

CHAPTER 5

CHAPTER 5

5. The implementation of external voting

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1. Introduction

The practical implementation of external voting is complicated by factors such as the number of electors, their locations, the distances involved and the complexity of the voting system in place. Election planning becomes a two-tiered process as the tasks involved in organizing an election in-country are duplicated, under very different circumstances, for the external voting.

At each stage of the external electoral process, emphasis must be placed on implementing procedures and processes that are not only faithful to the legislation but also as close as possible to those in place for in-country voters. All electors must have access to a similar registration and polling process, no matter where they are located. Administrative creativity and flexibility are needed, but the process must always be in accordance with the law.

The problems of implementation will vary depending on the methods of registration and voting, the geographical distribution of expatriates and the political situation (e.g. during a transition after violent conflict). In all cases, *security* and *privacy* are central to the process, whether voting is done in person, by post, by proxy (essentially an internal process) or by electronic means. Many groups of external electors (such as refugee populations) may be vulnerable to intimidation and will need assurances that they are protected by the secrecy built in to the process. Other groups (e.g. military serving outside the home country and members of the diplomatic community) will have more confidence in the system but will expect the same protection.

In first or transitional elections, the political players will watch the external voting with suspicion. If any political force is seeking a reason to challenge the results of an election, anomalies in the external voting can often be pointed out to justify any complaints. For this reason, the planning for external voting requires a carefully integrated approach to ensure that it is as transparent and administratively correct as the internal voting.

Administrative problems or delays in the external voting are often viewed as deliberate acts of fraud by an incumbent government or even by the election management body (EMB). ‘Transition elections should be viewed as accidents waiting to happen at the intersection between political suspicion and administrative incapacity. Every administrative problem is interpreted by one side as designed by its opponent to do it harm’ (Pastor 1999). This is particularly true for external voting. It is important to eliminate any potential cause for suspicion when planning the implementation of external voting.

Finally, disputes and complaints will need to be resolved quickly and fairly. All participants in the electoral process must have the right to appeal to an independent, impartial body. Procedures need to be established for the appeal process to ensure it is accessible for the external electors and within the election timeline. All complaints will need to be dealt with in an equitable and timely manner.

2. The procedures for external voting

There are four basic options for the procedure for external voting:

- voting by proxy;
- personal voting—voting in person in diplomatic missions or military bases;
- postal voting; and
- electronic voting.

The advantages of proxy voting are that it is technically simple and does not involve the huge financial and administrative costs that are customary in elections held outside the state territory. It does, however, have one problematic feature: the proxy could use this procedure to obtain an additional vote and thus infringe the principle of equal suffrage, with the electoral authorities being unable to intervene.

The main advantage of voting in diplomatic missions is that there is a highly transparent electoral process, supervised by diplomatic staff. However, they must be, and be perceived to be, independent and unbiased. Moreover, in some countries getting to the nearest embassy or consulate may be a problem, especially for citizens of those states that have few diplomatic missions in those foreign countries or in countries where the infrastructure is poor. Oversight issues also need to be considered with voting at military bases abroad.

It is clearly easier to organize postal voting than to establish polling stations in all diplomatic missions worldwide, but the transparency of voting by post is not so high as when the vote is cast in person in a consulate under the observation of state officials (problems of ‘family voting’, for instance, have been known to arise); moreover, postal services may be slow and unreliable. Whether postal voting is more or less suitable than voting in diplomatic missions will depend to a great extent on the context, such as the infrastructure of those foreign countries where external voting is to be held. The

costs associated with postal voting are generally lower than those for personal voting because the management structure can be centralized for postal voting. However, due to timelines, it may be necessary to use courier services to move the ballot papers to a central point in each country for mailing, and also to return them for counting. Costs for these services are high but they ensure timely delivery. The local mailing costs are also high because the package contains ballot papers, a series of envelopes, instructions, candidate lists and so on.

Voting by electronic means is considered in chapter 10.

Thus there is no ‘best procedure’ for external voting. The EMB will have to consider the procedure that best meets the needs of its electorate.

Table 5.1: Advantages and disadvantages of external voting procedures

	Tentative advantages	Tentative disadvantages
Postal voting	Lower financial and organizational costs Able to reach most eligible electors	Problematic transparency of voting procedure Dependent on a speedy and reliable postal service
Voting in diplomatic missions	High transparency of voting procedure	Higher financial and organizational costs Many eligible electors do not live near the location of the mission
Proxy voting	Almost no additional expenses	Principle of electoral equality not sufficiently guaranteed
Electronic voting	No delays Available worldwide Facilitates counting	Security concerns Financial costs of implementation

3. Timelines

The planning process is made difficult by the particular features of external voting. However, if there is early planning and careful preparation, the process will naturally parallel that of the election in-country. For external voting, however, extra time is required at the registration and voting stages, especially if the external electors are widely distributed geographically, as table 5.2 shows. A short election period can effectively exclude external voting, and is indeed sometimes used for that purpose (e.g., in Sierra Leone 2002, the timeline was one of the reasons for excluding external voting).

