

ITALIAN CITIZENSHIP AND THE TRANSCENDING OF TERRITORY

Carlo Carli

Mass migration means that links between a person's country of residence and country of citizenship are now often broken. In such circumstances what political rights should an expatriate citizen have? Italy has created overseas electorates for Italian citizens living abroad. This spreads the Italian nation well beyond the territorial boundaries of Italy and allows people who are not subject to Italy's laws to participate in making those laws. This is incompatible with the democratic principle that the ruled should be the rulers.

The Longman Modern English Dictionary defines a citizen as: 'a member of a country, native or naturalised, having rights and owing allegiance'. The issue of citizen rights, in particular the right to vote, under what conditions and for how long, raises major concerns about our functioning democracy in a ever more mobile world.

Mass migration has seen vast movements and migrations of people. People are often citizens of countries where they do not reside or reside in a country in which they are not citizens, or may even be dual citizens of two countries.

Today citizenship and international migration have broken the territorial nexus of residence and state membership.

The Italian experiment in the 2006 national election is an interesting but flawed test of trying to engage and empower overseas citizens. Italy broadened the rights of its overseas citizens so that their rights to vote are not restricted by having to reside in Italy, and by creating overseas electorates with their own representatives for both lower house and the Senate.

In contrast, Australia provides restrictions on the rights of overseas citizens to vote in national elections. For Australian citizens to remain on the electoral roll they have to return to reside in Australia after six years. If they wish to enrol while living overseas they have to commit to return to reside in Australia

within six years. In practice this means that even with almost a million Australians residing overseas, according to the Australian Electoral Commission, only 63,036 overseas ballot papers were issued for the 2001 Federal election.

Italian nationality law, like that of many European countries, favours *jus sanguinis* or blood descent. However, like the law of many traditional emigrant-sending countries, Italian law incorporates elements that are seen as favorable to its diaspora.

Italian law allows descendants to remain Italian, as long as there remains an unbroken chain of descent. It has recognised dual nationality—implicitly in 1912 and explicitly since 1992—so as not to lose its claim on Italians who would otherwise have been lost by Italy to the country of migration.

Potentially, because of the Italian diaspora and Italian citizenship law, the number of Italian citizens living abroad could outnumber those at home. In practice, Italy recognises 3.5 million citizens abroad.

Many countries recognise the right of overseas citizens to vote. But this right has usually been recognised in existing electorates within the country. France has some senators representing French nationals in French overseas territories. However these territories have varying legal statuses and different levels of

autonomy and continue to have a close relationship to France.

Italy is unique in creating overseas electorates. Overseas communities were given the right to vote in four massive electorates outside of Italy, those of: North America, Europe, Latin America and the combined division of Africa, Asia, Oceania and Antarctica. Each eligible voter was sent a postal vote. The decision by Italy to establish overseas electorates created a major rupture between citizenship and territory.

During the 2006 Italian election a number of criticisms were raised locally in Australia. Conservative columnist Andrew Bolt, from the *Herald Sun* newspaper, was a vocal critic of Italian citizens in Australia voting in Italian elections for a local representative to be sent to the Italian parliament. His concerns were about split loyalties and potential conflicts of loyalty between Italy and Australia. However, I have not seen much evidence of this following the recent election.

The only real recent experience of split loyalty was the World Cup soccer match between the Australian Socceroos and the Italian team. My impression was that most people of Italian origin actually supported the Socceroos but felt comforted by the Italian win.

I also publicly expressed concerns that there was a risk that the election of local candidates could see the Italian community disengage from Australian politics and erode its connection with local institutions. However, in practice the election probably created a greater interest in local politics amongst a number of people in the local Italian community.

The idea that all citizens have the right to vote in a liberal democracy is fundamental. Yet the manner in which Italy established the overseas vote has illiberal and potentially undemocratic

characteristics. We generally conceptualise the idea of the nation state as bounded by the state's territory. Italy's citizenship laws conceive its nation as being outside the territorial boundary of the country. Italy does not seek to adjust its borders to capture this broader nation. However it has adjusted the institution of Parliament to extend outside its territory in order to encompass people living in other states and has extended the role of the state to tie in nationals living outside the state's border.

This action is highly problematic to our understanding of a liberal democracy. In particular it questions the basic Aristotelian democratic ideal that the ruled should be the rulers.

A liberal democracy also necessitates a free, open and informed election. It involves procedures and institutions, which ensure equality of political power. My concerns are that these requirements are not met in the recent elections, especially for the world's largest electorate, that of Africa, Asia, Oceania and Antarctica.

These concerns are:

1. The Italian state and its institutions, including political parties, are not equipped to involve, inform and assist Italian nationals living overseas to be actively involved and informed in the political process.
2. The elected representative is not resourced nor can they physically represent an electorate when it is so large and where there can be no meaningful interaction with the entire electorate.
3. There is no community of interest which binds the single electorate of Africa, Asia, Oceania and Antarctica.
4. Italians abroad are voting for representatives who make rules to which they themselves are not directly subject. Residents of the home state, who are directly subject to the rules of

the state, do not enjoy the migrant advantage. We therefore have a measure of political inequality.

5. It is easier for the descendants of Italians abroad to claim rights of citizenship than it is for the Italian state to enforce the obligations of citizens such as to help defend Italy or to pay Italian taxes.

Finally the creation of an expatriate vote with overseas electorates happened while

the conservative Berlusconi Italian Government was in power. This Government did nothing to provide political rights to the vast numbers of migrants who have settled and are working in Italy. In Italy we have a major problem in which non-citizens do not have a voice in the ruling of the state in whose territory they reside. In this case, too, the ruled are in fact not the rulers.