

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

VITO J. FOSSELLA, NICHOLAS A.
LANGWORTHY, JOSEPH BORRELLI, NICOLE
MALLIOTAKIS, ANDREW LANZA, MICHAEL
REILLY, MICHAEL TANNOUSIS, INNA
VERNIKOV, DAVID CARR, JOANN ARIOLA,
VICKIE PALADINO, ROBERT HOLDEN, GERARD
KASSAR, VERALIA MALLIOTAKIS, MICHAEL
PETROV, WAFIK HABIB, PHILLIP YAN HING
WONG, NEW YORK REPUBLICAN STATE
COMMITTEE, and REPUBLICAN NATIONAL
COMMITTEE,

Plaintiffs-Respondents

-against-

ERIC ADAMS, in his official capacity as Mayor of
New York City, BOARD OF ELECTIONS IN THE
CITY OF NEW YORK, and CITY COUNCIL OF
THE CITY OF NEW YORK,

Defendants-Appellants

-and-

HINA NAVEED, ABRAHAM PAULOS, CARLOS
VARGAS GALINDO, EMILI PRADO, EVA
SANTOS VELOZ, MELISSA JOHN, ANGEL
SALAZAR, MUHAMMAD SHAHIDULLAH, and
JAN EZRA UNDAG,

Defendants-Intervenors-Appellants

Second Dep't Docket No.:
2022-05794

Richmond County Index No.:
85007/2022

**NOTICE OF MOTION OF PROFESSOR RON HAYDUK TO FILE AN *AMICUS*
CURIAE BRIEF IN SUPPORT OF DEFENDANT-APPELLANTS AND
DEFENDANTS-INTERVENORS-APPELLANTS**

PLEASE TAKE NOTICE that, upon the annexed affirmation of Eric D. Lawson, dated
December 9, 2022, and the exhibits annexed thereto, a motion will be made at a term of this Court
to be held at 45 Monroe Place, Brooklyn, New York, 11201 on December 19, at 10:00 a.m., or as

soon thereafter as counsel can be heard, for an order granting Professor Ron Hayduk leave to file the proposed Brief of *Amicus Curiae* in Support of Defendants-Appellants Eric Adams, in his official capacity as Mayor of New York City, Board of Elections in the City of New York, and City Council of the City of New York, and Defendants-Intervenors-Appellants Hina Naveed, Abraham Paulos, Carlos Vargas Galindo, Emili Prado, Eva Santos Veloz, Melissa John, Angel Salazar, Muhammad Shahidullah, and Jan Ezra Undag, attached hereto as Exhibit A. Pursuant to 22 NYCRR §§ 670.4 and 1250.4, this motion will be submitted on the papers and personal appearance in opposition to the motion is neither required nor permitted.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 2214 [b], answering papers, if any, shall be served upon the undersigned counsel at least two (2) days prior to the return date of this motion.

Dated: New York, New York
December 9, 2022

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Second Dep't Docket No:
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**AFFIRMATION OF ERIC D. LAWSON IN SUPPORT OF MOTION FOR
LEAVE TO FILE BRIEF OF *AMICUS CURIAE***

ERIC D. LAWSON, an attorney duly admitted to practice before this Court, affirms under penalty
of perjury pursuant to CPLR 2106, as follows:

1. I am an attorney with Morrison & Foerster LLP and a member of the Bar of the
State of New York. I make this affirmation in support of the application of Professor Ron Hayduk

to file an *amicus curiae* brief in this matter. I am authorized by the proposed *amicus* to bring this motion and to submit the proposed brief filed together with this motion.

2. Professor Hayduk is a professor of political science at San Francisco State University (“SFSU”). Professor Hayduk received his Ph.D. from and previously taught at the City University of New York before joining the SFSU faculty in 2016. He studies and teaches courses on immigration, equality, voting, and elections and has published numerous books, book chapters, and peer-reviewed articles on those subjects. Professor Hayduk submits this brief to direct the Court’s attention to the historical support for noncitizen voting and the importance of noncitizen voting in a democratic society.

3. Professor Hayduk anticipates that Defendants-Appellants’ and Intervenor-Defendants-Appellants’ briefing will address the legal reasons why noncitizen voting in New York City should be upheld. As *amicus curiae*, Professor Hayduk seeks to assist the Court by supplementing Defendants-Appellants’ and Intervenor-Defendants-Appellants’ arguments with information surrounding the traditional and historical underpinnings of noncitizen voting and the policy reasons that make noncitizen voting consistent with American political history. Given Professor Hayduk’s expertise in this subject, he is extremely qualified to provide this information to the Court.

4. I communicated with counsel for Defendants-Appellants and understand that Defendants-Appellants Eric Adams and the City Council of the City of New York consent to the filing of this *amicus curiae* brief at this time, while Defendant-Appellant Board of Elections in the City of New York takes no position. Defendants-Intervenors-Appellants also consent to the filing of this *amicus* brief. Plaintiffs-Respondents did not respond to the request for consent.

5. Attached as **Exhibit A** is the *amicus* brief that Professor Hayduk will file if leave is granted. As the brief reflects, Professor Hayduk will argue that Local Law 11 is part of a long history of noncitizen suffrage in both New York and the United States, that the practice is consistent with traditional notions of American democracy, and that it produces positive outcomes.

6. Attached as **Exhibit B** is a true and correct copy of Professor Hayduk's *curriculum vitae*.

WHEREFORE, proposed *amicus curiae* Professor Hayduk respectfully requests that this motion be granted and that Professor Hayduk be granted leave to appear as *amicus curiae* in this appeal and to file the brief attached hereto as **Exhibit A**.

Dated: New York, New York
December 9, 2022

/s/ Eric D. Lawson

Eric D. Lawson

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EXHIBIT A

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New York Supreme Court
Appellate Division: Second Department

VITO J. FOSSELLA, NICHOLAS A. LANGWORTHY, Docket No.
JOSEPH BORRELLI, NICOLE MALLIOTAKIS, ANDREW LANZA, 2022-05794
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Defendants-Appellants,

(caption continued on next page)

**BRIEF FOR AMICUS CURIAE PROFESSOR
RON HAYDUK**

December 9, 2022

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GALINDO, EMILI PRADO, EVA SANTOS VELOZ,
MELISSA JOHN, ANGEL SALAZAR, MUHAMMAD
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INTEREST OF *AMICUS CURIAE*

I am a professor of political science at San Francisco State University. I received my Ph.D. from the City University of New York and previously taught at the City University of New York and Queens College before joining the San Francisco State University faculty. I have published several books on the subjects of immigration policy and voting rights, and I have published many peer-reviewed articles on those subjects in academic journals.

While I do not have a direct personal interest in this litigation, I have dedicated much of my professional career to the study of immigration, community organizing and social movements, elections, and equality. I have an academic interest in explaining the long history and tradition of noncitizen voting in New York City, as well as other jurisdictions within the United States. My goal is to bring to this matter historical expertise that will help to inform the Court's decision in resolving the appeal.

PRELIMINARY STATEMENT

When the Supreme Court of Richmond County overturned Local Law 11, it overlooked a rich history of noncitizen voting in both New York and the United States at large. Local Law 11 is far from an aberration in the historical record, or even in the modern day. Instead, it is a continuation of numerous laws, enacted in every corner of the country, that have enfranchised noncitizens in the United States. These laws recognize that noncitizen voting is not only consistent with the democratic notions this country was founded upon—like “government must rest on the consent of the governed,” “no taxation without representation,” and “good-enough-to-fight-good-enough-to-vote”—but essential to the ongoing pursuit of the American democratic ideal. The project of noncitizen voting is a means to forge immigrant inclusion and equitable democratic practice, and has long produced positive outcomes, for citizens and noncitizens alike. In New York City, characterized by its remarkable diversity and community engagement, the benefits of

including noncitizens in the political process cannot be overstated. Noncitizen New Yorkers alone pay billions in taxes each year.¹ Immigrants in New York City own 52 percent of local businesses and contribute over \$100 billion to the citywide GDP.² Yet these groups are still broadly denied a voice in the political mechanisms that directly affect their daily lives.