One of the pre-election tasks that can be time-consuming is the negotiation and signing of a memorandum of understanding (MOU) with each country that will have external registration and voting (see chapter 6). The MOU is the basis for all the arrangements, assistance and needs of the EMB in that country. When several countries are involved, a delayed MOU with one or more can jeopardize the process. This happened in the 2005 Iraqi election, with the last MOU being signed just four weeks before the election.

The managers of the external voting must be an integral part of the EMB's management and planning team so that all the players are aware of the special problems to be faced and the timelines. This is particularly important if the external voting is being administered by an agency outside the EMB of the country for which the election is being held. The fact that there is external voting impacts on every step of the process—from procurement and printing to distribution of the ballot papers, and from training of election workers and voter education to procedures. Only by working closely together can the internal and external voting be consistent and function well and efficiently.

The campaign period will need special attention because candidates and political parties may not have the resources to reach external electors. The EMB may have to print and distribute information about the candidates and political parties to these electors, particularly if it is a postal vote. Although the campaign period would be the same as that for the in-country campaign, the time needed for preparation of materials has to be considered. Timelines will be affected differently depending on the locations of external electors, on the method of registration and on the process for voting. Technology is offering new options and electronic methods of voting (discussed in chapter 10).

Table 5.2: Examples of election timelines for external and in-country voting

External voting	Countdown	In-country voting
Sign MOU with each government Make arrangements with non-governmental organizations (NGOs) for cooperation	- 8 months	Order registration materials
Hire registration staff		
Establish number/location of external electors	- 6 months	Establish registration sites
Start information campaign		
Select registration/voting sites and/or mailing points		
Receive registration materials	- 5 months	Distribute materials to registration sites
Train registration staff		Start information campaign Hire and train registration staff

External voting	Countdown	In-country voting
Register electors (in person or by post)	- 4 months	Registration of electors
Transport registration information to the election commission Exhibition/corrections to list (if separate from internal list)	- 3 months	Order election equipment/materials Nomination Order ballot papers Prepare electoral register
Arrange for voting equipment	- 2 months	Preliminary register of electors
Campaign period: print and distribute information on parties/candidates for external electors		Challenges to registration and appeals Corrections to electoral register
Hire and train voting staff		Campaign period
Receive ballot papers and other secure materials Election observers arrive	- 1 month	Print final electoral register Recruit and train voting staff
Voting (if by post)	- 3 weeks	Deliver non-secure materials to voting sites
Transport ballot papers to election commission (postal voting)	- 2 weeks	Deliver ballot papers and other secure materials to voting sites
	- 1 week	Election observers arrive
Voting (if personal) and counting (or transport ballot papers to election commission for the count)	Election day	Voting and counting
	+1–7 days	Challenges to voting and count
	+ 1 week	Investigate complaints/recounts
	+ 3 weeks	Official announcement of results

This timeline assumes full registration of all eligible electors specifically for the election in question prior to election day. It will be considerably shorter if other registration methods are used. For example, a permanent register that includes those who are outside the country would only need an updating period, which will usually be shorter than the time full registration would take. The use of established lists, such as registers of refugees, military registers and diplomatic staff lists may also be used to cut down the registration period if there is a way of checking the eligibility to vote of the persons concerned. Bosnia and Herzegovina in 1996 used the pre-war census as the basis for the voting, and Iraq in 2005 used the Food Distribution List. Earlier electoral registers can be used in the same way if necessary.

4. Costing and budgeting*

External voting can add considerably to the costs of an election. The costs of external voting will vary with the prevailing conditions. Once a decision has been made to have external voting, it is necessary to be aware of where extra funds will be needed and what the actual costs will be. In transitional elections, if international donors are involved, they will want oversight of detailed costing and budgets. All the costing factors must be known early in the process so that a realistic budget can be presented to governments and donors. When programmes are established well in advance within a recognized structure, they are likely to be less costly.

The extra costs may be a reason to limit the extent the external voting. For instance, the option of external voting may be offered only where the number of registered external electors exceeds a certain threshold (e.g. Ukraine in 2004) or only in countries where the country holding the election has an embassy or consulate. In some cases, decision makers may determine that the challenges of external voting are too costly and insurmountable against tight timetables. This has been the case in a number of post-conflict elections. Indeed, in the 2005 Iraqi elections, the United Nations initially advised against external voting due to the complexity of such an operation. However, the Iraqi political parties advocated strongly for external voting and the Independent Electoral Commission of Iraq (IECI) ultimately (in November 2004) decided to incorporate external voting.

