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Do non-citizens vote in U.S. elections?

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Highlights
First use of representative sample to measure non-citizen voting in USA.
Some non-citizens cast votes in U.S. elections despite legal bans.
Non-citizens favor Democratic candidates over Republican candidates.
Non-citizen voting likely changed 2008 outcomes including Electoral College votes and the composition of Congress.
Voter photo-identification rules have limited effect on non-citizen participation.

Abstract
In spite of substantial public controversy, very little reliable data exists concerning the frequency with which non-citizen immigrants participate in United States elections. Although such participation is a violation of election laws in most parts of the United States, enforcement depends principally on disclosure of citizenship status at the time of voter registration. This study examines participation rates by non-citizens using a nationally representative sample that includes non-citizen immigrants. We find that some non-citizens participate in U.S. elections, and that this participation has been large enough to change meaningful election outcomes including Electoral College votes, and Congressional elections. Non-citizen votes likely gave Senate Democrats the pivotal 60th vote needed to overcome filibusters in order to pass health care reform and other Obama administration priorities in the 111th Congress.

Introduction

This analysis provides some of the first available nationwide estimates of the portion of non-citizen immigrants who vote in U.S. elections. These estimates speak to an ongoing debate concerning non-citizen voting rights within the United States (DeSipio, 2011, Earnest, 2008, FAIR, 2004, Fund and von Spakovsky, 2012, Hayduk, 2006, Immigration Policy Center, 2012, Munro, 2008; Song, 2009, Von Spakovsky, 2012) and they also speak to broader global questions concerning the normative political place of non-citizens in democratic politics.

Most state and local governments in the United States bar non-citizens from participating in elections (the exception: a few localities in Maryland), but the question of whether non-citizen immigrants can, and should, participate receives varied answers globally (Earnest, 2008) with many countries offering at least some opportunity for some resident non-citizens to participate in local elections, and some countries offering full participation in national elections.

The United States also has a long history of noncitizen voting at the local, state and national levels. Aylsworth (1931) notes that "during the nineteenth century, the laws and constitutions of at least twenty-two states and territories granted aliens the right to vote." From the founding of the Republic to the early 20th century, various territories and states enfranchised noncitizen residents for several reasons. During westward expansion, several territories offered the franchise to entice European migrants to settle so that territories would meet the population criterion for admission to the Union. Similarly, during Reconstruction several southern states offered the franchise to migrants who would replace slave labor. Later, some states enfranchised so-called "declarant aliens" (resident aliens who declared their intent to naturalize) to educate them about the interests and issues of their communities. Yet the practice of enfranchising noncitizens served less salutary goals as well. By enfranchising only propertied white European men, the practice of noncitizen voting reinforced extant prohibitions on voting by women, African Americans, Asian Americans, the poor and others. By the 1920s, however, following the large migrations of the early 20th century, all states had revoked the voting rights of noncitizens (Earnest, 2008, 25–26). Non-citizens voted legally in every presidential election through 1924. By 1928 the last state constitution that protected non-citizen voting (Arkansas') had been amended.

The decision to (dis)enfranchise non-citizens falls within the states' authority to define qualifications for voting. The nineteenth-century practices in various states produced a case-law legacy that most legal scholars conclude permits states to enfranchise noncitizens if legislators so choose. Similarly, on several occasions the Supreme Court has upheld the constitutionality of noncitizen voting because states have the authority to set voter qualifications (Earnest, 2008, 25–26). The question of noncitizen voting is, in the end, a political rather than a legal one.

Within the context of the current nearly universal ban on non-citizen voting in the United States, this study examines the voting behavior of non-citizens. To what extent do non-citizens ignore legal barriers and seize ballot access in U.S. elections? We find that non-citizen participation in U.S. elections is low, but non-zero, with an unusual set of covariates with participation, and the potential to change important election outcomes.

Section snippets

Data

The data used for this paper is from the 2008 and 2010 Cooperative Congressional Election Studies, based on the files released by Stephen Ansolabehere, 2010, Ansolabehere, 2011. The 2008 and 2010 Cooperative Congressional Election Studies (CCES) were conducted by YouGov/Polimetrix of Palo Alto, CA as an internet-based survey using a sample selected to mirror the demographic characteristics of the U.S. population. In both years survey data was collected in two waves: pre-election in October, and ...

Participatory stages

Participation in U.S. elections requires that would-be voters complete a series of steps including: registering to vote, traveling to a polling place or requesting an absentee ballot and presenting any required identification, and casting a ballot. At each stage, legal barriers to non-citizen voting may lead to lower participation. Only if all stages are surmounted will the non-citizen cast a ballot in a U.S. election. At any stage, concern about the potentially high legal costs of non-citizen...

Is non-citizen voting intentional or accidental?

The fact that non-citizen voting is illegal in most parts of the United States means that those who voted were potentially violating the law. The decision to participate in spite of de-jure barriers may at times be an intentional act of protest against the failure to enfranchise non-citizen residents. On the other hand, some may have violated election laws accidentally because they were unaware of legal barriers to electoral participation.

Education rates may provide some clues concerning the...

Conclusions

Our exploration of non-citizen voting in the 2008 presidential election found that most non-citizens did not register or vote in 2008, but some did. The proportion of non-citizens who voted was less than fifteen percent, but significantly greater than zero. Similarly in 2010 we found that more than three percent of non-citizens reported voting.

These results speak to both sides of the debate concerning non-citizen enfranchisement. They support the claims made by some anti-immigration...

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Current Population Survey – March 2011 Detailed Tables: Table 1.1. Population by Sex, Age, Nativity, and U.S. Citizenship Status: 2011 (2011)
Census Bureau
Educational Attainment in the United States: 2009 (2012)
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Voting Age Population by Citizenship and Race (CVAP) Data File (2013)
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Table B05003: Sex by Age by Nativity and Citizenship Status – Universe: Total Population (2014)
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2018, Electoral Studies

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...However, unlike an audit, a survey in this vein would depend on the accuracy of the information volunteered by its respondents. This dependence is exemplified by Richman et al. (2014), who use the Cooperative Congressional Election Study to analyze the voting behavior of self-identified non-citizens; drawing on survey data, they estimate that 1.2 million non-citizens voted in the 2008 General Election. Ansolabehere et al. (2015) show, however, that this estimate reflects respondent data errors....
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...Republican-controlled state governments promoted the laws as a tool for preventing voter fraud (voter impersonation), while Democrats alleged incidences of voter impersonation were rare and that the laws were designed to suppress turnout among potential Democratic voters (Bowler and Donovan, 2013; Bentele and O'Brien, 2013). It is a highly charged political issue that has potentially large implications for election results (Richman et al., 2014) and voter participation but, more to the point, it is one that is talked about by both main political parties as a major issue in election administration. The National Conference of State Legislatures (NCSL) maintains a database that records which states had photo identification laws in effect at the time of the 2012 US presidential election, and the type of identification requirement that the state had....
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