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If Immigrants Could Vote in the UK: a Thought Experiment with Data from the 2015 General Election

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Abstract

The distribution of voting rights in the UK is an artefact of history rather than a product of clear legal or philosophical principles. Consequently, some resident aliens have the right to vote in all UK elections; others can vote in local elections but are excluded from national elections; still others are excluded from all elections. In England and Wales alone roughly 2.3 million immigrants are excluded from voting in national elections. This exclusion is inconsistent with the founding principle of democracy and distorts political discourse. What if all immigrants could vote in national elections? We estimate that up to 95 parliamentary seats could have been won by a different party in the 2015 general election. More substantially, enfranchising all immigrants would require re-drawing UK constituency boundaries. The new electoral map would increase the relative power of urban constituencies and would incentivise some political entrepreneurs and parties to temper anti-immigration rhetoric.

Keywords: Immigration; voting rights; UK elections; referendum

Introduction

Universal suffrage is a central pillar of contemporary democracy, yet it does not exist in practice. In every country restrictions are placed on who can vote based upon criteria such as citizenship status, residence, age, mental disability, and criminality.¹ In this paper we examine the significance of voting restrictions associated with citizenship status and residence in the UK, as well as the profound implications that a change in the law could have. Simply put, we outline the arguments for extending the franchise to all resident aliens in the UK and examine how such a change might affect the composition of parliament, political discourse and electoral strategy in Great Britain.

We show that current rules regarding who can vote in British elections are a confused relic of empire and geopolitical negotiation rather than a logical extension of underlying democratic principles. The result is an electorate composed of both citizens and some (but not all) resident aliens. This inequality of access to the franchise is inconsistent with the core principle of equality that underpins democracy, as is restricting the right of any legal resident alien to vote in UK general elections.

After outlining the case for immigrant suffrage, we estimate the size and geography of the non-enfranchised adult migrant (NeAM) population in England and Wales in 2015. Our estimates suggest that nearly 2.3 million potentially eligible voters were excluded from participation in the 2015 general election. This is a significant number, especially in the context of Britain's first-past-the-post electoral system in which small margins of victory in some constituencies render any minority population critical. Indulging in a simple thought experiment, we estimate that 95 parliamentary seats would have been 'potential marginals' in the election if all adult immigrants could vote.

More significantly, reforming the rules governing voting rights such that they were consistent with core principles of democracy would require a new electoral map and change the incentives of politicians seeking office and political parties seeking to form governments. In short, electoral reform would likely tame the toxic anti-immigration rhetoric that has become a central theme in contemporary British political discourse. We conclude by arguing that electoral reform is required if Britain is to retain its position as an exemplar of democracy in an increasingly mobile world.

The case for immigrant suffrage

The argument for extending voting rights to legally resident aliens (i.e. immigrants) is intuitively clear and well-grounded in political theory: individuals who are (a) *de facto* members of a territorially-delimited economy and society through their physical presence, and (b) directly affected by the decisions of the government of that territory, ought to be considered members of the polity and granted the right to vote. Selective exclusion from the franchise based on citizenship status is non-democratic.

At the core of this argument is the inclusion principle, which was famously articulated by John Stuart Mill:²

No arrangement of the suffrage...can be permanently satisfactory in which any person or class is peremptorily excluded; in which electoral privilege is not open to all persons of full age who desire to obtain it.

Put differently, the foundational principle of democracy is an assumption of political equality among adult members of society.³ This principle is enshrined in Article 21 of the Universal

Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948, which contains the following three clauses:

- (1) Everyone has the right to take part in the government of his [sic] country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

This wording contains a critical ambiguity: 'of his [sic] country'. How is the relationship between an individual and country defined in practice? Is this right linked to place of birth? Place of residence? Place of citizenship? It is generally assumed that voting rights are directly tied to citizenship, and this assumption is reflected in Article 25 of the International Covenant on Civil and Political Rights (ICCPR), which was adopted by the UN General Assembly in 1966. Unlike the UDHR, which outlines collective normative goals, the ICCPR is meant to be a binding covenant. In this document the language relating to voting rights explicitly mentions citizenship: "Every citizen shall have the right and the opportunity... (a) To take part in the conduct of public affairs... (b) To vote and be elected."