External voting programme costs might include:

- security—of persons, locations, materials, events. Special security arrangements may be needed if there is a perceived risk for the voters and/or ballot papers during the process;
- staffing—including recruitment, salaries, training;
- office space (it may also be necessary to administer the external voting from an office outside the country if there are communications or other infrastructure problems internally);
- travel—for oversight and administrative staff;
- training. Special training materials and programmes will be needed for both external registration and the external voting itself;
- the electoral registration programme;
- election materials—the printing of ballot papers, the installation of voting booths and so on;
- the transport of materials. This can be a major expense, depending on the number of countries involved. It will often be necessary to use couriers in order to meet timelines (e.g. for returning the ballot papers from external voting if they are to be counted in-country);
- the cost of registration, polling and office locations;
- information materials and distribution/media. Special communication programmes will be needed to reach external electors with information and to raise awareness

* Parts of this section were kindly contributed by Brett Lacy.

about the procedures for registration and voting, and this may involve media costs in several countries;

- communications—constant communication is needed between the EMB and its external operation;
- observation—The EMB may want to provide its own observers for the external registration and voting or it may want to help political party representatives attend these events; and
- implementing partner organizations' costs.

Many of the basic election costs for items such as procurement and printing will be included in the general election budget (e.g. the number of ballot papers to be printed will include internal and external electors).

If a large number of countries and a large number of electors are involved, negotiations can be started early to involve the diplomatic community, national EMBs and where relevant international agencies in those countries. It may be possible to borrow much of the polling station equipment locally and local election officials may assist in the preparations in each country, but an agreement will need to be reached with the local or national EMB (see chapter 6). This assistance will vary greatly from country to country and will need to be negotiated separately. In Bosnia and Herzegovina, international support was crucial. 'Most of the countries hosting Bosnian refugees were sufficiently affluent and politically stable to permit, and even fund, election activities on their soil. The same cannot be expected of host countries in other regions' (Organization for Security and Co-operation in Europe, Refugee Election Steering Group 1997: 61). Where the number of external electors is small (e.g. diplomats, workers and travellers), the embassy of the country concerned can usually handle the arrangements without input by the local EMBs.

Table 5.3 gives some examples of the costs of external voting programmes. However, it is not always possible to ascertain what is included in the different figures, and the figures here cannot be treated as directly comparable.

Table 5.3: Examples of the cost of external voting programmes

	Estimated costs of external voting programme (million US dollars (USD))	Cost per registered elector (USD)
Iraq (January 2005)	92	300–400
Iran (December 2005)	17	45
Afghanistan (2004)	24	20 Iran/32 Pakistan
Indonesia (2004)	6	13*
East Timor (1999)	1	161**

* These figures are the allocation for which approval was sought. Actual expenditure is not known. Ultimately only about 0.2 per cent of total voter turnout was accounted for by external voters. See the Indonesia case study.

** International Organization for Migration, 'Out of Country Voting Case Studies: East Timor'.

The Iraq external voting programme was the most expensive in history. Much of the costs in both Iraq and Afghanistan—particularly in Iraq—can be attributed to security requirements, although another factor in the case of Iraq was directly related to the institutional arrangements that were put in place to organize and conduct the external voting programme within a very short period of time: the entire external voting programme was contracted out to the International Organization for Migration (IOM), resulting in an organizational overhead being charged for the whole programme. The cost of external voting for Iraq in the December 2005 election, organised mainly by the IECI and Iraqi servants, was considerably lower than in the January election, organised with the assistance of international partners. East Timor's external voting programme for its 1999 referendum on independence cost a fraction of what the programmes in Iraq and Afghanistan have cost. It registered about 6,220 electors in six countries and external voter turnout was 96.5 per cent.

Breaking external voting programmes down into parts, with the EMB of the home country itself contracting out directly for smaller pieces, such as the printing of ballot papers, can significantly reduce overall costs. Costs will be higher when external voting programmes have to establish an electoral register for the first time or to reconstruct a significantly flawed one. Other methods of reducing costs include eliminating the production of new identity documents.

