

Brazil: compulsory voting and renewed interest among external voters

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Paradoxically, it was in 1965, at the beginning of a military regime that was to last into the 1980s, that an arrangement was introduced in Brazil's electoral legislation to allow citizens living abroad to vote in presidential and vice-presidential elections for the first time. However, it was not until the return to democracy, starting in 1985—and more specifically within the framework of the new constitution, adopted in 1988—that the law was ratified and regulated and the conditions for the implementation of external voting were actually put in place. Since the external voting law was part of the democratization process in the Brazilian political system, the right to the external vote was not questioned. Politicians who discussed the topic assumed that Brazilians who had left the country had done so because of the political conditions under the dictatorship, and therefore democracy needed to recognize and guarantee their political rights.

External voting was implemented for the first presidential election after the return to democracy, in 1989, and from that time on Brazilian migrants have been able to exercise their right to vote in the subsequent presidential elections—in 1994, 1998, 2002 and 2006—including during the second electoral rounds under the Two-Round System.

The law states that the right to an external vote shall be limited to presidential and vice-presidential elections. In addition, for a plebiscite held on 21 April 1993, when the citizens were invited to define the system of government the nation would adopt (presidential or parliamentary) and to choose between a republican system and a monarchy, exceptional arrangements were approved so that Brazilians living abroad could participate in this type of plebiscite. Although there has not been any other experience of this kind, a precedent had been set so that external voting could be allowed in other kinds of electoral event.

Entitlement to an external vote

The right to vote externally extends to every elector abroad who has Brazilian nationality, including those who have acquired another nationality, but only when they have

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done so as a condition of remaining in the foreign country or of exercising their civil rights, because this is the only situation in which Brazilian legislation acknowledges dual nationality. Thus, every Brazilian citizen by birth or by naturalization, and those with dual nationality, retain the right and the obligation to participate in presidential elections.

According to the electoral legislation, the right to an external vote does not extend to those who are outside the country temporarily or provisionally or to those who are not formally resident abroad, such as students, temporary workers or tourists. However, it has to be said that the legislation does not establish precise criteria for the application of this rule; indeed, the dynamics of international migration make it impossible to determine clearly who is formally and definitively a migrant. Thus all those Brazilian citizens who register in time as external electors at an embassy or consulate are qualified to vote.

Compulsory voting and the external vote

Voting is compulsory in Brazil, and this extends to external electors. Those external electors who do not vote have to justify their abstention; if they do not they will be forced to pay a fine as soon as they return to the country. If they do not pay the fine, they become subject to a series of sanctions which come into effect two months after their return to the country. Among those sanctions are the following.

- They cannot apply for any public position or function.
- They cannot receive any remuneration or salary from a public post.
- There are restrictions on the types of loan they can obtain from federal or local government sources, or from any credit institution administered totally or partially by the government.
- There are restrictions on their obtaining a passport or identity card.
- There are restrictions on their renewing their teaching licences in public educational institutions or those that are controlled by the government.

The mechanism for external voting

The current legislation provides that external voting will be done in person at Brazilian embassies and consulates worldwide, where electors are registered according to their address in the foreign country. All the procedures for registering and voting are the responsibility of the diplomatic mission, and it is the diplomatic missions which compile and send the lists of electors registered for each electoral event to the Ministry of Foreign Affairs in Brasilia. An electoral judge from the First Zone of the Federal District approves the new electoral registers, cancels the previous registers and produces the ballot papers. This material is then sent to the diplomatic mission concerned, which is responsible for notifying electors of the date of the election and place where they are to vote.

While responsibility for the legislative issues related to external voting lies essentially in the Superior Electoral Tribunal (Tribunal Electoral Superior, TSE), implementation is shared by the Ministry of Foreign Affairs and the Regional Electoral Tribunal of the Federal District.

For an electoral centre overseas to be accredited, it must have at least 30 external electors registered. If there are more than 400, a new electoral centre has to be installed at some official building that is the property of the Brazilian Government. The Regional Electoral Tribunal of the Federal District appoints the staff at the voting centres in the first round as well as in the second electoral round, taking into account the suggestions of those in charge of the respective diplomatic missions.