In this latter formulation voting rights are explicitly linked to citizenship status, which is both inconsistent with current democratic practice in the UK (and many other signatories to the ICCPR) and incompatible with the spirit of political equality and universal suffrage articulated in the UDHR.

As Table 1 shows, in practice voting rights in the UK are linked to neither citizenship nor any other clear legal or moral principle. Instead, the allocation of voting rights reflects a history of negotiated political inclusion associated with an imperial past and, more recently, partial integration with Europe. Resident aliens from the Republic of Ireland and Commonwealth countries have full voting rights in the UK (this includes countries such as Mozambique, Papua-New Guinea and Rwanda that were never part of the British Empire but have recently joined the Commonwealth); those from Europe have partial rights (they can vote in local government but not parliamentary elections, and they have been excluded from voting in referendums); those from other countries have none. Many other democratic countries exhibit similarly complex arrangements with regard to voting rights.⁴

[Table 1. *Who can vote in the UK?*]

Evidence of historically contingent allocations of voting rights highlights a peculiar fact about the history of democratic theory and practice noted by political theorist Robert Dahl:⁵

[H]ow to decide who legitimately make up "the people" and hence are entitled to govern themselves...is a problem almost totally neglected by all the great political philosophers who wrote about democracy.

This conceptual ambiguity at the heart of democracy has become known as the 'boundary problem' in political theory and is particularly relevant to the question of immigrant suffrage.⁶ In both theory and practice, citizenship is not a satisfactory solution to the boundary problem as it is effectively an arbitrary attribute and increasingly a mechanism of political exclusion in an age of increased population mobility. Citizenship may be granted and revoked by a sovereign more

or less at will and bears no automatic relationship to *de facto* membership in a society. For example, in the UK two individuals with identical careers, salaries, tax status and residential status can be treated differently when it comes to political rights. There is no clear moral or philosophical justification for this differential treatment under the democratic presumption of equality of persons.

Recent efforts by political theorists to resolve the boundary problem and establish a clear, coherent principle for defining the *demos* in contemporary democracies revolve around the 'principle of affected interests'. In its simplest form, this principle states that anyone who is affected by the decisions of a government ought to have a right to participate in that government directly (e.g. by standing for office) or indirectly (by participating in the election of representatives).⁷ From this starting point, two lines of argument have emerged.

The first represents a radical interpretation of the affected interest principle and states that anyone, anywhere in the world, ought to have a right to participate in the decisions of governments that affect them or might affect them.⁸ By this logic, anyone in the world potentially affected by the decisions of the UK government—e.g. on trade, monetary policy or military action—would have a right to vote in UK elections. Even the related but more restrictive 'coercion principle', which links political rights to direct subjugation to state authority, opens the door for citizens residing in foreign countries with active UK military operations to vote in UK elections. Extending this line of reasoning further, scholars such as David Held have argued for a global 'cosmopolitan democracy' in which all people are conceptualised as part of a universal *demos* and nation states become obsolete. In short, this solution to the boundary problem rejects boundaries altogether.⁹

The second line of argument remains more firmly rooted in the geographic realities of contemporary political organization. Practically speaking, history has delivered a system of states that have proven (at the best of times) effective in delivering the promise of democracy. This capability is linked to solidarity and trust, and the proximity of elected representatives to clear, spatially-bounded constituencies.¹⁰ Scholars in this tradition believe scale matters when it comes to ensuring the preconditions for democracy. This perspective doesn't conflict with visions of multiscale governance, where political institutions exist above nation states to serve the interests of broader publics, but it does argue for territorially-bounded definitions of the *demos* as a basic unit of political organization.

This latter, more pragmatic line of argument leaves us with the question of who, within a given political territory, ought to have the right to vote. Applying the affected interest principle is now more straightforward, and it becomes evident that all resident aliens should be granted voting rights. As tenants or homeowners, workers, tax payers and individuals directly subject to the coercive apparatus of the state, immigrants clearly have a direct stake in many of the decisions that a government might take. Or, as Lardy put it: "resident aliens have as many interests to protect as resident citizens".¹¹ In short, the affected interest principle applies to migrants by virtue of their territorial presence and residence.