Most costs are borne by a combination of the country of origin, the international community, and in a more limited way the host countries, but other costs can be borne by the voters themselves. Voters often pay their own travel fees associated with registration and voting. Depending on the election timetable, voters may need to make two trips, one to register and a second to cast their vote. These travel costs can be a significant obstacle to participation, particularly where eligible electors have to travel over large distances, and can result in low external voter turnout. For the January 2005 Iraqi elections, the costs for electors to travel to register and then again to vote were prohibitively high, particularly in countries such as Sweden and the United States (where an estimated 10 per cent of external votes were cast) where there were only a limited number of polling and registration sites. The Danish Government subsidized the travel of voters to participate in the Iraqi external voting programme, but most host countries did not provide such support.

Budget issues can produce creative and innovative solutions to some of the problems of external voting. In areas where large numbers of refugees live in close proximity, volunteers from refugee groups and other community or civic groups who have the necessary language skills could handle much of the education and training activities. In some cases it may be possible to draw on these groups to provide election officials. The expatriate community often suggests other cost-saving measures (although there could be a risk of these suggestions being biased).

Naturally, any financial costs should be considered alongside the non-financial costs of not conducting external voting, such as the implications for the consolidation of democracy, peace and stability, or national reconciliation, particularly in post-conflict societies. In

some cases, the costs of not conducting out-of-country voting can in the long run far exceed the costs of any single external voting programme.

5. Logistics

The procurement and distribution of election materials and equipment take on added dimensions when external voting takes place. If external electors are living in several different countries, the problems of delivering items to coincide with the delivery of the same items inside the country grow in proportion.

Special arrangements may have to be made with providers such as printers and manufacturers to deliver to several locations, both inside and outside the country. This raises questions of security and timing, which have to be carefully controlled. Infrastructure problems of transport and communications must always be considered in planning these deliveries. The transport of ballot papers can be complicated by the electoral system used. In an election where proportional representation (PR) is used nationally, the same ballot paper is used everywhere. However, in an electoral system where each electoral district or province or region has a unique ballot paper, distribution becomes more complex. Voters have to be identified by constituency, adding another step to the process, unless a postal ballot is used. This, of course, has its own complexities because each voter then needs a list of candidates or parties for the particular electoral district.

A breakdown in the delivery of materials can create a tense situation, as was experienced in the Central African Republic National Assembly election in 1998:

There was bitterness in neighbouring Gabon and in France, where angry migrant voters surrounded their diplomatic missions insisting on voting. A protestor in Libreville, Gabon, told newsmen that 'we've not been able to vote here in Libreville because the consulate did not receive the necessary materials to enable it to organise the elections. This is why we're protesting against the flagrant violation of the constitution by blocking Central Africans in Gabon from freely exercising their civic duties. We're contesting with all our energy' (Tumanjong 1999: 41–42).

Even countries with excellent infrastructure and communications can experience difficulties. Some Canadian electors working in Kosovo at the time of the Canadian election in 2000 were unable to vote when many ballot papers did not arrive at the Canadian Co-ordination Office in Kosovo on time.

An important aspect of the logistical plans is the appointment and training of staff for the external voting. Whether they are hired directly or appointed by a national or international agency in each country, the election officials will need specific and detailed training. Although registration and voting manuals prepared for in-country training will be useful, there will also be specific matters that need to be addressed for the staff managing the external voting. These may include the context (e.g. peace agreements,

country background), the particular challenges (e.g. reaching electors in refugee camps and finding out how to reach those who are scattered), and special instructions for returning registration materials and ballot papers to the EMB.

Voter education and communication with prospective voters are also a part of the logistical preparations. Materials designed for internal voting may need to be modified for use outside the country (including language). Close cooperation with international and national organizations will be needed to reach prospective voters and to conduct education programmes. The use of the mass media needs to be kept to a minimum in order to keep down costs unless there is a large population of external electors in a particular country. The host country's regulations on the media may also need to be checked. Announcements and information must be targeted carefully to reach eligible electors in different locations. The election officials may also be involved in distributing campaign information if the political parties do not have the means to do this outside the country. Toll-free telephone lines may be needed to answer queries if large numbers of external electors are resident in a particular country.

As with the planning process, the logistical preparations have to be carefully monitored and worked out to ensure that all contingencies are provided for where the timelines for registration and voting are concerned.

6. The security of election materials

The security and control of registration and voting materials require special attention for external voting. Security is as essential externally as it is internally but there is the added challenge of securing sensitive materials during transport to and from several countries. Once the ballot papers are returned to the EMB, they may also need to be transported further to the provincial or municipal level, depending on the counting and reconciliation arrangements. Each step requires a security plan to prevent fraud.

Observers and political party representatives often want to follow the trail of the ballot papers and other election materials from origin to destination. Secure transport, such as a courier or diplomatic pouch, is required to reassure observers, candidates and voters that the ballot papers cannot be tampered with in any way.