All the material used during the entire electoral process—ballot papers and so on—is supplied by the TSE, which must dispatch it at least 72 hours prior to the election. The voting centres should be open at the same times as they are open in-country, allowing for different time zones. After the counting, the results are sent to the Regional Electoral Tribunal of the Federal District by diplomatic telex. This procedure allows the results of the external vote to be included in the general results immediately. The ballot papers are then placed in a special envelope which is sent by diplomatic bag to the TSE in Brasilia.

The procedure for external voting has remained essentially the same since the first experience in 1989. Through the different elections, some adjustments have been made to the electoral law (defined by the TSE as resolutions) renewing and adapting procedures when considered appropriate. For instance, during the 1998 presidential election computers were installed in Brazil itself to allow electronic voting, but it was not possible to use this method abroad because of the high costs. Electronic devices are now used for voting throughout the country, but for external voting the traditional ballot paper was still in use until the presidential election of 2006; then the TSE authorized 240 electronic ‘urns’ to be sent to 30 countries where Brazilians are concentrated abroad (out of 91 in all). The biggest group is in the United States, where 32,000 potential voters out of 86,360 in all on the electoral register of citizens abroad were registered. There are also considerable groups of Brazilian migrants in Canada, Germany, Italy, Portugal and the United Kingdom.

Turnout

Although the figures for registration and turnout abroad are not high, they illustrate some interesting trends. For the 1994 presidential election there were 39,367 electors registered abroad, of whom 27,831 voted—a 70 per cent turnout. In 1998, the number of electors registered abroad increased by almost 20 per cent, to 47,961, but only 21,844 (45.5 per cent) voted. For the 2002 presidential election, registration increased to 69,937 electors—almost 45 per cent more than four years before. The presidential election had to be decided in a second round of voting; in the first round, 38,618 external electors voted (55.5 per cent) and in the second round 36,043 (51.7 per cent). These figures indicate a sustained increase in voter registration abroad and fairly stable turnout. Then, in the presidential election of October 2006, when President Lula da Silva was re-elected, almost 50 per cent of the registered Brazilians abroad voted in the first and second rounds.

Challenges

There are two major challenges in the implementation of external voting for Brazilian citizens.

The first is that the period allowed for voter registration has not been established with

precision. It is usually modified from one election to another and, in general, it has been considered short (between a month and two months and a half prior to the election). This has caused confusion and has left some potential voters excluded from the electoral process. To mitigate this problem, the period of electoral registration abroad needs to be clearly defined, and the tendency to extend the period of registration should continue.

The second challenge lies in the fact that the electoral authorities have no programme to promote registration among Brazilian citizens abroad, with the result that the call to register as external electors has succeeded only among those abroad who are politically involved, and has not even always been successful among those who are not consistently involved in associations or groups linked to political life in Brazil. This is one of the Achilles heels of the Brazilian system of external voting. However, this same situation has given rise to increasing interest on the part of the activists from the political parties in participating in the political life of their country of origin—mainly the supporters of the party currently in power, the Labour Party (Partido Trabalhista, PT). In this context Brazil is currently witnessing a novel process whereby candidates are promoting themselves abroad. During the presidential election campaign of 2002, in the two cities that have the largest concentrations of Brazilian citizens abroad—Boston in the United States and Lisbon in Portugal—expatriate groups demanded that the candidates, and specifically the candidate of the PT, Luiz Inacio Lula da Silva, include in their political agenda a section about Brazilian migrants. This had a direct impact on Brazilian people's perceptions about the migration of their fellow nationals, as well as in the redefinition of Brazil's migration policy, during the first term of President Lula da Silva's regime. This fact alone shows the importance of the external vote in Brazil.

Even though only a relatively small proportion of eligible electors abroad vote, the strength of the external voting provision lies in the facts (a) that it guarantees the political rights of the citizens and (b) that it includes those who, whatever their geographical location, decide to maintain a close bond with their country.

Finally, it should be stressed that the costs associated with the implementation of external voting are part, and only represent a small share, of the operating expenses of the electoral management body, and are not the subject of any controversy.