As a scholar in the fields of political science and history, I respectfully encourage this Court to uphold Local Law 11. Noncitizen voting is consistent with historical practice; is part of traditional American democratic notions; is crucial to ending discrimination and bias against marginalized groups; and has been shown to produce tangible outcomes that benefit both citizens and noncitizens.

ARGUMENT

I. LOCAL LAW 11 IS CONSISTENT WITH A LONG TRADITION OF NONCITIZEN VOTING IN BOTH NEW YORK CITY AND THE UNITED STATES.

Local Law 11 is part of a considerable history and tradition, in both the United States and New York specifically, of the enfranchisement of noncitizens. Through various state and local laws, legislatures have empowered noncitizens to vote since before the Declaration of Independence was signed.

A. Noncitizens Were Permitted to Vote in New York as Early as the 1700s.

During the colonial and early republican period, debates over suffrage in New York focused on the highly contentious issues of property qualifications and race—not citizenship. New York’s original Constitution of 1777 provided suffrage to “every male inhabitant of full age” who

¹ Record on Appeal at 1445.

² *Id.* at 396.

met property qualifications.³ Before being admitted to vote, electors would be required to take an oath or affirmation of allegiance to the state.⁴

During New York's Constitutional Convention of 1821, delegates debated the inclusion of a racial qualification for suffrage and the removal of the requirement that only landowners could vote in senatorial elections. While some delegates asserted that democratic principles mandated suffrage for Black people and laborers, other delegates claimed that allowing these groups to vote would lead to an irresponsible government and insecure property rights.⁵ The revised Constitution of 1821 embodied a compromise, granting suffrage to "every male citizen of the age of twenty-one years" who met either a property ownership, rental payment, militia service, or public labor qualification.⁶ Men of color were permitted to vote but, had to meet stricter residency and property qualifications than applied to white men, including a requirement to be a state citizen for three years.⁷ Although some delegates referred to noncitizen voting when discussing their opposition to a proposal that would grant Black people voting rights, New York's Constitution never explicitly limited voting to United States citizens.⁸

More recently, New York City explicitly restored noncitizen voting rights in local school board elections. During the 1960s, civil rights groups in New York City sought to attain greater

³ N.Y. Const. of 1777, Art. VII, reproduced in *THE FEDERAL AND STATE CONSTITUTIONS, COLONIAL CHARTERS, AND OTHER ORGANIC LAWS OF THE STATES, TERRITORIES, AND COLONIES NOW OR HERETOFORE FORMING THE UNITED STATES OF AMERICA* VOL. V 2630–2631 (Francis Thorpe ed. 1909).

⁴ *Id.*

⁵ *DEMOCRACY, LIBERTY, AND PROPERTY: THE STATE CONSTITUTIONAL CONVENTIONS OF THE 1820S* 215–17 (Merrill D. Peterson, ed. 1966).

⁶ N.Y. Const. of 1777, Art. VII, reproduced in *THE FEDERAL AND STATE CONSTITUTIONS, COLONIAL CHARTERS, AND OTHER ORGANIC LAWS OF THE STATES, TERRITORIES, AND COLONIES NOW OR HERETOFORE FORMING THE UNITED STATES OF AMERICA* VOL. V 2630–31 (Francis Thorpe ed. 1909).

⁷ N.Y. Const. of 1821, Art. II, §1, reproduced in *THE FEDERAL AND STATE CONSTITUTIONS, COLONIAL CHARTERS, AND OTHER ORGANIC LAWS OF THE STATES, TERRITORIES, AND COLONIES NOW OR HERETOFORE FORMING THE UNITED STATES OF AMERICA* VOL. V 2642–43 (Francis Thorpe ed. 1909).

⁸ *DEMOCRACY, LIBERTY, AND PROPERTY: THE STATE CONSTITUTIONAL CONVENTIONS OF THE 1820S* 215, 227–28 (Merrill D. Peterson, ed., 1966).

community control, which led to the creation of community school boards.⁹ New York City created thirty-two community school boards, each with powers to hire superintendents and principals and with funding for related programs (such as after-school programs). Noncitizen parents of children in the public school system—regardless of legal status (*i.e.*, both “documented” and “undocumented” parents)—were granted the rights to vote in school board elections and hold office on community school boards.¹⁰ New York City also extended voting to noncitizens in elections for the Community Development Agency elections, which determines the distribution of millions of antipoverty funds.¹¹

Community school board elections were held every three years in May at a separate time from all other elections (which were held in the fall), and were jointly administered by the New York City Board of Education and Board of Elections.¹² Voter participation in community school board elections ranged from a high of 14 percent of the total eligible voters (*i.e.*, registered voters) in 1970 (427,110 voters out of 2,971,707 registrants), which was the first school board election year, to a low of 3.3 percent in 1999 (112,610 voters out of 3,342,168 total registrants), the last year when school board elections were held.¹³ Turnout hovered at roughly 10 percent in seven out of the ten elections held.¹⁴ Although voter turnout generally declined over time, the 1993 election

⁹ Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 101–02 (2006).

¹⁰ *Id.*

¹¹ *Id.*

¹² Rob Richie, *New York City Community School Board Elections*, 85, no. 1 NAT’L CIVIC REV. 48–50 (1996); Michael Krasner, *The Cycle of Powerlessness: School Politics in New York City*, 14, no. 4 URBAN EDUCATION 387–414 (1980).

¹³ Gartner, Alan, executive director, and Fong Chan, chair. “Temporary State Task Force on the New York City Community School Board Elections, Final Report.” March. Albany: State of New York, 1998; Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES, 102–03 (2006).

¹⁴ Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 102 (2006).

posted a 12.5 percent turnout rate.¹⁵ In 1993, 65,716 parent voters cast ballots and in 1996, 73,024 parent voters cast ballots.¹⁶

In 2002, Mayor Bloomberg worked with the New York State Legislature and Governor George Pataki to reorganize the governance structure of the New York City school system, creating a Department of Education under mayoral control and eliminating the thirty-two community school boards. Thus, voting by noncitizens in New York City school board elections was eliminated in 2003.¹⁷ This reorganization put a temporary end to noncitizen voting in New York—until Local Law 11 was enacted.

In sum, from its founding and for many years thereafter, noncitizen suffrage was a noncontroversial part of New York’s political life.

B. The United States Has a Rich History and Tradition of Democratic Participation by Noncitizens, Particularly in Local Elections.

New York is not alone in its historical incorporation of noncitizens into political life. Historians and social scientists have long acknowledged the significant place of non-citizen immigrants in American electoral history.¹⁸ Indeed, noncitizens were able to legally vote in 40 states at some point in time between 1776 and 1926.¹⁹ Local Law 11 is thus just one iteration in a centuries-long, almost nationwide tradition of enfranchising noncitizen voters. While not widely

¹⁵ *Id.*

¹⁶ Jon del Giorno, “Community School Board Elections Fact Sheet,” June 26, 1999 (New York: New York City Board of Elections, the New York City Department of Education).

¹⁷ *Id.* at 103–04.

¹⁸ *See generally* Susan F. Martin, A NATION OF IMMIGRANTS (2021).