Security will also be an issue during the registration process. In some circumstances, providing the data necessary to register to vote may be dangerous for the individual. Refugees may be concerned about losing their refugee status or being forced to return prematurely to their country of origin. For this reason they may want assurance that the registration data will remain confidential to the EMB. This, however, may conflict with the ideal of an open list to which the political parties have access. Measures can be devised to protect the information on the elector's location or status by carefully selecting the information that will be printed on the electoral registers. This type of problem requires careful consideration if the needs of the displaced citizen are to be balanced with the needs of the electoral system.

7. Voter registration

Legislation defines who is eligible to vote and an EMB establishes the procedures for registering eligible electors and preventing fraud. The electoral registers are generally a matter of public record, which means that the data to be published in the lists must be agreed upon and other data collected must remain confidential.

External electors may be registered on the electoral register of the electoral district of their previous place of residence, or on another national list (for example, if the country concerned has a single consolidated electoral register), or there may be a special electoral register of external electors. In the latter case, the list can be by country, by type of residence (permanent or temporary), by category (refugee, guest worker etc.) or by any combination of these. There may be a permanent register of electors that has to be updated regularly, or registration may be regular and automatic, or electors may need to register in advance of each election.

External electors who are working or travelling in another country will need to confirm that their names are on the electoral register. The onus is on the elector to check this by post or by the Internet. For large displaced populations, it is usually necessary to hold a new registration because any electoral registers that exist are generally out of date. This process can be very costly to organize and manage. In these cases, the onus is on the EMB to ensure the process occurs. The registration process must be designed so that the register of external electors will meet the requirements set out in the law as well as meeting any specific problems in host countries. Registration can be carried out by trained local officials, by embassy staff or by post. Whatever process is used, controls are needed to prevent fraud. Registration cards and the data need to be secure in order to avoid duplication or loss. Controls over the distribution of cards and other materials and their return must be in place so that those handling them account for every item.

Prior to registration, the locations of potential electors have to be targeted as closely as possible. The communication plan devised to reach the eligible electors with information about the process will need to be reasonably specific. The information can be channelled through international organizations, local non-governmental organizations (NGOs) and community groups, as well as Internet websites.

External electors, especially refugees, often do not have official identification documents. Procedures need to be adopted to allow eligible electors to register using some other means of identification (e.g. United Nations High Commissioner for Refugees (UNHCR) records) or on oath. At the same time, the procedures have to ensure that non-eligible persons are not registering fraudulently. The procedures also have to give equal access to all eligible external electors, regardless of ethnicity or religion. Members of minority groups often find it more difficult among other things to establish their identification and citizenship, and may need more attention in the registration process.

Any special procedures must remain within the spirit of the existing legislation and may require amendments to the law. If the election officials in each host country make their

own decisions about who is eligible or about what forms of identification will be accepted, this can have great ramifications for the acceptance of the results of an election.

The accurate registration of external electors can become a political issue, as happened in Guyana after the franchise was extended to non-resident electors after 1968:

There were persistent allegations that the lists of overseas voters were often inaccurate and made without the prior knowledge or participation of the Elections Commission. The lists were said to be heavily padded with fictitious and ineligible voters, having an inaccuracy rate of about 75 percent of the entries. Voters were found to be living at non-existent addresses, in vacant lots, in open pastures and in abandoned premises. Another criticism levelled at overseas voting was that up to 95 percent of those votes went to the ruling party . . . [An amendment in 1985 attempted] to change the regime of overseas voting, but the basic scheme was left intact and remained flawed since it was susceptible to serious election manipulation (Dundas 1993: 145–6).

Legal methods for objecting to the registration of a name or correcting an entry on the register of external electors also need to be in place if the list is not integrated into the internal electoral register. Minimum standards must be met, similar to those that apply for internal registration, to ensure the integrity of the electoral registers.

8. External voting and the secret ballot

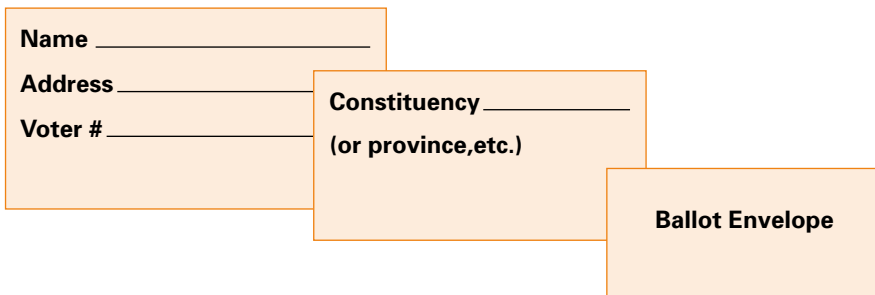
All the measures that are used to protect the secrecy of the vote internally must be duplicated in the external setting. The training of election workers, including any diplomats or members of the military who are involved in establishing polling stations, is an essential step in ensuring the integrity of the vote. In most cases it will be possible to duplicate the polling station procedures and voting procedures in the external polls. In other cases it may not be practical—for instance, if there are only a few electors. When a postal return system is used, extra steps are needed to ensure secrecy. This can prove difficult when a voter receives the ballot paper by post and marks it at home. It may be necessary to require voters to go to an embassy or a public institution to mark the ballot paper in secrecy. An instruction must be included with the ballot paper to inform the voter that he or she must mark the ballot paper in private and that any interference is a breach of the law.

