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January 2015

Proposal To Seanad Reform Working Committee for elected representatives of overseas citizens

Summary

All citizens should have the right to vote in the Seanad.
There is a clear need for real representation with power in the political process.
Eligibility should not be limited by place of residence or time spent abroad.
Representation should be based on geographic constituencies.

Real, not symbolic representation

The premise of this proposal is that Irish citizens abroad need to be represented in a real, meaningful way in the democratic process of Ireland. This should not be limited to a symbolic voice, but to genuine engagement based on democratic principles. One of the assumptions of this proposal is that the idea of the vote for Irish citizens in the Seanad is being examined in the wider context of overall reform - aimed at making the Seanad a more effective and representative body that will be inclusive of all citizens and stakeholders.

The need for representation: Unarticulated interests

One of the more common arguments against emigrant voting is that overseas citizens are not affected by policy decisions made at home. This argument reflects a lack of awareness of the very real ways in which emigrants are disadvantaged as citizens by having no political outlets. This lack of awareness of the effects of policy decisions on overseas citizens, of course, partially results from the fact that there is no accountability to overseas citizens in the political systems of any country that does not allow emigrants to vote. With no representatives to speak for them, the interests of overseas citizens remain uncrystallised, and the population of citizens at home has little awareness of - and no reason to respond to - those interests.

Problematically, opponents of emigrant voting declare that giving emigrants the vote would give overseas citizens the right to make decisions that do not affect them, but the effects of political decisions by at-home voters on overseas citizens are almost never discussed. In fact, the policies that affect overseas citizens are numerous - and disregard for the consequences of such policies on these citizens can have serious, deleterious effects on their lives.

Policies affecting emigrants

Citizens living overseas will be affected by policies made in the home country whether they plan to return to Ireland or not. Some of the policies affecting those emigrants who are planning to return include:

- Economic policies – The rates of emigration and return migration tend to correlate with unemployment levels. A well-functioning economy, with relatively low unemployment rates, will be a necessity to enable the large-scale return that many of today's emigrants are hoping for.
- Social welfare policies – Emigrants have been adversely affected by the way in which the Habitual Residence Condition has been implemented. Despite pre-implementation assurances that returning emigrants would not be adversely affected by the condition, thousands of emigrants have been prevented from obtaining assistance such as job-seekers' and carers' allowances. They have also faced difficulties in accessing homeless services. Many had no idea they would face such difficulties until they were refused assistance.
- Education policies – Returning emigrants are affected by residency policies that determine pricing for third-level education.
- Spousal and family immigration legislation – Emigrants are affected by legislation that will affect their ability to return with their spouses and families. As Crosscare Migrant Project has noted, there is no guaranteed legal right for the non-EU family members of Irish citizens to reside in Ireland, and decisions on family reunification are discretionary.

Policies that may affect all emigrants, whether or not they plan to return, include:

- Taxation – Many emigrants who have left recently are homeowners, and are required to pay several forms of tax on homes they own. Others are required to pay taxes on homes they may have inherited. Many emigrants who formerly worked in Ireland also hold pension savings in Ireland (which, in some cases, are not legally transferable to institutions in the host country), and they are being taxed on this as well. Some may be tax-resident in Ireland but working abroad.
- Broadcasting policy – Decisions made regarding broadcasting affect whether emigrants have access to national stations from abroad. This is a particular issue for the Irish in the UK, who have been adversely affected by decisions made in recent years regarding both television and radio broadcasting. Older and more marginalized emigrants, who may have less access to the internet, are likely to be most affected.

- Contributory pension levels – Some overseas citizens are entitled to the contributory pension based on payments they made while working in Ireland. They will be affected by any adjustments in the level of payment.
- Consular protection levels – Overseas citizens may be adversely and disproportionately affected by cutbacks in consular staffing and embassy closures. This can have serious effects on Irish nationals' safety in times of political crisis or national disasters in their host countries.
- Descendent and spousal citizenship – In recent decades, changes have been made that limit the right for overseas citizens to pass on citizenship to descendants or gain citizenship through marriage. These measures most affected citizens abroad, and those citizens most affected had no say.
- Emigrant Support Programme Budget – this budget provides funding for organisations working with Irish communities abroad, particularly the vulnerable and elderly among them.

Voting, not appointment

Currently, there is scope for emigrant voices to be included in the Seanad through the use of diaspora appointments to the Seanad. This would be a less-than-ideal solution for several reasons, largely stemming from the fact that such appointments do not follow basic principles of democracy. Representatives should be accountable to constituents, and the process of becoming an overseas citizens' representative should be open and transparent in the same way that the general electoral process strives to be.