Following this logic, and taking into consideration some complexities in applying it in practice, we propose the following criteria for inclusion in the UK *demos*: (a) all adults with a proven residence and legal presence in the United Kingdom, and (b) any adult UK citizen residing abroad with a proven and direct material interest in the UK.¹² Anybody satisfying either criterion has a clear stake in UK government decisions and remains subject to the coercive authority of the state. The legal presence criterion is included to prevent (for example) a non-UK citizen from purchasing (but not inhabiting) an official residence in the UK for the sole purpose of political influence. The appropriate criteria for satisfying this requirement would need working out but

could draw on the existing rule for those on work visas in the UK: a minimum presence on UK soil of 180 days per year.

This simple set of criteria has a sound theoretical basis and is far more consistent with the ideals of democracy outlined in the UDHR than the current arrangements, which clearly violate the principles of inclusion and equality at the very core of liberal democracy as a system of political organization.

Estimates of the scale and geography of immigrant political exclusion

Using our proposed criteria for inclusion in the UK electorate, we have estimated the number of non-enfranchised adult migrants (NeAMs) in England and Wales in 2015. The two countries together contained 88 percent of the UK's overall registered electorate in May of that year. We were not able to make comparable estimates for Northern Ireland and Scotland due to differences in the source data. (The registered electorate in NI was 1,236,765 in 2015; it was 4,099,532 in Scotland. The total number of registered electors in the UK for the 2015 general election was 46,354,197.)

The NeAM population was estimated by drawing on passport information recorded in the 2011 census of England and Wales. Every individual aged 15+ in that year was counted as this represents a plausible estimate of the voting-age population of immigrants in 2015. In total there were roughly 3.4 million potential immigrant voters in 2011. Just over 1 million of these were Commonwealth or Irish citizens and therefore eligible to vote. The remaining individuals were holders of either an EU passport, or a passport from a non-EU country that rendered that individual ineligible to vote in either parliamentary elections or the 2016 referendum regarding leaving the EU. This left nearly 2.3 million non-enfranchised adult migrants (Table 2). (These estimates are conservative. According to a UK Labour Market report published by the ONS in July 2016 the number of non-UK nationals working in the UK between January and March 2016 was 3.3 million, of which 2.15 were EU nationals. However, these numbers are not reported at subnational scale and therefore do not allow us to apply the geographic analysis permitted by use of Census figures.)

[Table 2. Estimate of non-enfranchised adult migrants (NeAMs) in 2015]

The NeAM population of England and Wales was therefore roughly equivalent to the entire registered electorate of Wales in 2015 (2.28 million) and nearly twice the size of the registered electorate of Northern Ireland (1.2 million). Overall, the NeAM population represents approximately 5% of the total potentially enfranchisable adult population of England and Wales and is therefore the single largest group of intentionally non-enfranchised adults in the whole of the UK.¹³

However, the significance of this political exclusion is not merely a question of size but also of geography. The migrant population of the UK is not evenly spread across space but rather clustered in certain areas. Figure 1 illustrates the distribution of NeAMs by Parliamentary constituency in England and Wales using an equal area cartogram with each constituency represented by a hexagon of identical size. The single largest concentration is found in London, where roughly 945,000 NeAMs live. Other significant clusters include large urban centres such as Birmingham, Leeds, Manchester, Bournemouth, Bristol, Oxford and Slough. There are also some rural concentrations in the farming areas north of Cambridgeshire and in south Lincolnshire.

[Figure 1. Estimated number of non-enfranchised immigrants by constituency in 2015]

Practical implications of political reform

This geographical distribution matters when it comes to evaluating the potential effects of adopting the more philosophically consistent and inclusive definition of the *demos* articulated above. To illustrate why, we introduced a thought experiment: If immigrants could have voted in the 2015 general election, how might the results have been affected?

To answer this question we estimated the potential number of ‘marginal’ constituencies in England and Wales in 2015 if all adult migrants had had the right to vote. This was done by calculating the ratio of NeAMs per constituency to the margin of victory in that constituency using raw vote counts. So, for example, if there were 1000 NeAMs in a given constituency and the winner of that constituency had received 2000 more votes than the runner up, the ratio would be 0.5 and this would not be considered a ‘potential marginal’. If, however, there were more NeAMs than the margin of victory then the ratio would be greater than 1. In this latter case, the constituency would be counted as a ‘potential marginal’—i.e. one where the outcome could theoretically have been different if NeAMs were granted the right to vote. A summary of estimates is presented in Table 3; all potential marginal constituencies are mapped in Figure 2 with an equal area cartogram. In total, there were 95 potential marginals in 2015; in 47 of these the number of NeAMs outnumbered the margin of victory by more than 2:1.