The choice of polling station locations for personal voting is based on the registration information. However, contingency plans must be in place for changes in the status of electors. A large-scale return of refugees prior to polling day can affect the number and location of polling stations. There may also be numbers of externally registered electors who choose to return for voting day, wanting to vote in-country.

The ballot papers marked by external voters generally require the use of a series of envelopes to keep the ballot and the voter's identity secret at each step—at the poll, during return to the EMB, and finally at the count (see figure 5.1). The voter's identification is indicated on an outer envelope so it can be double-checked against the electoral

register for eligibility and to prevent voting more than once. If it is a postal ballot, this envelope will also be pre-printed with the address of the EMB (or the organization that is administering the vote). An inner envelope, marked with the address of the body to which the ballot paper will be sent for the count, allows the ballot papers to be distributed to the proper national, provincial or municipal level. Finally, an unmarked inner envelope containing the actual ballot paper is placed in the appropriate ballot box for the count. Some combination of two or three envelopes will allow the voter's eligibility to be confirmed, the ballot paper to be delivered correctly and the ballot paper to be counted without it being traced back to the voter. This process in the vote is important and careful instructions will be needed so that the voters and the election officials understand the system and are fully confident in it.

Figure 5.1: Envelopes used for external voting



Decisions about how the ballot papers are counted are also an important part of the secrecy of the vote. If there are only a few external ballot papers, they may need to be mixed with internal ballot papers to prevent disclosure. For instance, in Lesotho in 1998 some provinces had only one external ballot paper, which was mixed with other ballot papers at a specified poll. If there are very large numbers of external ballots, the decision is often made to count them centrally either at the polling stations (as in Croatia in 1997) or after return to the EMB (as in South Africa in 1994 and Kosovo in 2000). The numbers are then added to the totals. Unfortunately, in post-conflict situations, the reconciliation process can break down, and sometimes political party representatives object to all external ballot papers at the count. This happened in Lesotho in 1998.

Security at the external registration and polling stations is often subsumed by the embassy or consulate where the station is located. Local police, if necessary, can enhance the security. If there is a specific threat or a perceived security risk such as during the 2005 Iraqi election, special arrangements are made for extra security procedures. This needs to be factored into the budget process. Observers and political party representatives are another integral part of the secrecy of the vote. These participants ensure that procedures are followed and that the secrecy of the vote is maintained at each step of the electoral process. It is often difficult for political parties to send representatives, so international observers have to be relied upon to carry out the duties of oversight of external voting.

International observers have been deployed to observe the external vote in some elections. However, the costs for international organizations to send observers to several countries for an external vote has led to other solutions. Diplomatic staff and other international staff (e.g. NGOs) in each country are often recruited to do the observation on behalf of an international organization. These observers are trained and report back to the organization, which prepares an overall report. The EMB also sends its own staff to each location to ensure procedures are followed.

9. Contracting out external voting

The electoral management body can run the election itself or contract it out. The latter option is unusual where an established EMB is in control of the electoral process, but is used more frequently in transitional elections with substantial direct input from the international community. The EMB in conjunction with the subcontractor will also need to interact with various government departments (e.g. the department for foreign affairs).

Prior to 1996, where it existed, external voting was a part of the overall election planning process. For instance, the refugee registration and voting operation in Cambodia in 1993 was an integral part of the functions of the Electoral Component of the United Nations Transitional Authority in Cambodia (UNTAC). However, for the 1996 election in Bosnia and Herzegovina, because of the scale of external voting, other approaches were considered. Refugees from Bosnia and Herzegovina were living in over 50 countries, but the largest numbers were in the neighbouring countries. The Organization for Security and Co-operation in Europe (OSCE) established a Steering Group to coordinate this task. The group worked with the International Centre for Migration Policy Development (ICMPD) and the IOM. Processes were established for registration and voting both by post (in most countries) and in person (in neighbouring countries). Subsequently, the IOM was contracted to manage the participation of refugees in the municipal elections in Bosnia and Herzegovina and later for the external voting in Kosovo (in 2000) and several other countries (see also chapter 7 and the case studies on Afghanistan, Bosnia and Herzegovina, and Iraq).