¹⁹ Historians and legal scholars initially believed 22 states allowed for noncitizen suffrage, Jamin B. Raskin, *Legal Aliens, Local Citizens: The Historical, Constitutional and Theoretical Meanings of Alien Suffrage*, 141, no. 4 U. PA. L. REV. 1390, 1397 (1993), but subsequent research demonstrated the number was considerably higher—over 40 allowed noncitizens or “declarant citizens” to vote. Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES, 102 (2006).

known, these facts are now well documented.²⁰ Noncitizen voting is as American as apple pie and older than baseball.²¹

During and after the ratification of the U.S. Constitution, emerging republicanism and liberalism made noncitizen suffrage a logical practice.²² As the fledgling nation expanded westward, the practice of noncitizen suffrage also spread. In 1787, for example, when the Continental Congress created the Northwest Territory, to qualify as an “elector of a representative,” a man was required to possess a freehold in fifty acres of land in the district, be a citizen of one of the states, and be a resident in the district, or to possess the like freehold and have resided in the district for two years.²³ Noncitizen suffrage was seen not as a substitute for citizenship, but as a *pathway* to foster citizenship and immigrant integration—a kind of “pre-citizen” voting.²⁴

Research shows that these noncitizens actually voted and impacted election outcomes in this period. Noncitizen voters factored into considerations by political factions on salient questions of the day, affecting party dynamics, electoral outcomes, and policy.²⁵ As such, noncitizen suffrage played a role in facilitating immigrant incorporation and American progress.²⁶

²⁰ See, e.g., Marta Tienda, *Demography and the Social Contract* 39, no. 4 DEMOGRAPHY, 587–616, 604 (2002); Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 19–20 (2006).

²¹ Although different terms are used to describe immigrant voting, including “noncitizen voting,” “alien suffrage,” “resident voting,” and “local citizenship,” they all mean essentially the same thing: voting legally by residents who are not formally citizens of the United States.

²² Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 16 (2006).

²³ Northwest Ordinance (1787), Sec. 9, available at: <https://www.archives.gov/milestone-documents/northwest-ordinance>.

²⁴ Jamin B. Raskin, *Legal Aliens, Local Citizens: The Historical, Constitutional and Theoretical Meanings of Alien Suffrage*, 141, no. 4 U. PA. L. REV. 1390, 1407 (1993).

²⁵ See generally Gary Gerstle & John Mollenkopf, *The Political Incorporation of Immigrants, Then and Now*, E PLURIBUS UNUM?: CONTEMPORARY AND HISTORICAL PERSPECTIVES ON IMMIGRANT POLITICAL INCORPORATION 1–28 (Gary Gerstle & John Mollenkopf eds. 2001); David Montgomery, *THE FALL OF THE HOUSE OF LABOR: THE WORKPLACE, THE STATE, AND AMERICAN LABOR ACTIVISM, 1865–1925* (1987); Ruth Milkman, *IMMIGRANT LABOR AND THE NEW PRECARIAT* (2020).

²⁶ Gary Gerstle & John Mollenkopf, *The Political Incorporation of Immigrants, Then and Now*, E PLURIBUS UNUM?: CONTEMPORARY AND HISTORICAL PERSPECTIVES ON IMMIGRANT POLITICAL INCORPORATION (Gary Gerstle & John Mollenkopf eds. 2001).

From nearly the start of our constitutional republic, courts have also affirmed the state and local practice of noncitizen suffrage. For example, the 1809 Pennsylvania Supreme Court case *Stewart v. Foster* concerned a provision in the borough charter of Pittsburgh allowing noncitizens to vote in a municipal election if they lived and paid taxes in Pittsburgh for the required one-year period.²⁷ Mr. Stewart, a noncitizen freeholder who met those qualifications, was nonetheless denied the right to cast his vote by election judges. The Pennsylvania Supreme Court held that the state legislature had intended to enfranchise noncitizens in Pittsburgh local elections.²⁸ In reaching that conclusion, Justice Brackenridge explained:

[B]eing an inhabitant, and [] paying tax[es], are circumstances which give an interest in the borough. The being an inhabitant, gives an interest in the police or regulations of the borough generally; the paying tax gives an interest in the appropriation of the money levied. A right, therefore, to a voice mediately or immediately in these matters, is founded in natural justice. To reject this voice, or even to restrain it unnecessarily, would be wrong. It would be as unjust as it would be impolitic. It is the wise policy of every community to collect support from all on whom it may be reasonable to impose it; and it is but reasonable that all on whom it is imposed should have a voice to some extent in the mode and object of the application.²⁹

Justice Brackenridge thus held that it would have been “wrong, according to constitutional, corporate or natural law principles, for the state to exclude noncitizens from these elections.”³⁰

Of course, noncitizen suffrage was contested at points in the post-revolutionary period during episodes of acute nativism and nationalism, and as part of efforts to preserve the institution of slavery. For example, the War of 1812 reversed the spread of noncitizen suffrage by raising the specter of “foreign enemies.”³¹ In 1812, beginning with Louisiana, most newly admitted states,

²⁷ *Stewart v. Foster*, 2 Binn. 110 (Pa. 1809).

²⁸ *Id.* at 122–24.

²⁹ *Id.* at 122.

³⁰ *Id.*

³¹ Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 3 (2006); Jamin B. Raskin, *Legal Aliens, Local Citizens: The Historical, Constitutional and Theoretical Meanings of Alien Suffrage*, 141, no. 4 U. PA. L. REV. 1390, 1391–92 (1993); Alan H. Kennedy, *Voters in a Foreign Land: Alien Suffrage in the United States, 1704–1926*, 34, no. 2 J. OF POL’Y HISTORY 245, 258 (2022).

including Indiana (1816), Mississippi (1817), Alabama (1819), Maine (1820), and Missouri (1821), confined the franchise to citizens.³² Southern states in particular saw immigrants as a threat because of the newcomers' hostility to slavery, and so they restricted the franchise to citizens.³³

Nevertheless, as economic development advanced in the territories and new states, noncitizen suffrage spread. Politicians were eager to capitalize on the votes of immigrants already present in their jurisdiction or to encourage future immigration.³⁴ By the 1880s, noncitizen suffrage reached its zenith, fueled by a growing economy that needed new labor, and spurred increased immigration and settlement of the Midwest and West.³⁵

The following figure shows which states allowed noncitizen suffrage (highlighted in orange) during each period in United States history.³⁶

³² Jamin B. Raskin, *Legal Aliens, Local Citizens: The Historical, Constitutional and Theoretical Meanings of Alien Suffrage*, 141, no. 4 U. PA. L. REV. 1390, 1404 (1993).

³³ *Id.*; Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 19–24 (2006).

³⁴ Sara Egge, WOMAN SUFFRAGE AND CITIZENSHIP IN THE MIDWEST, 1870–1920, 9–10 (2018).

³⁵ Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 19–24 (2006).

³⁶ Graphic created by Kimia Pakdaman, *Noncitizen Voting Rights in the United States*, BERKELEY PUB. POL'Y J. Spring, 2019, available at: <https://bppj.berkeley.edu/2019/03/04/spring-2019-journal-noncitizen-voting-rights-in-the-united-states/>

No history of noncitizen voting



No history of noncitizen voting

No history of noncitizen voting

No history of noncitizen voting

Oklahoma, Dakota, Nevada, Wyoming, Oregon, and Washington.³⁹ After achieving statehood, states kept up the practice of allowing “declarant aliens” voting rights.⁴⁰ In this formulation, noncitizen suffrage was seen as a means to facilitate citizenship.^{41,42}

Immigrants were ultimately granted voting rights, in some cases after a limited residence period, in Wisconsin, Minnesota, Michigan, Indiana, Oregon, Kansas, and Washington territory between 1848 and 1859.⁴³ As the number of immigrants grew in the United States—first from Germany, Ireland, and China during the mid-nineteenth century and later from Southern and Eastern Europe between 1880 and 1920—the immigrant vote helped elect representatives of varying national origins and affected political dynamics.⁴⁴ This period was also characterized by rapid industrialization and urbanization, which, along with increased immigration, brought major changes to social and economic life as well as sharp political conflict,⁴⁵ fueling anti-immigrant passions that contributed to the elimination of noncitizen suffrage during the decades surrounding the turn of the twentieth century.⁴⁶

As a result, by 1900, only 11 states retained immigrant voting rights.⁴⁷ In the years leading up to and with the advent of World War I, these remaining states moved to end noncitizen suffrage,

³⁹ *Id.* at 1406–09.

