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Why citizenship tests are necessarily illiberal: a reply to Blake

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ABSTRACT

In ‘Are Citizenship Tests Necessarily Illiberal?’, Michael Blake argues that difficult citizenship tests are not necessarily illiberal, so long as they test for the right things. In this paper, I argue that Blake’s attempt to square citizenship tests with liberalism fails. Blake underestimates the burdens citizenship tests impose on immigrants, ignoring in particular the egalitarian claims immigrants have on equal social membership. Moreover, Blake’s positive justification of citizenship tests – that they help justify immigrants’ coercive voting power – both neglects the fact that such tests are coercively imposed on immigrants and that the citizenship test Blake envisions does little to help ensure immigrants’ votes are legitimate. Citizenship tests thus aren’t, even in principle, a way of protecting citizens from unjustified coercive power. They are, even under favourable circumstances, an illiberal way of obstructing immigrants’ quest for social equality.

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In ‘Are Citizenship Tests Necessarily Illiberal?’, Michael Blake answers his question negatively:

a liberal polity that conditions full membership upon successful completion of a difficult test is not necessarily an illiberal one – were that polity to make the tests difficult in the right ways, so as to reflect the sorts of knowledge that makes political agency within that polity both effective and responsible. (314)¹

I argue, contra Blake, that conditioning access to citizenship on a test is necessarily illiberal. After summarizing Blake’s argument, I show that citizenship tests impose substantial burdens on immigrants and that imposing these burdens exclusively on immigrants can’t be justified on the grounds Blake adduces.

Blake’s argument

Suppose a state protects the human rights of its resident aliens. It provides them with permanent residency status, which protects them ‘quite well’ from deportation (313) but denies them political rights, which it reserves for citizens. Under these circumstances, Blake asks, is conditioning permanent residents’ access to citizenship on the

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¹All citations are to Blake (2019) unless otherwise indicated. I thank Evan Behrle for helpful comments on this paper and Michael Blake for his generous reply.

passage of a test illiberal?² Blake's answer has two parts: citizenship tests aren't illiberal, if they test for the right things; actual citizenship tests are likely to be illiberal, as states will test for the wrong things. I'll focus exclusively on Blake's first claim, as I agree wholeheartedly with his argument for the second claim.

Blake thinks citizenship is important mostly because it confers political (i.e. voting) rights, which are significant for three reasons (316). First, voting has an 'expressive' function: it provides citizens an 'opportunity for self-expression' and to publicly display their identities. Second, voting has a 'defensive' function: it allows people to 'counteract politicians and policies that might do [them] harm'. Finally, voting helps determine how state coercion 'shall be directed'. Since coercion must be justified to those coerced, those who vote have a duty to 'vote in accordance with valid principles, using valid forms of inference, after a discursive process that illuminates ... the issues at stake.' (316)

On the basis of this account, Blake, as I interpret him, argues that citizenship tests are compatible with liberalism if they meet two conditions:

Minimal Burdens: they do not unduly burden immigrants.

Justifying Coercion: they test for information relevant to justifying coercive power.

Minimal Burdens is met, Blake alleges, when states protect immigrants' human rights and rights to political speech, protect them against deportation, and provide them with 'adequate ... tools' (317) to prepare for the test and the option to retake the test should they fail. *Justifying Coercion* is met when the tests check only for 'knowledge that is relevant to political discourse in the country itself' (327). When these conditions are met, the importance of justifying coercion to those coerced – in this case, to citizens – can justify the minimal burdens to immigrants' defensive and expressive interests of denying them the right to vote should they fail the test. This remains true even if citizenship tests are quite difficult, 'as long as they are difficult in the right ways' (326). Blake concludes there's nothing necessarily illiberal about a society in which large numbers of immigrants are denied citizenship because they cannot pass, or are deterred by, a citizenship test.³ I'll resist this conclusion by challenging the two key claims on which it depends.

Citizenship tests aren't minimally burdensome

Blake believes that being denied citizenship but accorded permanent residency does not unduly burden immigrants. But Blake has an overly narrow view of the burdens of being denied citizenship. This is because, I'll argue, Blake neglects the *egalitarian* interests people have in citizenship and because the state must also justify its coercive power to its noncitizen residents.

