrants not only have the right to vote in local elections but also have the right

to participate as candidates in local elections. In some other countries, migrants could obtain the right to participate in local and subnational elections after fulfilling major restrictions such as a minimum time of residency in the country. But considering both countries with fewer and major restrictions, less than 15 countries (outside the European Union) give migrants the opportunity to participate in politics and vote at least at the local level (MIPEX, 2020).

The case of the European Union

The countries of the European Union are excellent examples of good policies and practices in the inclusion of migrants through their political rights. Not only because of the political rights guaranteed for EU mobilized citizens to other member countries, but also for the rights to vote that third-countries nationals or non-EU nationals have in some elections in most member countries.

According to Articles 20 and 22 of the Treaty on the Functioning of the European Union and Article 40 of the EU Charter of Fundamental Rights, EU nationals have the right to vote and stand as a candidate, in addition to the elections of the European Parliament, at least in the municipal elections of their country of residence within the Union when it is different from their native country. All the countries of the European Union, as signatories of both the Treaty and the Charter, fulfill this requirement, so migrants from other parts of the Union have their political right to participate, vote, and be elected, at least in local elections (the only country with more restrictions to this norm is Romania) (Yilmaz & Wolffhardt, 2024).

For regional elections, not all countries allow EU nationals to vote in those

procedures, but in Cyprus, Denmark, Finland, Greece, Slovakia, and Sweden, all people from a country of the European Union who are residing within one of those countries will have the chance to vote also for regional or subnational legislatures.

Now then, regarding non-EU nationals, some of the countries of the European Union allow also the participation of resident migrants. 14 countries facilitate political rights to non-Europeans in local elections (and, within those 14 countries, 4 countries also allow non-Europeans to vote in regional elections). The political rights of migrants from outside the EU depend on some restrictions and conditions (Groenendijk, 2008):

- Duration of residence: Some countries require at least 3 years of formal residency (Denmark, Norway, Portugal, and Sweden) while other countries could require more than 4 or 5 years (Belgium, Finland, Luxembourg, and Netherlands).
- Type of residence status: Hungary, Estonia, Lithuania, Slovakia, Ireland and Slovenia condition the migrants' participation in the elections depending on the status of their residence: generally, only those with long-term residence or permanent residence could vote.
- Reciprocity: In Spain, Portugal, Malta, and the Czech Republic, migrants can vote in local elections only if there is a bilateral agreement between their native country and their host country, allowing the participation of host-country nationals in their native country.

Despite the restrictions (which are not very prohibitive), the reality is that the fact that all European Union countries accept and respect the political rights of migrants within the Union, and also include, in some cases, migrants from

outside the Union, at least to participate in local and regional elections, is an incredible example of policy for the rest of the world to improve the political rights and the status of migrants, enhancing their integration and respecting their dignity and citizenship not mattering their nationality. Nevertheless, this policy is not perfect and has room for improvement since is not including, for example, short-term migrants or the most vulnerable displaced persons: the refugees.

A short comment about the Commonwealth

Very similar to the European Union is the case of the British Commonwealth of Nations. There is a policy of reciprocity as in the EU where member countries allow migrants from other member countries to participate and vote in some elections of their host country.

In some cases, this is a very extensive policy that gives several political rights to migrants. That's the case in the United Kingdom, where Commonwealth's citizens could vote in both Parliamentary and Local elections, and also all elections in Scotland and Wales. In contrast, qualified migrants from outside of the Commonwealth could only vote in Scotland and Wales for their parliaments and local governments, but not for the General Elections (The Electoral Commission, n.d.).

On the other hand, other countries of the Commonwealth have more restrictive policies with the political rights of the Commonwealth's citizens. In the majority of the cases, it is necessary to have been established in the country for a specific period, or, regardless of the time of residence, migrants from Commonwealth countries could only vote, for example, in local elections. Nevertheless, it is still a good example of good practices and policies of

reciprocity to respect migrants' political rights and dignity.

Political participation of migrants and refugees in their native countries from abroad

Migrants and refugees are often forced to flee from their native countries because of the political, economic, and social situation. Generally, migrants have the right to external voting allowing them to participate in the enhancement of the situation of their nation, with the hope to return someday to their home. Nevertheless, not only some countries don't include national migrants and refugees in their political and electoral processes, but also there are countries that, despite their electoral laws allow national migrants and refugees to vote in the elections, there are restrictions to their participation generally due to political interests. In both cases, these situations are very harmful to the political rights and the dignity of these people, especially when this affects their linkage of membership to their native country, where they should have all the civil, political, and social rights for the consolidation of their citizenship and their dignity.

Almost 190 million workers migrants and 9 million refugees are entitled to vote through external voting in the elections of their native countries (Braun & Gratschew, 2007), so external voting is a fundamental pillar in the political rights of displaced persons and the implementation of universal suffrage as part of human rights (Nohlen & Gortz, 2007).

According to the Voting from Abroad Database of the International Institute for Democracy and Electoral Assistance (International IDEA), there are at least 65 countries around the world where there

is no legal recognition of the right to vote for their national migrants. But the most serious aspect of all is that among the countries without external voting are some of the countries with the largest number of refugees and displaced people, like Afghanistan (since 2019) and South Sudan, with more than 6 million and 2 million refugees respectively. In general terms, the majority of the countries where external voting is not allowed are countries of low income with vulnerable migrants.

Now then, among countries that guarantee the right to external voting, there are some important obstacles to exercising it. According to The Electoral Knowledge Network, in the majority of countries, for example, people from abroad could only participate in specific elections like presidential or general elections, but not in subnational elections or referendums. Also, there could be problems with the host country of the migrants implementing external voting in specific zones or regions (Lacy, 2007), and, in addition, there could be restrictive requirements of registration from abroad that difficult the exercise of the rights by the migrant, especially when is in a vulnerable situation or is a refugee because not always have documentation of his native country (Green, 2007).