⁴⁰ *Id.*

⁴¹ Naturalization involved a series of steps, including filing “first papers” that declared an immigrant’s intent to become a citizen. Avery M. Guest, *The Old-New Distinction and Naturalization: 1900*, 14, no. 4 THE INT’L MIGRATION REV. 494 (Winter 1980).

⁴² The United States Supreme Court has also emphasized that “[c]itizenship has not in all cases been made a condition precedent to the enjoyment of the right of suffrage.” *Minor v. Happersett*, 88 U.S. (21 Wall.) 162, 177 (1874).

⁴³ Jamin B. Raskin, *Legal Aliens, Local Citizens: The Historical, Constitutional and Theoretical Meanings of Alien Suffrage*, 141, No. 4 U. PA. L. REV. 1390, 1406–09 (1993).

⁴⁴ See, e.g., Steven P. Erie, RAINBOW’S END: IRISH-AMERICANS AND THE DILEMMAS OF URBAN MACHINE POLITICS, 1840–1985, 67–68, 101 (1990).

⁴⁵ Frances Fox Piven & Richard A. Cloward, WHY AMERICANS STILL DON’T VOTE: AND WHY POLITICIANS WANT IT THAT WAY 45, 66–71 (2000).

⁴⁶ Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 25–26 (2006).

⁴⁷ *Id.* at 19–20.

usually by constitutional amendment.⁴⁸ During this period, citizen groups and public officials scapegoated or targeted immigrants, contributing to immigrants' marginalization.⁴⁹ Legal and procedural impediments to political participation are correlated with biased policy, contributing to the marginalization of ethnic and racial groups.⁵⁰ Other restrictive electoral reforms were also imposed in this period, such as poll taxes, literacy tests, grandfather clauses, and restrictive residency requirements and voter registration procedures—all of which combined to depress voter turnout and limited more democratic possibilities for American political development for decades.⁵¹

However, in the contemporary period, there has been movement towards restoring voting rights to noncitizens at the local level in a number of locations, including Chicago (1989 to date), ten towns in Maryland (1980s to date), and San Francisco (2016 to date).⁵² An additional dozen jurisdictions have enacted local laws or have considered restoring immigrant-voting rights, including localities in New York, California, Vermont, Maine, Washington, Washington, D.C.,⁵³ and Massachusetts.⁵⁴ Globally, 45 countries allow immigrants to vote at the local, regional, or national level, primarily in the European Union and Latin America.⁵⁵

⁴⁸ *Id.* (Alabama (1901), Colorado, (1902), Wisconsin, (1908), Oregon, (1914), Kansas (1918), Nebraska (1918), South Dakota, (1918), Indiana, (1921), Texas, (1921), Missouri, (1921), and Arkansas (1926)).

⁴⁹ John Higham, *STRANGERS IN THE LAND: PATTERNS OF AMERICAN NATIVISM, 1860–1925* 35–45 (2002).

⁵⁰ *Id.*

⁵¹ Turnout ranged from 70 to 80% during presidential elections from 1840 to 1896 and dropped to 49% by 1924. Frances Fox Piven & Richard A. Cloward, *WHY AMERICANS STILL DON'T VOTE: AND WHY POLITICIANS WANT IT THAT WAY* 48, 65 (2000).

⁵² Takoma Park, Barnesville, Martin's Additions, Somerset, Garrett Park, Chevy Chase Section Three, Chevy Chase Section Five, Hyattsville, Glen Echo, and Mount Rainier.

⁵³ Ron Hayduk & Kathleen Coll, *Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US*, 40, no. 2 *NEW POLITICAL SCIENCE* 336–352 (2018); Matt Vasilogambros, *Noncitizens Are Slowly Gaining Voting Rights* STATELINE, July 1, 2021, available at: <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/07/01/noncitizens-are-slowly-gaining-voting-rights>. See also ImmigrantVotingRights website at www.immigrantvotingrights.com.

⁵⁴ Amherst, Cambridge, Brookline, and Newton, Massachusetts. Boston is exploring a bill.

⁵⁵ Dan Ferris et al., *Noncitizen Voting Rights in the Global Era: A Literature Review and Analysis* Vol. 21, no. 3 *JOURNAL OF INTERNATIONAL MIGRATION AND INTEGRATION* 949, 952 (2020).

These more recent domestic laws take several forms and were enacted by both direct democratic mechanisms and through legislative action. For example, some of these laws restore immigrant voting to all residents—both documented and undocumented immigrants (Maryland, San Francisco)—while other laws enfranchise only legal permanent residents (New York City, Vermont, Massachusetts).⁵⁶ Some campaigns have been enacted via ballot proposals (San Francisco, Vermont), while others enact local laws via legislative processes (New York City, Massachusetts, Maryland).⁵⁷ Though they vary, these laws play a role in facilitating immigrant inclusion, incorporation, and progress.

Contemporary Immigrant Voting Laws in the U.S.

Jurisdiction	Type of Law	Year	Coverage
NYC	State Statute	1969–2002	Parents, school board elections
	Local law	2021	Lawful residents, local elections
Chicago	Local Law	1989–present	Local school council elections
Maryland	10 Local Statutes	1980s–present	All residents, local elections
San Francisco	Ballot Proposal	2016	School board elections
Massachusetts	4 Local Statutes	1990s–2020s	Legal permanent Residents (“LPRs”)
Montpelier, VT	Ballot Proposal	2020	LPRs
Winooski, VT	Ballot Proposal	2021	LPRs

⁵⁶ Ron Hayduk & Kathleen Coll, *Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US*, 40, no. 2 NEW POLITICAL SCIENCE 336–52 (2018).

⁵⁷ *Id.* at 336, 339.

Local Law 11 is far from an anomaly in the history of voting in the United States. It is just one iteration in a tradition of noncitizen political participation dating back to this nation's founding and continuing into the present day. Since the 1700s, state and local governments have recognized the benefits of enfranchising this large and active, but too often overlooked, segment of the United States' population.

II. LOCAL LAW 11 SERVES IMPORTANT PUBLIC POLICY GOALS.

Local Law 11 is compatible with traditional American notions of democracy and serves tangible goals of equality, diversity, and increased political participation.

A. Local Law 11 Is Consistent with Traditional Notions of Voting in the United States.

Given the importance of voting, it is no surprise that American history is littered with conflicts over who is entitled to the franchise. Through those conflicts, traditional democratic arguments for suffrage rights have emerged: "government must rest on the consent of the governed, no taxation without representation, and good-enough-to-fight-good-enough-to-vote."⁵⁸ Noncitizen voting laws like Local Law 11 are consistent with those principles.

Consent of the Governed: One of the basic tenets of democratic theory is embodied in the notion of the social contract: the legitimacy of government rests on the consent of the governed.⁵⁹ Under that theory, citizens consent to governmental authority in exchange for the power to select their representatives. The democratic mechanism holds elected officials accountable to the people.⁶⁰ Otherwise, oppression is possible. Benjamin Franklin framed the issue of voting rights

⁵⁸ Jamin B. Raskin, *Legal Aliens, Local Citizens: The Historical, Constitutional and Theoretical Meanings of Alien Suffrage*, 141, no. 4 U. PA. L. REV. 1390, 1441–42 (1993).

⁵⁹ Ron Hayduk, *DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES* 59 (2006).

⁶⁰ Ron Hayduk & Kathleen Coll, *Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US*, 40, no. 2 NEW POLITICAL SCIENCE 336, 343 (2018).

pointedly: “They who have no voice nor vote in the electing of representatives do not enjoy liberty, but are absolutely enslaved to those who have votes.”⁶¹

It follows that when some residents are excluded from the vote—and thereby the capacity to keep representatives in check—governmental authority can lead to discriminatory outcomes.⁶² Indeed, scholars have studied numerous examples of the subordination of minority groups in democratic systems and concluded that extensive voter participation makes representative political systems more robust—an inclusive franchise and active electorate keep elected officials responsive and accountable to all constituents.⁶³

Professors Alex Aleinikoff and Douglas Klusmeyer, for example, note that “[a]ny discussion of the franchise for immigrants must consider the basic democratic premise that what concerns all should be decided by all. . . . [L]aws of democratic states apply not only to their citizens, but to all who live in the territory.”⁶⁴ Similarly, Professor Rainer Bauböck argues for the adjustment of democratic norms to fit new demographic realities.⁶⁵ Professor Lisa García Bedolla argues for granting political rights to noncitizens based on a broader notion of membership in a society, so as to move toward integration, incorporation, and equal treatment.⁶⁶ Local Law 11 achieves that goal by allowing noncitizens to vote in local elections that may impact their day-to-day lives as residents of New York City.