[Table 3. Ratio NeAMs to the margin of victory in the 2015 general election]

While this thought experiment usefully highlights the extent to which NeAMs could hypothetically influence political outcomes, it is unrealistic if we consider the full consequences of enfranchising 2.3 million more people in England and Wales.

For a start, each Member of Parliament (MP) is theoretically meant to represent a roughly equivalent number of electors (currently ~75,000 +/- 5% according to our estimates). Adding 2.3 million people to the electoral roll would therefore require either an addition of 30 MPs to the House of Commons or an increase in the number of electors represented by each MP. Given current plans to reduce the number of MPs in parliament from 650 to 600, the latter outcome would be most likely.

Either way, a new electoral map would be required. Legislation passed in 2011 and being implemented in 2016 requires, for the first time, that all constituencies have electorates within +/-5 per cent of the national quota or average. Given this equivalence criterion for drawing constituency boundaries the existing ones would have to be revised. The consequences would be most significant in large urban areas where the vast majority of migrants are concentrated. For example, under the planned reduction to 600 MPs, the Greater London County is currently slated to receive 68 MPs.¹⁴ According to our calculations, if the NeAM population were granted the right to vote London would need to have 77 out of the 600 MPs. Similarly, the number of MPs in the West Midlands would increase from 52 to 53 under the new arrangement, increasing the representation of constituencies in and around Birmingham. Consequently, the new electoral map would increase the relative weight of urban constituencies in Parliament. This is particularly significant given that urban areas have systematically been under-represented in the UK because of under-registration of certain groups within society who are concentrated in the country's

major urban centres—especially young adults, recent movers, tenants of privately-rented properties and members of ethnic minorities. If NeAMs are included as legitimate members of the UK polity, their concentration in the main urban centres – especially London – means that their addition to the electoral register would further re-balance the geography of representation in the House of Commons towards those centres.

[Figure 2. Ratio of non-enfranchised immigrants to margin of victory in the 2015 election]

More importantly, enfranchising all adult migrants would change the incentive landscape faced by competitive centrist political parties. At present, politicians have little incentive to address the needs and concerns of the 2.3 million non-enfranchised adult migrants in England and Wales. As Sarah Song has argued, “Because noncitizens lack voting rights, it is easy for political parties, candidates, and elected officials to ignore them”.¹⁵

In the UK politicians have not only ignored immigrants but actually used public concern about immigration as a political tool for cultivating support in elections. Many studies have shown that individuals’ actual personal economic circumstances do not correlate strongly with attitudes towards immigration, but perceptions of the volume of immigrant flows and the potential threat posed by migrants do. Hainmueller and Hopkins summarise this body of research neatly: “Prospective voters formulate their opinions on immigration based on perceptions of its national impact rather than reasoning from their personal economic situation”.¹⁶ These perceptions are shaped by media reports and elite rhetoric (e.g. campaign stump speeches), which in turn stoke fears about migration and incentivise political entrepreneurs to place the issue at the heart of their campaigns.¹⁷ The significant rise in concern about migration in the UK since the turn of the millennium is therefore likely to be partly a function of tactical anti-immigration discourse on the part of competing politicians. What is beyond doubt is that both of the main political parties in the UK have highlighted immigration as a significant issue, and the rise of the UK Independence Party signals the extent to which public perception has moved in this direction. This was clearly reflected campaigns for the UK to leave the European Union in 2016, which focused substantially on the claimed negative consequences of large-scale immigration.

Consider, then, what might happen if 2.3 million currently disenfranchised immigrants could vote? Given the size and geography of this group of voters there would be two likely outcomes. On the one hand, the two main parties might choose to temper their anti-immigration rhetoric in order to appeal to these voters. On the other, marginal parties (e.g. the Liberal Democrats in the UK, which is explicitly pro-immigration) or new political entrepreneurs may target urban areas with large immigrant voting blocs. In closely fought elections, these parties could hold the balance of power if a coalition were necessary.