Blake conflates citizenship with political rights. Citizenship is more than just a bundle of rights; it's also a *legal status*. The legal status of citizenship is a kind of social rank which serves as a basis on which persons are accorded respect and esteem within their political community. Positively, by conferring citizenship upon someone, the state recognizes them as an equal member. This, like voting, has an expressive

²By 'illiberal', I take it Blake means impermissible because incompatible with liberal principles.

³Note that Blake isn't arguing that liberal states *must* impose citizenship tests; he's only arguing that they may.

function: it conveys the message that they are entitled to equal respect and consideration. Equal recognition is an important good that noncitizens are denied. Negatively, when the state fails to confer citizenship upon someone, it expresses that they aren't a full member of society. Being denied legal status impairs one's social status as an equal.⁴ When immigrants are denied citizenship, they suffer harms to their social status. Social inequality is precisely the sort of harm liberals should abhor.

Blake's account of political rights faces a similar problem. Blake assumes that the primary problem with disenfranchisement is that it deprives people of an opportunity to 'defend' their interests and engage in self-expression. But liberal theorists have also criticized disenfranchisement on egalitarian grounds. Voting, Blake thinks, 'necessarily involve[s] the use of power over others' (317). However, this implies that, when citizens can vote but immigrants cannot, citizens hold asymmetric (coercive) power over immigrants. Unequal voting rights can also undermine social equality. Negatively, being subject to another person's asymmetric power renders one's relationship with them problematically unequal. Inequalities in power are constitutive of social inequality (Kolodny 2014). Positively, equal social relationships are a distinctive good. But significant power inequalities foreclose equal social relationships (Viehoff 2014). By denying immigrants a vote, then, states deny them the conditions which make fully equal social relations with citizens possible.

So, equality – a paradigm liberal value – explains why denying immigrants citizenship means they suffer substantial burdens, not minimal ones. Blake might reply to this argument in two ways. First, conditioning citizenship on passing a test is not the same as being denied citizenship outright. While this is true (the latter means one's unequal status is *permanent*), even an in principle non-permanent denial of equal social membership is still burdensome. Moreover, since many immigrants will never pass Blake's test, some immigrants will be *de facto* confined to permanent unequal status. Alternatively, Blake might claim that unequal status is less bad when immigrants have citizenship elsewhere (319). But this misunderstands the value of equal social status. Social status is a *contextual* and, therefore, *non-fungible* good. One can have it in one context but lack it in another; so, being accorded equal social status elsewhere does little to mitigate the sting of unequal status in one's home. Immigrants have a claim to equal social status *in the society where they live*. The fact that they are treated as equals elsewhere is beside the point.

A second burden Blake neglects in the case of immigrants is the burden of being subject to unjustified coercive power. Blake thinks protecting *citizens* from the unjustified coercive power is important – this, indeed, is the basis for his argument for citizenship tests. But consistency entails that Blake should also be concerned if *immigrants* are subject to the unjustified coercive power of citizens. Yet, permanent residents are no less subject than citizens to the coercive power of the state and those who determine how that power will be exercised. Indeed, their situation is *worse* than citizens'. Since they cannot vote, a key part of the story Blake tells about the justification of political power is inapplicable in their case. Blake's view that being denied citizenship is only minimally burdensome thus seems incompatible with his emphasis on the harms of being subject to unjustified coercion. The very concern Blake uses to justify

⁴Compare (Mason 2012).

citizenship tests to citizens – the importance of avoiding subjection to unjustified coercion – makes such tests unjustifiable to immigrants.

Blake replies that permanent residents are ‘less vulnerable’ to the state’s coercive power because they can more easily relocate. But this answer is unconvincing. First, it’s false of many immigrants – most notably, refugees. While Blake acknowledges this in passing, he nevertheless maintains that conditioning refugees’ citizenship on a test is defensible (320). This seems inconsistent. Blake should, at minimum, conclude that citizenship for refugees ought not be made conditional on a test. Second, Blake underestimates the burdens of relocation for other immigrants. Immigrants’ lives, interests, and projects become, over time, wrapped up with the particular place they live. In this respect, their position is just like citizens’ (Carens 2013). The claim that coercion is less burdensome because immigrants can leave simply mischaracterizes the situation of most immigrants.