⁶¹ Ron Hayduk, *DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES* (2006); Ida Husted Harper, *Suffrage, A Right*, 183, no. 599 THE N. AM. REV. (Sep. 21, 1906).

⁶² Ron Hayduk, *DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES* 65–66 (2006).

⁶³ Ron Hayduk & Kathleen Coll, *Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US*, 40, no. 2 NEW POLITICAL SCIENCE 336–52 (2018).

⁶⁴ T. Alexander Aleinikoff & Douglas Klusmeyer, *CITIZENSHIP POLICIES FOR AN AGE OF MIGRATION* 46 (2002).

⁶⁵ Rainer Bauböck, *Expansive Citizenship—Voting Beyond Territory and Membership* 38, no. 4 PS: POLITICAL SCIENCE & POLITICS 687 (2005).

⁶⁶ Lisa García Bedolla, *Rethinking Citizenship: Noncitizen Voting and Immigrant Political Engagement in the United States*, TRANSFORMING POLITICS, TRANSFORMING AMERICA: THE POLITICAL AND CIVIC INCORPORATION OF IMMIGRANTS IN THE UNITED STATES 51–70 (Taeku Lee et al. eds. 2006).

No Taxation Without Representation: Noncitizen voting is also consistent with the longstanding maxim of “no taxation without representation.” Federal, state, and local governments already require all residents to pay income taxes, regardless of their immigration status.⁶⁷ In fact, contrary to popular belief, many working immigrant adults pay more in taxes than they receive in benefits while contributing positively to the nation’s economy on the whole.⁶⁸ For example, in a 1998 study, the National Immigration Forum and the Cato Institute found that “immigrant households and businesses provide \$162 billion per year in tax revenue to federal, state, and local governments.”⁶⁹ The study estimated that, because immigrants tend to be younger than native U.S. citizens, “the total net benefit (taxes paid over benefits received) to the Social Security system in today’s dollars from continuing current levels of immigration is nearly \$500 billion for the 1998–2002 period.”⁷⁰

New York City and State also benefit immensely from tax dollars paid by noncitizens. Indeed, the record in this case confirms that noncitizen New Yorkers alone pay billions in taxes each year.⁷¹ Local Law 11 allows these tax-paying residents a voice in how their hard-earned tax dollars are spent.

Good Enough to Fight, Good Enough to Vote: Immigrants have served in all branches of the U.S. military, beginning with the Revolutionary War. By the 1840s, foreign-born persons comprised half of all military recruits and 20 percent of the 1.5 million service members in the

⁶⁷ *Taxation of Nonresident Aliens*, IRS, available at <https://www.irs.gov/individuals/international-taxpayers/taxation-of-nonresident-aliens>.

⁶⁸ Joaquin Avila, *Political Apartheid in California: Consequences of Excluding a Growing Noncitizen Population*, LATINO POL’Y AND ISSUES BRIEF #9 (2003); Panel on the Economic and Fiscal Consequences of Immigration, *The Economic and Fiscal Consequences of Immigration* (Francine D. Blau & Christopher Mackie eds. 2017).

⁶⁹ Elise Brozovich, *Prospects for Democratic Change: Non-Citizen Suffrage in America*, 23 HAMLINE J. PUB. L. & POL’Y 403, 438 (2002).

⁷⁰ *Id.*

⁷¹ Record on Appeal at 1445.

Union Army during the Civil War.⁷² Importantly, noncitizens who fought in the Civil War were given the opportunity to vote in recognition of their service to the country.⁷³ As of 2019, the number of foreign-born veterans in the United States was approximately 530,000, representing three percent of all 18.6 million veterans nationwide.⁷⁴ In 2015, close to 8,000 enlisted noncitizens were in the active-duty Army.⁷⁵ Local Law 11 would allow those noncitizen New Yorkers who served in the armed forces a voice in local elections.

B. Suffrage Is Paramount to Overcoming Discrimination and Bias Against Marginalized Groups.

The acquisition of political rights—including voting rights—has been a vital tool for disempowered groups in America to achieve economic, social, and civil rights and equality.⁷⁶ Because legislative bodies confer rights and make public policy, it is critical for every member of a polity to possess the capacity to influence and select representatives. Voting is an effective means to keep representatives responsive and government accountable to all stakeholders. Laws like Local Law 11 acknowledge that noncitizens—who contribute to their communities culturally, economically, and socially—should have a say in selecting their representatives.

Studies show increased civic engagement is correlated with greater individual and societal outcomes, including a stronger sense of community belonging, better health outcomes, and lower crime rates, among other social indicators.⁷⁷ Excluding New York’s large noncitizen population

⁷² Jie Zong & Jeanne Batalova, *Immigrant Veterans in the United States*, MIGRATION POLICY INSTITUTE (May 2019), available at <https://www.migrationpolicy.org/article/immigrant-veterans-united-states-2018>.

⁷³ Gerald M. Rosberg, *Aliens and Equal Protection: Why Not the Right to Vote?*, 75 MICH. L. REV. 1092, 1099 (1977).

⁷⁴ Jie Zong & Jeanne Batalova, *Immigrant Veterans in the United States*, MIGRATION POLICY INSTITUTE (May 2019), available at <https://www.migrationpolicy.org/article/immigrant-veterans-united-states-2018>.

⁷⁵ Muzaffar Chishti et al., *Noncitizens in the U.S. Military*, MIGRATION POLICY INSTITUTE, 1 (May 2019), available at <https://www.migrationpolicy.org/sites/default/files/publications/MPI-Noncitizens-Military-Final.pdf>.

⁷⁶ See generally Chilton Williamson, *AMERICAN SUFFRAGE FROM PROPERTY TO DEMOCRACY, 1760–1860* (1960).

⁷⁷ See Peter Levine, *The Civic Engagement of Young Immigrants: Why Does it Matter?*, 12, no. 2 APPLIED DEVELOPMENT SCIENCE 102–104 (2008); Constance Flanagan & Peter Levine, *Civic Engagement and the Transition to Adulthood*, 20 no. 1 THE FUTURE OF CHILDREN 159–79 (2010).

from the political process marginalizes them in economic, social, and political terms, and undermines the ideal of New York as a multicultural egalitarian democracy.⁷⁸

Some critics of noncitizen voting argue that it dilutes the concept of citizenship, but historical practice shows the opposite. Experiments with noncitizen voting in places like Wisconsin show that it can enrich citizenship by encouraging and allowing immigrants to participate in the political life of their communities. In that sense, noncitizen voting is an effective pathway to promote civic education and citizenship.

Restoring immigrant voting rights through noncitizen voting laws—like Local Law 11—amplifies the visibility and voices of immigrants, which in turn will make government more representative, responsive, and accountable.

C. Noncitizen Voting Is Particularly Important in New York City Due to Its Large Immigrant Population.

Local Law 11 acknowledges and embraces the reality that (1) New York’s current population includes approximately three million immigrants, (2) approximately 36.4% of New Yorkers are foreign-born, and (3) roughly half of that population are noncitizens.⁷⁹ Those noncitizens are counted for districting purposes, pay billions of dollars in taxes, and contribute in countless ways to the life of the city.⁸⁰ Without Local Law 11, that large population of New York City residents would not be permitted to vote. The results are staggering.

Under Local Law 11, between 825,000 and one million noncitizen New Yorkers would be enfranchised.⁸¹ These newest New Yorkers are crucial to the vitality of New York City. As former Mayor Rudy Giuliani once said, “Immigrants constantly infuse new life in economy and culture.