The contractor coordinates and liaises with the EMB and is responsible for infrastructure arrangements, information, registration, database preparation (in some cases), polling, and challenges to the inclusion of names on the electoral registers. The contractor can also be responsible for archiving and documentation.

10. Conclusions

As with the internal electoral process, the system to be used for external voting needs careful planning and implementation. It also needs to be methodically coordinated to ensure that all electors are treated equally under the relevant election law. The cost per voter for external voting will be higher than the cost for in-country voting but the

budget will have to be integrated so that there is no discrimination against the external elector.

External voting adds complexity to the process but is a necessary part of extending the franchise to all eligible electors. 'Today we have come to assume that democracy must guarantee virtually every adult citizen the right to vote' (Dahl 1998: 3).

Although flexibility is important in order to meet the challenges, all decisions must be in compliance with the law. External voting, properly administered and implemented, will facilitate the democratic process and, in the case of refugee populations, encourage unity and reconciliation.

Brazil: compulsory voting and renewed interest among external voters

Leticia Calderón-Chelius*

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

* Isabel Morales assisted with updating this case study.

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.

Honduras: a decision based on political calculations

Jacobo Hernández Cruz

As a fundamental part of the process of democratic change in Honduras which took place when power was transferred from a military to a civilian government, the Electoral and Political Organizations Law was approved in November 1979. This law was to govern the election of members of the Constituent National Assembly, who were trusted with writing a new constitutional text.

Article 10 of that law recognized specifically that Honduran citizens residing abroad would have the opportunity to vote in the election for deputies to the Constituent National Assembly as long as they were in the country on election day and were registered in the National Electoral Census—which cannot be considered as external voting in the strict sense of the term.

However, external voting in the true sense was provided for two years later. The Constituent National Assembly, installed in June 1980, not only wrote the new constitutional text, which was promulgated in January 1982, but also issued a new Electoral and Political Organizations Law with the purpose of calling the Honduran people to general elections to the presidency, to be held in November 1981. In the new electoral legislation, the vote for Honduran citizens who were resident outside the national territory was considered again, and this time specifically voting from abroad. However, its implementation was put on hold until the appropriate conditions in the organization of electoral affairs were in place (article 11) and until the electoral management body (the National Electoral Tribunal) was able to decide on the detailed regulation of external voting by a unanimous vote of its members.

The provision in fact was not implemented for almost 20 years because the right conditions never occurred for the electoral authority (the National Electoral Tribunal became the Supreme Electoral Tribunal in 2004) to proceed with its effective assessment and regulation. By initiative of the then ruling party, the Liberal Party of Honduras, the Congress, at the end of 2000, approved a decree that gave the National Electoral Tribunal three months in which to regulate the voting by Hondurans abroad within the terms of article 11 of the electoral law. The decree stipulated that if the electoral body did not fulfil this mandate within that time frame it would be up to the National Congress to develop and decide on the regulation.

The members of the National Electoral Tribunal did not reach unanimous agreement within the time stipulated, and the responsibility of preparing the regulation was indeed transferred to the Congress. Accordingly, it was the president of the Congress (who at the time was virtually a candidate for the presidency of the republic, expected to stand as the candidate of the National Party) to take the initiative on the regulation of voting for abroad, which, if approved, would be applied for the presidential election to be held in late 2001.

In spite of objections by the opposition and counter-arguments related to the high financial cost of external voting and to the lack of consultation with other interested sectors, by the end of May 2001 a majority in the Congress had approved the Special Law for the Exercise of Suffrage of Hondurans Abroad, thereby restoring this potential benefit for nearly 600,000 Honduran citizens who were permanently resident abroad.

This was clearly the result of a political calculation by the ruling party. There is also no doubt that the amount of money remitted to Honduras by residents abroad (known as the 'economic mattress', and estimated at the time at 1 billion US dollars (USD) per year), was also influential in the decision to approve this law.

The special law established that external voting for Hondurans living abroad will only apply for presidential elections; that the consular offices will be considered as auxiliary electoral bodies, which implies that voting will be in-person in these precincts (postal voting from abroad is not possible), and that it is up to the electoral authority to select the cities where electors will be able to vote. In spite of all of the above, it was decided that in the presidential election of 2001 external voting would be carried out but only in six cities in the United States—New Orleans, Miami, Washington, New York, Los Angeles and Houston. These cities were selected because it was estimated that they were home to the great majority of Hondurans living abroad. The same cities were chosen to organize external voting in the presidential election of 2005, although it was not possible to offer it in all of them.