The burdens to immigrants of being denied citizenship, therefore, aren’t minimal. Since conditioning citizenship on a difficult test ensures that many immigrants will bear these burdens, citizenship tests aren’t minimally burdensome. If Blake is to reconcile citizenship tests with liberalism, *Justifying Coercion* must therefore do considerable work.

Imposing these burdens exclusively on immigrants is unfair

According to *Justifying Coercion*, citizenship tests can help render coercive power justifiable to the coerced. Without this claim, Blake’s argument would fail: citizenship tests would burden immigrants for no good reason. Blake recognizing this. He defends *Justifying Coercion* as follows:

The exercise of voting rights is ... the deployment of a particular form of coercive power against others ... This sort of deployment, though, is only the end product of a larger process of political discourse ... One who ... enters into a new society ... can be rightly expected to understand this shared backdrop of argumentation, before she is given the right to deploy political coercion over others. This ... reflects ... the commitment that political discourse must be reasonable before political power can be justifiable. The one who votes ... must demonstrate that she knows the normative framework deployed in her local political debates, before that vote reflects the deployment of power over others in a legitimate way. (321)

However, Blake’s argument here is ambiguous. Blake isn’t clear about whether citizenship tests help justify *the state’s* coercive power or the coercive power of *immigrant voters*. The former seems implausible. Arguably, the state’s coercive power is sufficiently justified if ‘the larger process of political discourse’ is suitably ‘reasonable’ (321). Otherwise, a few uninformed voters would irredeemably tarnish any democracy’s legitimacy. The latter interpretation therefore seems more charitable. So understood, Blake’s claim is that when an individual votes ‘without knowledge’ of the ‘political discourse’ of her society, *their* exercise of political power is unjustified because they violate a duty to ‘vote in accordance with valid principles ... after a discursive process that illuminates ... the issues at stake’ (317).

Notice that Blake’s claim here is a rather novel and controversial one. Blake identifies a duty to vote in accord with a *specific procedure of reasoning*, rather than merely a duty

to vote well or justly. One might, on many views, vote well while following a different procedure of reasoning: say, by reasoning as carefully as one can about what one thinks justice requires and examining which of the candidates' policy platforms best fits this understanding. Even if we accept Blake's core claim, however, his argument faces two problems. The first problem is that the duty to vote in this way doesn't just apply to immigrants. It applies to everyone. Blake must therefore explain why only immigrants' voting rights should be conditional on a test. He attempts to do so in two ways.

First, he suggests that since immigrants may already have voting rights elsewhere, their interest in voting rights in their new society is diminished. This is implausible for 'defensive' interests in voting: since immigrants' interests are bound up with their place of residence, their interest in protecting themselves against pernicious politicians is not weaker than citizens'. Nor is their 'egalitarian' interest in the right to vote weaker. Blake's claim is more plausible for the 'expressive' dimension of voting: insofar as people could 'express themselves' by voting elsewhere. But this, in my view, just reveals that people's interest in self-expression does very little to justify voting rights in the first place, since this interest can be satisfied via a wide-range of other political and non-political activities. A better account of people's positive interest in voting is that people have a positive interest in *self-rule*. Voting (ideally) allows people to exercise (partial) control over their lives. But immigrants and citizens share *this* interest equally, so an appeal to it can't justify treating immigrants and citizens differently.

Second, Blake argues that citizens are (often) subject to (e.g.) compulsory civics education and so can be expected to know the information while immigrants can't. This might entail that subjecting them to a test is unnecessary. However, a cursory glance at the literature on voter ignorance reveals that many citizens aren't familiar with the information Blake would test for.⁵ It's therefore unclear why Blake's test shouldn't apply to everyone, regardless of immigration status. Minimally, it's unclear why Blake isn't committed to testing at least those who fail civics (320). So, it seems, if we take *Justifying Coercion* seriously, at least some citizens' voting rights should be conditional on a test. Indeed, Blake admits he cannot entirely dispel this possibility (322). But I suspect most liberals will balk at this conclusion.