In sum, enfranchising all resident adults in the UK would change the electoral map, increase the relative voice in Parliament of those living in large cities, and change the incentives of politicians seeking office and parties looking to form a government. Collectively, these effects would render the system more truly democratic than it is today.

Conclusion

In June 2016 the UK held a referendum on whether or not to break away from the European Union. After losing a legal challenge, the 2.15 million adult EU citizens living and working in Britain at the time of the election were not permitted to vote in that referendum.¹⁸ The Leave

campaign won by a margin of 1,269,501 votes—a significant margin, but one that could easily have been reversed if resident EU citizens had been granted the right to vote in a referendum in which they had a clear, direct and personal interest. Their exclusion from the vote is in direct conflict with the underlying principles of democracy.

The rapid expansion of the UK's immigrant population since 1997 has resulted in an increasingly distorted political system in which a sizeable share of the adult population lacks political voice. This lack of voice has created a vulnerable population that is increasingly treated as a universal scapegoat for social, economic and security concerns. This is an untenable arrangement if the UK is to remain an exemplar of democratic practice. Nearly 20 years ago Heather Lardy made the following observation:¹⁹

In a world of increasing international migration, the exclusion from the electorate of large numbers of resident aliens is a matter of deep concern. Their exclusion can only serve to intensify the sense of isolation experienced by non-legal citizens, and to weaken the democratic legitimacy of the political communities from which they are excluded.

Since that time the number of resident migrants working in the UK has more than tripled, the political establishment has been rocked by a series of unexpected electoral outcomes, and the British public has become increasingly distrustful and fearful of outsiders—sentiments reinforced by tactical political discourse. The integrity of British democracy is under threat in this age of increased international mobility; electoral reform is necessary to save it.

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Notes

¹ See A. Blais, L. Massicotte and A. Yoshinaka, 'Deciding who has the right to vote: a comparative analysis of election laws', *Electoral Studies*, vol. 20, no. 1, 2001, pp. 41-62; L. Beckman, 'Citizenship and voting rights: should resident aliens vote?', *Citizenship Studies*, vol. 10, no. 2, 2006, pp. 153-165; P. O. Espejo, 'People, territory, and legitimacy in democratic states', *American Journal of Political Science*, vol. 58, no. 2, 2014, pp. 466-478; and B. C. Kalt, 'Unconstitutional but entrenched: putting UOCAVA and voting rights for permanent expatriates on a sound constitutional footing', *Brooklyn Law Review*, vol. 81, no. 1, 2015, pp. 1-85.

² J. S. Mill, *Considerations on Representative Government*, London, Forgotten Books, 2015, p. 105.

³ R. A. Dahl, *Democracy and its Critics*, New Haven CT, Yale University Press, 1989.

⁴ IDEA (International Institute for Democracy and Electoral Assistance) *Voting from Abroad: the International IDEA Handbook*, Stockholm, IDEA, 2007.

⁵ R. A. Dahl, *After the Revolution? Authority in a Good Society*, New Haven CT, Yale University Press, 1990 [1970], p. 46.

⁶ Beckman, op. cit.; F. G. Whelan, 'Prologue: democratic theory and the boundary problem', in R. J. Pennock and J. W. Chapman (eds.), *Liberal Democracy*, New York, New York University Press, 1983, pp. 13-47.

⁷ Dahl, 1989, op. cit.; I. Shapiro, *Democratic Justice*, New Haven CT, Yale University Press, 1999.

⁸ R. E. Goodin, 'Enfranchising all affected interests, and its alternatives', *Philosophy & Public Affairs*, vol. 35, no. 1, 2007, pp. 40-68.

⁹ D. Held, *Democracy and the Global Order*, Cambridge, Cambridge University Press, 1995.

¹⁰ S. Song, 'The boundary problem in democratic theory: why the demos should be bounded by the state', *International Theory*, vol. 4, no. 1, 2012, pp. 39-68.

¹¹ H. Lardy, 'Citizenship and the Right to Vote', *Oxford Journal of Legal Studies*, vol. 17, no. 1, 1997, p.98.