⁷⁸ Ming Hsu Chen, *PURSUING CITIZENSHIP IN THE ENFORCEMENT ERA* (2020).

⁷⁹ U.S. Census Bureau “Quick Facts,” <https://www.census.gov/quickfacts/newyorkcitynewyork>; NYC Opportunity, *an Economic Profile of Immigrants in New York City* (Feb. 2020): 2.

⁸⁰ Record on Appeal at 1445.

⁸¹ *Id.* at 396–97, 430, 511.

As any of the elected officials here today can attest, their cities and counties thrive precisely because of their vibrant immigrant communities. So, this is not just a phenomenon in New York City but a national phenomenon.”⁸²

New York’s immigrants, who are disproportionately “essential workers,” have also been vital to helping millions of citizen New Yorkers through the pandemic. Over half of frontline essential workers are immigrants, and approximately one-fifth are noncitizen New Yorkers.⁸³ Immigrants in New York City own 52 percent of local businesses and contribute over \$100 billion to the citywide GDP.⁸⁴ Excluding such a significant and important portion of the population from political participation undermines the health, representativeness, and legitimacy of our laws and public policies.

Finally, the individuals elected in New York City’s local elections shape policy that directly impacts noncitizens. For example, without Local Law 11, noncitizen parents with school-age children have little recourse to ensure that Department of Education funds are directed to appropriate programs to meet their children’s needs. Noncitizens have similar interests at stake regarding other agencies and policies, from policing to housing to transportation. Legal and procedural impediments to political participation correlate with biased policies that contribute to the marginalization of ethnic and racial groups.⁸⁵

All New Yorkers have common interests in effective public services and in accessible and affordable public goods, from quality education to public transportation to public safety. Granting

⁸² Elise Brozovich, *Prospects for Democratic Change: Non-Citizen Suffrage in America*, 23 HAMLINE J. PUB. L. & POL’Y 403, 436–37 (2002).

⁸³ Record on Appeal at 396.

⁸⁴ *Id.*

⁸⁵ See generally Rogers M. Smith, *CIVIC IDEALS: CONFLICTING VISIONS OF CITIZENSHIP IN U.S. HISTORY* (1997).

noncitizens voting rights through Local Law 11 would empower noncitizens in New York City to exercise their voices in the electoral process, and to protect their rights and interests.

D. Noncitizen Voting Has Historically Led to Positive Outcomes, Both in New York City and Nationally.

As explained above, noncitizen voting helps achieve parity in representation for long-marginalized groups. This is particularly true in a city as vibrantly diverse as New York. But the benefits of noncitizen voting go beyond representation as a good in itself; history shows that noncitizen voting laws like Local Law 11 promote policy outcomes that benefit Americans regardless of their citizenship status.

1. Noncitizen Voting Promotes Equality of Representation.

New York's history of noncitizen voting in school board elections demonstrates that noncitizen voting results in the election of government bodies that more accurately reflect the communities they represent.

During the 1980s, when New York City allowed all parents of children in public schools to participate in the City's thirty-two community school boards, immigrant parents conducted voter registration and mobilization efforts that produced robust turnout and policy changes.⁸⁶ For example, in Washington Heights, a voter registration drive in 1986 brought in 10,000 parent voters—most of them immigrants—who turned out in record numbers.⁸⁷ This political mobilization led to the election of many immigrant advocates to the local school board, including the first Dominican-born person ever elected to public office in the United States, Guillermo Linares, who became the president of the school board.⁸⁸ Guillermo Linares became a City

⁸⁶ Ron Hayduk & Kathleen Coll, *Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US*, 40, no. 2 NEW POLITICAL SCIENCE 336, 345–46 (2018).

⁸⁷ Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 101 (2006).

⁸⁸ Julissa Reynoso, "Dominican Immigrants and Social Capital in New York City: A Case Study," *Latino Intersections* 1:1 (2003), <https://journals.dartmouth.edu/cgi-bin/WebObjects/Journals.woa/xmlpage/2/article/104>; NYS Higher

Councilmember in 1991 and went on to lead the Office of Immigrant Affairs and serve as a New York State Assemblyman.⁸⁹ He now serves on the NYS Higher Education Services Corporation.⁹⁰

Immigrant parent mobilization in Washington Heights and other districts also led to the election of a larger number of people of color onto school boards. For example, an analysis by the Center for Voting and Democracy of the 1993 and 1997 NYC Community School Board Elections showed candidates had a higher number of “black and Latino candidates compared to voting-age population.”⁹¹ Over time, the study shows, “representation of blacks, Latinos and eventually Asian Americans [as elected representatives on NYC Community School Boards] has generally grown steadily. . . . [N]ot only have the districts been representative of racial and ethnic minorities citywide, but also within most districts.”⁹²

2. Noncitizen Voting Promotes Tangible Policy Benefits.

These immigrant parent mobilizations, which were replicated in other neighborhoods, contributed to improvements in schools and reshaped community politics.⁹³ Greater community representation and political mobilization led the City to devote more funds to schools in Washington Heights and in other neighborhoods in New York City.⁹⁴ In the end, all community residents who lived in Washington Heights and other New York City districts benefited from

Education Services Corporation – Dr. Guillermo Linares, *available at* <https://www.hesc.ny.gov/dr-guillermo-linares.html>.

⁸⁹ *Id.*

⁹⁰ *Id.*; Ron Hayduk, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES 102–04 (2006).

⁹¹ Ron Hayduk & Kathleen Coll, *Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US*, 40, no. 2 NEW POLITICAL SCIENCE 336 (2018).

⁹² Rob Richie, “Improving New York City’s Community School Board Elections.” Testimony to the Citywide Community School Board Elections Committee on December 2, 1997. The Center for Voting and Democracy. See also Ron Hayduk & Kathleen Coll, *Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US*, 40, no. 2 NEW POLITICAL SCIENCE 336 (2018).

⁹³ Julissa Reynoso, “Dominican Immigrants and Social Capital in New York City: A Case Study,” *Latino Intersections* 1:1 (2003), <https://journals.dartmouth.edu/cgi-bin/WebObjects/Journals.woa/xmlpage/2/article/104>.

⁹⁴ Ron Hayduk & Kathleen Coll, *Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US*, Vol. 40, no. 2 NEW POLITICAL SCIENCE 336–52 (2018).

increases in funds devoted to education, the development of a multicultural curriculum, and improvements to bilingual education and programs for English Language Learners, all of which improved education opportunities for children and families.⁹⁵

Academic studies identify other benefits of noncitizen voting. For example, research shows that parental involvement contributes to improved student achievement, better school attendance, and reduced dropout rates.⁹⁶ Moreover, empirical analysis demonstrates noncitizen voting can play a role in producing effective school governing arrangements that support immigrant success and incorporation by building stronger, more supportive school-parent relations and encouraging higher levels of parent involvement in formal school activities.⁹⁷

Other cities that enfranchised noncitizens, such as in Chicago, experienced similar positive results. Noncitizen voting in Chicago is correlated with more equitable allocation of resources and improved educational outcomes for children of these new voters.⁹⁸ Researchers found similar positive outcomes in Chicago's Local School Council elections where noncitizens can vote.⁹⁹ Those researchers analyzed data on Latino representation on local school councils, school-level demographic and performance indicators, and information on effective school organization, parent involvement, and school practices regarding outreach and engagement with parents and communities.¹⁰⁰ The empirical analysis demonstrated that Latino political participation played a critical role in building stronger, more supportive school-parent relations, and in encouraging

⁹⁵ *Id.* at 336, 346.

⁹⁶ Tara Kini, *Sharing the Vote: Noncitizen Voting Rights in Local School Board Elections*, 93 CALIF. L. REV. 312 (2005).

⁹⁷ *Id.* at 309–10.