Also, refugees could find incentives to not participate in elections through external voting. When they were forced to flee for war or political issues, refugees who should be registered to exercise their external vote could refuse to give data to the government of their native country because of persecution and also could suffer intimidation and threaten by the authorities of their country to block their participation (Fischer, 2007). Sometimes, the authorities, despite the law provisions, put obstacles and barriers to limit the participation of the refugee population

because of political motivations (like the case of Venezuela as shown next).

All in all, external voting is a fundamental issue for the respect of the human rights, political rights, citizenship, and dignity of migrants and refugees. There are a lot of countries nowadays that still ignore the problem and refuse to incorporate their national displaced people in their elections. At the same time, there are countries where, despite the law recognizing this right of political participation to migrants and refugees, there are technical obstacles and political motivations that limit the exercise of this right to these people. It is urgent for all countries to extend political rights to all their citizens, including those who are abroad, and it is important to enhance international cooperation to guarantee the exercise of this right of migrants in their native countries through external voting no matter the host country where they are.

Case of Study: Venezuela's 2024 Presidential Election

Between 2012 and 2023, the Venezuelan economy experienced an accumulated economic contraction of -75% of the Gross Domestic Product (GDP) of the country (IMF, 2024). The GDP per capita and the purchasing power of the Venezuelans were reduced to their level of 1950 (Maddison Project Database, 2020). There was inflation for more than 37 consecutive months (Rodríguez, 2022) with an average rate that reached a variation of prices of 60.000% in 2018 (IMF, 2024). The scarcity of food and water has extended malnutrition to almost 93% of Venezuela's population (INSO ENCOVI, 2023) and the extreme poverty rate (% of people with less than 1,9\$ per day) reached almost 60% of Venezuelans. (INSO ENCOVI, 2019). In addition, public services collapse with

constant water and electricity shortages (Rendon et al., 2019). At the same time, Venezuela became one of the most dangerous countries in the world (UNODC, 2018). All these problems were contextualized with an autocratization of the Venezuelan government, with a concentration of all the powers of the State in the executive branch and an augment of violent repression to protests and opposition (Corrales, 2024) with more than 250 protestors killed since 2013 (Provea, 2023).

All this situation forced millions of Venezuelans to flee from their country. There are more than 6 million of Venezuelans as refugees all over the world, being the third nationality with the largest number of refugees after Syria and Afghanistan (UNHCR, 2023). Adding to this number the Venezuelan migrants that don't have the official status of refugees, there are more than 7.5 million Venezuelans outside of their country due to the situation (R4V, 2024). This represents almost 25% of the total population of Venezuela. The presidential election of Venezuela held in 2024 took place on July 28. After a campaign with a large number of irregularities such as the disqualification of candidates from the opposition, the persecution and harassment of candidates, and the intervention of the government in political parties of the opposition; the few international impartial observers that have been allowed to enter in Venezuela, such as the Carter Center, denounces fraudulent results and lack of conditions to consider the election democratic (Carter Center, 2024). Nevertheless, regardless of the result, one of the most relevant aspects of the election has been the massive exclusion of a quarter of the Venezuelan population, i.e. Venezuelan migrants and refugees, from the process, denying them their political rights and their dignity.

Despite the millions of Venezuelans outside of their nation, only 69.000 Venezuelans abroad have been habilitated by the National Electoral Council to vote for this presidential election (Martínez, 2024).

Out of the 7.5 million migrants and refugees from Venezuela all around the world, almost 6.5 million are legally qualified to vote, but, due to politically motivated restrictions, just 1% of those millions of Venezuelans had the right to vote and participate in the election even if the law allows them to participate. Out of the nearly 2 million new voters (that have reached 18 years old, the minimum age to vote in Venezuela, since the last election) that are abroad, just 509 Venezuelans new voters had the opportunity to register to participate. Also, out of 4.5 million voters previously registered in Venezuela, who have been forced to flee the country, only 6.020 Venezuelans have been able to change their electoral status to vote abroad: literally 0,1% of the total (Martínez, 2024). For example, almost 70.000 Venezuelans have the right to vote in Argentina, but less than 442 Venezuelans have been habilitated by the Electoral Council to vote.

The Electoral Law of Venezuela (LOPRE), reformed in 2009 by the current government, established in Article 124 that all Venezuelans with any kind of legal status in other countries (such as refugee, asylum, or temporary residency) have the right to vote by presenting their ID even if it is expired. Despite there being a lot of Venezuelans without any legal status, and the law may be discriminatory with the political rights of those migrants, the fact is that the Venezuelan Diplomatic Missions, those in charge of the process of registering voters, not only have started the registration after the deadline of the law, but also demand requisites for migrants that are not contemplated in the law: For

example: At least three years of long term residency in the host country, a valid passport in force (with a lot of obstacles for Venezuelans to renovate their documents abroad) (CEPAZ, 2024). Taking into consideration all this political chicanery to exclude migrants from the election, and adding the fact that the majority of the Diplomatic Missions haven't the capacity to register all the voters because of the large number of Venezuelan migrants in recent years, the result is a lot of Venezuelans without the right to vote and participate in their election.

In short, the 2024 Presidential election held in Venezuela demonstrates that, even if the law recognizes the right to vote to migrants through external voting, the reality is that there are still cases where, leveraging the vulnerabilities of displaced persons, a large number of migrants and refugees haven't the chance to take part of the future and destiny of their own country, reducing their hopes to someday return to their home, because it is important to remind that no migrant or refugee flee from their country because of pleasure, but for a better future but always with the hope that they will be able to return to their home country.

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