Voter registration and electoral logistics abroad

For the implementation of external voting by Hondurans abroad in the 2001 and 2005 presidential elections, a Local Electoral Board was established in each of the consular offices of the six US cities selected. These boards were formed by a representative of the consular office plus a representative of each legally recognized political party (there were only five at the time) and were to administer and supervise the entire electoral process, including the establishment of the electoral register.

The law establishes that to vote from outside the national territory Honduran citizens residing abroad must be registered in the National Electoral Census. To achieve this, they must present themselves at the corresponding consulate, register on a preliminary list, and provide their general information, current address and identity card number. It is important to note that potential voters must possess an identity card in order to register and vote abroad.

For the 2001 presidential election, Honduran residents abroad in those jurisdictions had a period of over a month, from 1 July to 5 August, in which to request registration on the preliminary electoral register. For the 2005 election the registration period also finished in early August, since the Special Law for the Exercise of Suffrage of Hondurans

Abroad states that all consulates must issue the preliminary list of electors abroad before 25 August of the year of the election. In both the 2001 and the 2005 elections there were complaints about the short time allowed to register. Many Honduran citizens abroad do not have a Honduran identity card, so, in accordance with the Special Law, the office of the electoral authority which was in charge of issuing the unique identity cards sent specialist technical personnel in to the six selected cities where voting was to take place to deal with all requests for the granting, renewal or replacement of identity cards. All requests are sent to the national registry which issues the ID cards and then sent them back to the consulates in September and October to be delivered to the citizens concerned.

Citizens of Honduran origin who are naturalized in the USA or in another country and have not recovered their Honduran citizenship, according to the provisions of the constitution, cannot participate in this process.

The National Electoral Tribunal is responsible for integrating the definitive list of electors abroad and sending it, together with all the materials and electoral documentation, via the Foreign Ministry, to those consular offices that are qualified to act as auxiliary election bodies one month before polling day. The law establishes that if the name of an elector does not appear in the definitive list prepared by the electoral authority, that person cannot cast a vote.

According to the special law, the polling abroad is carried out the same day as the general elections in Honduras.

The law does not include specific provisions concerning election campaign activities abroad, but these take place by means of personal contacts, printed campaign literature, and messages in some Spanish-language broadcasts.

Turnout

The definitive register of electors abroad for the 2001 election included 10,826 Hondurans, of whom only 4,541, or 42 per cent, voted. The table shows how they were distributed.

Table 1: Voting by Hondurans abroad in the 2001 presidential election

City	No. of registered electors	No. of votes cast
Miami	3,590	1,770
Houston	1,599	519
Washington	982	399
New York	2,196	676
Los Angeles	1,665	678
New Orleans	794	499
Total	10,826	3,931

At the time of the most recent presidential election, in 2005, it was estimated that a total of 1 million Hondurans were living in the United States, most of whom held ID cards. At 11,590, the total number of external electors registered was not much larger than the total in 2001. Moreover, even when the electoral authority knew about the apathy or lack of interest on the part of Hondurans living abroad in voting, they did not expect the very low turnout obtained in this second experience.

On this occasion, only 336 valid external votes were cast. This situation was caused by more than one factor. First, the external voting in New Orleans was cancelled because of Hurricane Katrina in August 2005. In New York the electoral officer of the two polling stations experienced problems and decided to suspend the election. Then the Miami and Washington ballot papers were not certificated, so they could not be taken to the data processing centre. The number of votes cast in these cities was estimated at 400. Of the two ballot boxes installed in Houston, only one was considered valid. So, in the end, only one urn from Houston and the ballot papers from Los Angeles were counted.

Table 2: Voting by Hondurans abroad in the 2005 presidential election

Political party	Houston	Los Angeles	
Pinu	5	2	
National Party	50	115	
Liberal Party	58	92	
Democratic Unification (UD)	1	4	
Christian Democracy (DC)	2	7	
Total	116	220	336

The costs of external voting

The costs of the first implementation of voting abroad—in 2001—amounted to 10 million lempiras (HNL—c. 600,000 USD). The high costs, the low rates of registration and participation, and the presumed discord or political polarization in the Honduran communities abroad as a result of the electoral competition, have given rise to different criticisms and demands for this regulation to be reviewed, and even repealed. The Supreme Electoral Tribunal recognizes that the second experience of external voting was a failure. Improving this mechanism is a major challenge for the electoral authority. However, even though there has been talk of abolishing the Special Law for the Exercise of Suffrage of Hondurans Abroad, the introduction of external voting by post for the next election is still being considered.