⁹⁸ Melissa Marschall, *Parent Involvement and Educational Outcomes for Latino Studies*, 23:5 REV. OF POL'Y RESEARCH 1053, 1058–59 (2006).

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 1060–62.

higher levels of parent involvement in formal school activities.¹⁰¹ These practices and relations were found to have important benefits to the performance of Latino students.¹⁰²

In sum, history shows that noncitizen voting laws like Local Law 11 have concrete, real-world social benefits, including increased political participation, equitable allocation of resources, and elected bodies that better serve those whom they represent.

CONCLUSION

For the foregoing reasons, this Court should reverse the trial court's judgment and uphold Local Law 11.

Dated: New York, New York
December 9, 2022

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¹⁰¹ *Id.* at 1069–70.

¹⁰² *Id.*

**PRINTING SPECIFICATIONS STATEMENT
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EDUCATION:

Ph.D., Political Science. Graduate Center, City University of New York (CUNY), 1996.

PROFESSIONAL POSITIONS

San Francisco State University	Professor	2016 – date
Queens College, CUNY	Professor	2012 – 2016
Queens College, CUNY	Visiting Associate Professor	2010 – 2011
Borough of Manhattan CC, CUNY	Assistant, Associate Professor	2000 – 2012
Touro College	Assistant Professor	1997 – 2000

SELECTED HONORS AND AWARDS:

PI, “Noncitizen Voting Report.” Chinese for Affirmative Action, lead organization of the San Francisco Immigrant Parent Voting Collaborative. Haas Jr. funded policy report and convening, 2022–2023.

Fellow, Institute for Civically Engaged Research, American Political Science Association 2021–2022.

PI, LCA Mini-Grant “Forging Deeper Democracy: Participatory Budgeting in the Bay Area” (\$2,000)

PI, “Immigrant Engagement in Participatory Budgeting.” Con Edison (\$25,000). NY, 2013–16.

PI, “Pathways to Multiracial Alliances: The Case of Immigrants and African Americans in New York.” CUNY Collaborative Research Incentive Grant (\$30,000) New York 2009–10.

PI, “Expand the Vote: Restoring Immigrant Voting Rights in New York City.” Rockefeller Brothers Fund, Pivotal Places Program (\$50,000) New York, 2007–09.

PROFESSIONAL ACHIEVEMENT AND GROWTH

Selected Peer-Reviewed Publications

“Migration and Inequality: A Structural Approach,” *Cosmopolitan Civil Societies: An Interdisciplinary Journal*. Vol. 12, No. 1 (2020).

“Noncitizen Voting Rights in the Global Era: A Literature Review and Analysis,” with D. Ferris, A. Richards, E. Schubert, and M. Acri *Journal of International Migration and Integration* (2019).

Editor (w/ Marcela García-Castañón) of symposium: “Xenophobia, Belonging and Agency: Citizenship in Immigrant America,” Co-author (w/ Marcela García-Castañón) of “Introduction” and “Conclusion,” *New Political Science*. Vol 40, No 2 (2018).

“Urban Citizenship: Campaigns to Restore Immigrants’ Rights in the United States,” with Kathleen Coll. *New Political Science*. Vol. 40, No. 2 (2018).

“Immigrant Engagement in Participatory Budgeting in New York City,” with Kristen Hackett and Diana Tamashiro Folla. *New Political Science*. Vol. 39, No. 1 (2017).

“Political Rights in the Age of Migration: Lessons from the United States.” *Journal of International Migration and Integration*. Volume 16, Issue 1 (2015).

“From Global Justice to OWS: Movement Connections.” *Socialism and Democracy*. Vol. 58. (2012).

“Radical Responses to Neoliberalism: Immigrant Rights in the Global Era,” *Dialectical Anthropology*,. Fall, 2009.

“Immigrants and Race in the US: Are Class-Based Alliances Possible?” Lead Co-author with Susanna Jones, *Socialism & Democracy*. Vol. 48. November, 2008.

“Teaching Immigration at the Borough of Manhattan Community College.” *Radical Teacher*, Vol. 85, No.1, Fall, 2009.

“Democracy for All: Restoring Immigrant Voting Rights in the United States.” *New Political Science*, Vol. 26, No. 4, December, 2004.

“Regional Equity as a Civil Rights Issue,” *Socialism and Democracy*. Vol. 17 No. 2. 2003.

Books

Democracy for All: Restoring Immigrant Voting Rights in the United States NY: Routledge Press, 2006.

Gatekeepers to the Franchise: Shaping Election Administration in New York, Illinois: Northern Illinois University Press, 2005.

Edited Books

Immigrant Crossroads: Globalization, Incorporation and Place-Making in Queens, New York. Co-Editor with Tarry Hum, Francois Pierre-Louis, and Michael Krasner. Temple University Press, 2021.

From Act Up to the WTO: Urban Activism and Community Building in the Era of Globalization. Verso, 2002. Co-Editor with Benjamin Heim Shepard.

Democracy’s Moment: Reforming the American Political System for the 21st Century. Rowman & Littlefield, 2002. Co-Editor with Kevin Mattson.

Selected Book Chapters

“How Would You Spend a Million Dollars?: Immigrant Engagement in Participatory Budgeting,” with Diana Tamarisho Folla and Kristen Hackett. In *Immigrant Crossroads: Globalization, Incorporation and Place-Making in Queens, New York*. Temple University Press (TUP), 2021.

“The More Things Change. . . Machine Politics in Queens.” Co-authored with Michael Krasner. *Immigrant Crossroads: Globalization, Incorporation and Place-Making in Queens, New York*. Temple, 2021.

“Noncitizen Voting.” *Voting and Political Representation in America: Issues and Trends*. Mark P. Jones, ed. Santa Barbara, CA: ABC-CLIO, 2020.

“One Step Forward, Two Steps Back: The Curious Case of Immigrant Voting Rights,” book chapter, in *Changing How America Votes*. Todd Donovan, editor. Rowman & Littlefield, 2017.

“The Anti-Globalization Movement and OWS” in *Occupying Political Science*. Emily Welty, Matthew Bolton, Meghana Nayak, and Christopher Malone, editors. Palgrave MacMillan, 2013.

“New York State Elections and Election Management,” *Handbook of New York State Politics*. Gerald Benjamin, editor. Oxford University Press, 2012.

“Immigration Policy: A View from the Left,” *Where Do We Go From Here? American Democracy and the Renewal of the Radical Imagination*. Mark Major, editor. Lexington Books, 2011.

“Resolved, Non-Citizen Residents Should Be Granted the Right to Vote” *Debating Reform*. Richard Ellis and Michael Nelson, editors. CQ Press, 2011.

“Allowing Noncitizens to Vote: Expanding Democracy.” *You Decide! Current Debates in American Politics*. John T. Rourke, editor. Pearson, 2010.

“Race and Suburban Sprawl.” *Surviving Sprawl: Culture, Ecology and Politics*. Matthew J. Lindstrom and Hugh Bartling, editors. Rowman & Littlefield, 2003.

“From Anti-Globalization to Global Justice: A Twenty First Century Movement.” *Teamsters and Turtles?: U.S. Progressive Political Movements in the 21st Century*. John Berg, editor. Rowman & Littlefield, 2003.

“The Political Participation of Immigrants in New York.” Co-author with Lorraine Minnite and Jennifer Holdaway. *In Defense of the Alien*. Lydio F. Tomasi, editor. Center for Migration Studies. 2000.

Articles under Review

“Exploring The Complexities of ‘Alien Suffrage’ in American Political History”

“Two Steps Forward, One Step Back: Participatory Budgeting in the Bay and the Quest for Empowered Participatory Governance”

Book in Progress

Towards Transformative Immigrant Incorporation in the United States

Selected Invited Peer-Reviewed Conference Presentations

All-In: Co-Creating Knowledge for Justice Conference, October 26–28, 2022, Santa Cruz, CA. “Campaigns for Immigrant Voting Rights.”

Western Political Science Association, March 10–12, 2022. “Belonging in the Bay,” with Marcela García-Castañón, Kathleen Coll, and Sheeref Abdallah. Portland, Oregon.