Fortunately, we needn't accept this illiberal implication. This is because Blake's argument faces a second problem: the citizenship test Blake proposes wouldn't help render voting power legitimate anyway; so, there's no reason to impose it. Blake thinks liberal states may test immigrants for 'knowledge relevant to state's political discourse'. In the USA, he suggests that a citizenship test might ask about how the Federalist Papers 'laid the groundwork for the early American judiciary,' 'the full complexity of the civil war, and how the democratic and republican parties 'developed' (327). But why is *this* knowledge relevant to the legitimation of voting? Suppose the average American can't answer these questions – as indeed, they cannot.⁶ Would this have any impact on whether their vote is justified? Intuitively, it wouldn't. Suppose a voter ignorant of these things had detailed knowledge of individual policies, their costs and consequences, and of the moral principles which justified them. That would suffice to make her use of

⁵This makes citizenship tests even more burdensome on immigrants, as it means they're subjected to the *unjustified* coercive power of citizens.

⁶As evidenced by a recent survey by the Wilson National Fellowship Foundation (2018).

coercive power legitimate. The information Blake identifies is patently not necessary for voting well. So, Blake's test seems irrelevant to the justification of coercive power.

Blake defends his view by an appeal to a requirement of 'public reason' (320): that public discourse and individual voting behaviour must be 'reasonable before political power can be justifiable' (321). But theorists of public reason don't, to my knowledge, endorse the views Blake defends. They typically believe that public reason considerations only imply minimal duties on individual citizens. Citizens have duties to act for reasons that others *could reasonably accept*. But someone could reasonably accept a view, even if that view is not actually based on the *particular form* of public discourse they're familiar with. Indeed, the insistence that a view is only 'reasonable' if based on the particular 'normative framework' employed in local debates contravenes the respect for pluralism characteristic of public reason liberalism.

Blake's explanation of the relevance of his proposed test is therefore unconvincing. But consider two responses on his behalf. First, Blake might admit that the information tested for isn't *itself* relevant to whether immigrants' votes are justified, testing for it may help immigrants to acquire information that is relevant. Knowing about the history of their adoptive state may help immigrants better understand that state's political discourse and so vote in more responsible ways. While not implausible, I know of no direct evidence for this conjecture. So, it provides at best extremely weak support for citizenship tests. Second, although *Blake's* test doesn't help justify coercion, some other test might. Consider a test which focused on knowledge of political candidates' policy positions. This knowledge might be relevant to people exercising their voting power in ways that are justified.⁷ However, if one wants to defend such a test, there's no reason to impose it only on immigrants, as there's ample evidence that ordinary citizens are quite uninformed about these matters too.

In this section, I argued that if anyone is subject to the test Blake envisions, then everyone should be. Blake's test should be a general condition on voting, not a special condition imposed on immigrants. I suggested most liberals are not likely to accept this implication. I then argued that they aren't committed to accepting it: there's no reason to impose the specific test Blake envisions as it wouldn't contribute to making anyone's votes more legitimate.

Conclusion

I've argued that Blake's proposed citizenship test imposes significant burdens on immigrants. It denies them equality and subjects them to unjustified coercion. I've shown, further, that it is unfair to impose these burdens only on immigrants, as the reasons Blake identifies apply equally to citizens. Finally, I've argued that Blake's citizenship test would impose these burdens without corresponding benefit. The citizenship test Blake envisions would do little to help render immigrants' votes more legitimate. Blake is right that we should be suspicious of citizenship tests in practice, and I commend his argument for this claim. But I think we should also reject such tests in principle. Citizenship tests aren't, even in principle, a way of protecting citizens from unjustified coercive power; they are merely, even under the favourable conditions Blake

⁷Compare Brennan (2017) on 'competence'.

stipulates, an illiberal way of obstructing immigrants' quest for equal social membership and equal treatment.

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