¹² There is a related academic and political debate concerning expatriate voting rights (see C. López-Guerra, 'Should expatriates vote?', *Journal of Political Philosophy*, vol. 13, no. 2, 2005, pp. 216-234). At present, UK expatriates are permitted to vote in parliamentary elections for up to 15 years after moving

out of the UK. However, the Conservative party 2015 general election manifesto committed it when next in government to 'introduce votes for life, scrapping the rule that bars British citizens who have lived abroad for more than 15 years from voting' (*Conservative Party Manifesto 2015* p. 49, accessed online 25 July 2016). Our proposal follows the logic of the affected interests principle rather than arbitrary term limits. If our criteria are accepted then the UK government should ensure that all of its citizens resident abroad have full voting rights in their country of domicile as well as in the UK.

¹³ The number of 'unintentionally disenfranchised' citizens is actually higher. Research by the Electoral Commission indicates that about eight million people entitled to be registered on the electoral roll in Great Britain (i.e. excluding Northern Ireland) at the end of 2015 were missing (see Electoral Commission, *The December 2015 Electoral Registers in Great Britain*: accessed online 18 August 2016). These individuals are disenfranchised by choice or default—i.e. they have not actively registered as electors, which they are legally required to do—rather than by state action.

¹⁴ Boundary Commission for England, *Guide to the 2018 Review of Parliamentary Constituencies*, London: Boundary Commission for England, 2016. On how that could change with different enfranchisement rules see R. J. Johnston and I. McLean, 'Individual electoral representation and the future of representative democracy', *British Academy Review*, no. 19, 2012, pp. 58-60.

¹⁵ S. Song, 'Democracy and noncitizen voting rights', *Citizenship Studies*, vol. 13, no. 6, 2009, p. 614.

¹⁶ J. Hainmueller, and D. J. Hopkins, 'Public attitudes toward immigration', *Annual Review of Political Science*, vol. 17, 2014, p. 231; for UK evidence see L. McLaren and M. Johnson, 'Resources, group conflict and symbols: explaining anti-immigration hostility in Britain', *Political Studies*, vol. 55, no. 4, 2007, pp. 709-732. For example, some of the constituencies where UKIP performed well at the 2015 general election – including Clacton, the only seat that it won – contain very few immigrants but large numbers of those disadvantaged by globalisation over recent decades (i.e. the relatively old with few educational qualifications) who believe that large-scale immigration has been detrimental for their quality of life and access to public services.

¹⁷ E. Thielemann and D. Schade, 'Buying into myths: free movement of people and immigration', *The Political Quarterly*, vol. 87, no. 2, 2016, pp. 139-147; C. Leddy-Owen, 'Liberal nationalism, imagined immigration and the progressive dilemma', *The Political Quarterly*, vol. 85, no. 3, 2014, pp. 340-347; M. Goodwin and O. Heath, 'Brexit and the left behind: an aggregate level analysis of the results', *The Political Quarterly*, vol. 87, no. 3, 2016, pp..

¹⁸ On the legality of that case, see Andrew Evans 'How the EU referendum could be both undemocratic and unlawful' <http://aceditor.livejournal.com/557.html> - accessed 28 July 2016.

¹⁹ Lardy, op. cit., p.98.

Table 1. Who can vote in the UK?

	Local elections	Parliamentary elections
Commonwealth citizens resident in the UK	Yes	Yes
Irish citizens resident in UK	Yes	Yes
EU citizens resident in UK	Yes	No
All other resident aliens	No	No

Table 2. Estimate of non-enfranchised adult migrants (NeAMs)015

Potentially eligible voters	43,126,440
Actual registered electors (2015)	41,017,900
Total adult immigrant residents	3,370,681
Commonwealth & Irish citizens	1,075,633
EU citizens	1,521,050
Non-EU/CW/Irish residents	773,998
Total non-enfranchised adult migrants	2,295,048

Source: Calculations based on data from ONS (2011)

Table 3. Ratio of NeAMs to the margin of victory in the 2015 general election

Ratio (Migrants/Margin)	N Constituencies
<1.0	478
1.0-1.9	48
2.0-3.9	22
<4.0	25
Total potential marginals	95

Figure 1. Estimated number of non-enfranchised immigrants by constituency in 2015

Figure 2. Ratio of non-enfranchised immigrants to margin of victory in the 2015 election