Social Science History Association, November 11–14, 2021. Philadelphia, Pennsylvania. “Unpacking the Complexities of ‘Alien Suffrage’ in American Political History.”

American Political Science Association, September 30–October 3, 2021. Seattle, Washington. “Community Colleges: The Potentials and Perils for Creating Engagement & Equity.”

International Political Science Association, July 10–15, 2021. “Subnational Citizenship: Noncitizen Voting Rights in Comparative Context.”

16th Annual International Migration, Integration and Social Cohesion Conference. Malmö Sweden. “‘Immigrant Citizenship’? Noncitizen Voting Rights in U.S. History and Its Relevance for Today.” 2019.

Law and Society Association. Washington D.C. “Urban Citizenship?: Campaigns to Restore Noncitizen Voting Rights.” May 30 – June 2, 2019.

Council for European Studies. Glasgow, UK. “Political Rights in the Age of Migration: A Comparison of Immigrant Voting in the U.S. and Europe.” July 12-14, 2017.

Urban Affairs Association. Minneapolis, Minnesota. “Immigrant Voting: Vehicle for Immigrant Integration in Cities?” April 19-22, 2017.

National Association of Ethnic Studies. San Francisco, California. “Urban Citizenship?: Campaigns to Restore Immigrant Voting Rights.” March 24-26, 2017.

Hamburg University, Germany. “Immigrant Political Rights: Lessons from the United States.” *Problems of Inclusion: Normative Perspectives on Migration, Voting, and the Welfare State*. October, 2015.

German-American Institutes, Freiberg, Tübingen, Stuttgart, Heidelberg. “Political Rights in the Age of Migration: The Case of Immigrant Voting.” September 2013.

Immigration and Social Policy: The Changing Face of America. San Jose State University, “Immigrant Political Power? The Case of Voting Rights in the U.S.” October 22 -23, 2010.

Boston Immigration and Urban History Seminar. Massachusetts Historical Society, Boston. "Immigrant Voting in U.S. History." November, 2012.

Race, Gender, Class. University of New Orleans. "From Global Justice to OWS: Movement Connections." New Orleans, LA. March, 2012.

Law and Society Association. "Immigrant Rights: Can Voting Help?" San Francisco, CA. June, 2011.

The Left Forum. "Perils and Possibilities for Progressives in the Obama Years: Immigrant Rights Activism." Pace University, New York City. May, 2011.

Law and Society Association. "Immigrants and Voting in the U.S." Chicago, Illinois. May, 2010.

University of Toronto, School of Public Policy & Governance. "Democracy for All?: Voting Rights in the Era of Globalization." Toronto, Canada. April, 2010.

American Political Science Association. "The Democratic Majority and Latino Incorporation: Has the Structure for Political Opportunities Really Changed?" with Hazan Annual Meeting, Toronto, September 3-6. 2009.

Racism, Immigration, and Citizenship in Contemporary Plural Societies. Inaugural Conference. "Immigrants and Race in the US: Are Class-Based Alliances Possible?" Johns Hopkins University. Baltimore, MD. April 29-May 2, 2009.

Left Forum. "Teaching Immigration at BMCC." Panel Sponsored by *Radical Teacher*. Pace University, New York. April, 2009.

Social Science History Association. "Immigrants and Democracy: The Case of Noncitizen Voting Rights in the United States." Miami, Florida. October, 2008.

American Political Science Association. "Immigrant Rights Marches, Immigrant Rights Movement?" with Hazan. Boston, MA. August, 2008.

Urban Affairs Association. "The 2006 Immigrant Rights Marches: Towards a New Social Movement?" with Hazan. Baltimore, Maryland. April, 2008.

Institute of Governmental Study. University of California, Berkeley. Colloquium on Race, Ethnicity & Immigration. "Immigrants & Race: Coalition or Schism?" October, 2007.

Interdisciplinary Immigration Workshop. University of California, Berkeley. "Should Noncitizens have Voting Rights, Again?" October, 2007.

Stanford University Law School. Shaking the Foundations Conference. "Immigrant Rights and Voting Rights: Is there a Connection?" Palo Alto, California. October, 2007.

Urban Affairs Association. "Immigrants and Race: Possibilities and Pitfalls for Multiracial Politics." Seattle, Washington. April, 2007.

New York Latino Research and Resources Network. Latino Immigration Policy. University of Albany, State University of New York. "Latinos and Immigrants: The Case for Noncitizen Voting Rights." November 3, 2006.

American Political Science Association. "Immigrant Political Incorporation: Possibilities and Pitfalls for Multiracial Politics." Philadelphia PA. August, 2006.

University of Oregon. Conference Title: Race and U.S. Political Development. "Multiracial Politics: Schism or Coalition?" Eugene, Oregon. May, 2006.

Citizens, Non-Citizens and Voting Rights in Europe. "Immigrant Voting Rights in the United States." Edinburgh, Scotland. June, 2005.

American Political Science Association. "Noncitizen Voting: Expanding the Franchise in the United States." Philadelphia, PA. August, 2003.

American Political Science Association. "Noncitizen Voting Rights: Shifts in Immigrant Political Status during the Progressive Era." Boston, MA. August, 2002.

Midwest Political Science Association. "Florida is Everywhere: Election Administration and Elections in New York City." Chicago, IL. April 2002.

American Political Science Association. "Gatekeepers to the Franchise: Election Administration and Voter Participation." San Francisco, CA. August/September, 2001.

CUNY Center for Urban Research and The International Center for Migration, Ethnicity and Citizenship, New School University. "Who Naturalizes, Who Votes and Why?: Qualitative and Quantitative Perspectives." CUNY, Graduate Center. 2000.

Selected Professional and Community Service

Member, Executive Committee, Western Political Science Association. 2023 – 2026.

Member, American Political Science Association Committee on the Status of Community Colleges in the Profession, 2018-2022

Member, Advisory Board, Interdisciplinary Social Sciences Research Network, 2018-date.

Member, Editorial Board. *Socialism & Democracy.* Taylor and Francis. 2008-date.

Member, Research Board, North American Participatory Budgeting Project. 2014 to date.

Member, San Francisco Prop "N" Implementation Working Group, comprised of SF Supervisors, Dept. of Elections, immigration and election lawyers, and parent and community groups. 2017–2018.

Co-founder and Steering Committee Member. NYC Coalition to Expand Voting Rights. 2003–2016. Fifty-member coalition of immigrant serving, civil rights, voting rights, faith-based, and policy organizations, seeking to advance immigrant voting rights. Conducted research, wrote reports, organized conferences, community forums, mock elections, surveys, provided technical assistance to advocates across the country, presented testimony at public hearings, and materials for the press.

Co-Founder and PI. Immigrant Voting Project (IVP). 2005 to 2009. Created a national resource on noncitizen voting in local elections. Organized conferences, community forums, focus groups, surveys, produced a broad range of materials, provided technical assistance to advocates across the country, presented testimony at public hearings, oversaw grants, wrote reports and press materials.

Task Force Member. New York State Board of Elections Help America Vote Act (HAVA). Assisted in drafting plan to implement HAVA in New York State. February, 2009 to June, 2009.

Consultant. Demos. Conducted research on democracy in the U.S. with focus on state level political processes and institutions. Participated in organizing conferences, workshops, and in writing reports and several publications that focus on the health of democracy in the states as measured by a broad set of indicators and data. Author of "The Representation Crisis: Immigration, Citizenship, and the Future of American Democracy." Assisted in formation of a network of academics, policy makers at all levels of government, and community-based organizations engaged in democracy building. 1998-2005.

Researcher and Expert Witness, NAACP v. Harris. NAACP v. Harris. Hired and supervised two assistants. Coordinated and conducted research about the impacts of election practices on voter participation in the 2000 presidential election in Florida. Rebuttal Expert Witness in the NAACP v. Harris lawsuit, settled in 2003. 2002-2003.

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