International context

Increasingly, the right to vote for overseas citizens is rapidly becoming an international norm. Over 125 nations now offer their citizens the opportunity to vote, with movements toward emigrant voting rights accelerating in the last decade. Additionally, it is likely that international bodies will increasingly highlight the shrinking number of countries that do not allow their overseas citizens the right to vote. The January 2014 European Commission document 'Addressing the consequences of disenfranchisement of Union citizens exercising their right to free movement' is one such example, and its critique of the few EU countries that limit the right to vote is stark. It is likely that Ireland in the coming years will face increasing attention over this issue from both its own citizens overseas and from external sources. It would be a positive step to address this sooner rather than later, as the issue will likely continue to gain in prominence in the future.

Specific representation for overseas citizens

International IDEA's "Voting From Abroad: The International IDEA Handbook", published in 2007, noted that a number of nations set aside seats in their representative bodies for non-resident citizens. This information was set out as follows:

Country	Number of seats	%	total number of seats in representative bodies
Algeria	8	2	389
Angola	3	1 .4	220 (not implemented as of report publication)
Cape Verde	6	8 .3	72 (Two each from Africa, Americas, and Europe/rest of the world)
Colombia	1	0 .6	166
Croatia	6 (maximum)	3 .9	152
Ecuador	6	4 .6	130
France	12	3 .6	331
Italy	12	1 .9	630 One constituency for four geographical groupings)
Mozambique	2	0 .8	250 Two single-member constituencies, for Africa and the rest of the world
Panama	6	4 .6	130 (not implemented as of report publication)
Portugal	4	1 .7	230

Geographic constituencies

Specific representatives for overseas citizens would allow the clearest articulation and crystallisation of emigrant perspectives, while at the same time address the often-quoted fears of the resident population being overwhelmed by overseas citizens. One way that this would be most logically arranged could be the use of constituencies arranged by host countries of the overseas citizens.

While the details merits further study, but it would be worth considering perhaps 3-5 constituencies, based on geography, covering some combination of the overseas citizens living in:

- Great Britain
- Continental Europe
- North America
- Australia
- The rest of the world

Time limits

Time limits are sometimes presented as a reasonable response to the question of overseas voting. While most states do not use them, they are not unprecedented: the UK, for example, allows the vote only for those who have been away for less than 15 years.

But time limits are an unsatisfactory solution for a number of reasons:

- Many arguments around emigrant voting revolve around the issue of equality of citizenship. Voting is a fundamental act of citizenship, and as citizenship does not expire, neither should voting rights. In fact, allowing some citizens to vote and not others undermines the very notion of equality of citizenship.
- Voting time limits are by their nature arbitrary .
- Some argue that those who are forced abroad should be given the vote for one electoral cycle, in order to be able to cast judgement on the government that forced them to leave. But this positions voting as a means of revenge, rather than, rightfully, as a basic right of citizenship.
- Others argue that voting should be allowed for a short time as after a certain number of years, emigrants will be less likely to return home. The problem is that there is no data to support this. Some people return after only a year or two abroad, after a short-term work experience. Many others go home after a decade or more in order to rear children at home, take care of elderly parents, or to take advantage of job opportunities. Others retire at home after many decades away. For many, the decision to go home will not be a purely personal decision, but will be driven

- by economic factors, and the timing is unpredictable.
- Some argue that younger emigrants are more likely to be affected by policies affecting the Irish abroad. Yet, in fact, many policies affect citizens regardless of their time abroad, and some affect older emigrants far more. While it is true that some policies affect those expecting to return more, there are many policies that affect anyone who is living abroad.

Voting procedures

While further study is needed for developing the most appropriate form of voting for overseas citizens in the Seanad, it is worth looking at the experience of other nations. International IDEA's Voting From Abroad noted the following systems in use in 2007:

- Personal voting at diplomatic missions or other dedicated places - 54 countries
- Postal voting - 25 countries. (This was the most common practice in Western Europe)
- Proxy voting - 4 countries
- Mixed procedures - 27 countries.

Additionally, Estonia and the Netherlands were using e-voting.

Because of Ireland's extremely widespread and diverse diaspora, it is likely a system of postal voting will prove most suitable. The use of diplomatic missions alone would be limiting due to the fact that many would have to travel far to vote.

Ireland should be able to devise a postal voting system, or a combined system with personal or postal voting, based on current international best practice.