

Out-of-Country Voting: *A Brief Overview*

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Introduction

This paper strives to provide a brief overview of the options, risks and opportunities facing a nation considering out-of-country voting (OCV).

The resources available for out-of-country voting are extensive and provide comprehensive knowledge on international practices and lessons-learned for those considering out-of-country voting. A selection of key literature is available in a listing at the end of this paper. This selection contains a wide array of global case studies and statistics, which provide important insight into the successes and failures of other nations. Studying this is pivotal to making an informed decision and effectively implementing out-of-country voting anywhere.

Many countries around the world have large diasporas – groups of citizens who live outside of the country’s territory – who may demand inclusion in the electoral process of their country of origin. The enfranchisement of the diaspora is not generally deemed a democratic standard, but is an option every democracy has to consider. Politicians wishing to tap into this potentially significant pool of voters will often insist that such citizens be allowed to participate. Such demands are more often based on political considerations and made without a full understanding of the cost and complexity of conducting an out-of-country voting operation.

A growing political and electoral phenomenon, out-of-country voting, presents risks and challenges that could significantly impact domestic politics of a state. This is not to say that out-of-country voting should never be considered, merely that complexities and risks need to be understood before making a decision to enfranchise the diaspora.

Complexities and Risks of Out-of-Country Voting

Cost

Out-of-country voting operations are generally much more expensive than in-country voting. International experience shows that nationally conducted elections typically cost in the range of US\$1-2 per registered voter. Out-of-country voting operations often cost at least five to 10 times more, depending on the way a voter casts a ballot, resulting in a cost of US\$5-20 per voter. This can make out-of-country voting prohibitively expensive for many nations. If not a reason to ignore the operation completely, the costs involved can also limit the extent and scope of out-of-country voting.

Political Influence

Before a nation decides to enfranchise its diaspora, it needs to carefully consider the potential political implications of diaspora voting. This is especially the case when a nation has a large

diaspora population compared to the domestic population. In such cases, the diaspora can have a more substantial influence on the electoral result.

For many, it will be unacceptable for a population no longer residing in the country to have such influence when they do not have to live with the results of the election on a daily basis. Further, some electoral systems are more susceptible to influence by small numbers of voters, like those based on single-member constituencies. Where the origins of the diaspora population is concentrated in certain areas, the diaspora heavily influence the results in these constituencies or, in an extreme situation, the diaspora may constitute the majority of voters and easily own a constituency. To counteract the potential political influence of the diaspora, while still allowing them to participate, a separate allocation of out-of-country seats can be created which are elected solely by the diaspora. This can balance the desire for inclusion with the possibility of excess influence by diaspora voters.

Out-of-country seats could also avoid delimitation issues which may arise if external votes are to be tallied together with in-country votes when determining constituency boundaries. The merits and demerits of integrating external voters and the establishment of any extraterritorial districts should be carefully analyzed so out-of-country voting is seen as a positive democratic development by stakeholders and wider public.

Operational Challenges

Conducting out-of-country voting is incredibly complex and challenging for an election management body (EMB). In many cases, the diaspora population is large and spread across many different countries, which makes it difficult to assess the interest in participation amongst the various diaspora communities. The EMB needs to ensure that materials are delivered, staff is trained and results are returned from locations around the world – locations that are often not directly under the supervision of the EMB.

Often an out-of-country voting operation is as much of a challenge as the in-country voting operation, but for only a fraction of the voters. The risk for an EMB is that it spreads resources too thinly by attempting to conduct two similarly challenging operations at the same time. As a result, the quality of the in-country election can suffer.

To avoid this, states can consider including institutions to support the election management body in conducting out-of-country voting. Such cooperation and division of responsibility with other national institutions, such as the Ministry of Foreign Affairs, can lessen the burden of a thinly resourced EMB. Further, diversifying registration and voting staff to include election officials, civil servants and representatives of political parties and/or national communities abroad can go a long way in building confidence in the out-of-country electoral process.

Other operational issues such as security, communication systems, administrative and electoral facilities, staffing and training, election materials and transport, informational materials and observation costs are significant in deciding on the issue of out-of-country voting.

Outreach is another field which demands significant input on the part of external voting administrators. It is imperative that information is disseminated to potential external voters in a timely and accessible fashion, enabling them to participate. Facilitating and regulating political campaign activities for voters abroad can result in higher turnout during out-of-country voting.

Timelines

Generally out-of-country voting requires more time for registration, voting and counting than in-country elections, particularly depending on the geographical distribution of the potential voters. Experience shows that it can take nine to 12 months to manage an inclusive postal voting process and six to nine months for in-person voting. Early planning and preparations are especially critical when negotiations with host countries are required for the implementation of operations.

Reasonably Equal Access

Equal access, or more realistically, reasonable equal access, is one of the most difficult operational challenges of election administration. For diasporas spread across many countries and geographically dispersed within these countries, providing meaningful access for voters can be very challenging when using an in-person voting method. It is inevitable that political preferences will vary amongst diaspora populations and the election administration will be vulnerable to accusations of bias. Politicians may claim that administrative decisions by the EMB concerning the level of service provided in different voting locations are an attempt to disenfranchise certain groups of voters.

In order to mitigate accusations, the EMB will need to develop clear, objective criteria for the countries in which voting services will be provided and the levels of service provided. They will ideally obtain broad political agreement for these criteria. Equal access is more achievable if absentee (postal or Internet) voting methods are used, but, as discussed below, these approaches carry other risks and challenges.

Defining and Proving Eligibility

Defining which members of the diaspora are eligible for participation in out-of-country voting is a potentially divisive political issue. Those who hold a passport or citizenship in the country would generally be considered eligible to participate. But what is the status of those who have adopted an additional nationality or passport, or the children and grandchildren of those citizens abroad? Decisions on these issues can significantly expand the number of eligible

voters, exacerbating the logistical and political complications listed above. Certain legal limitations, such as restricting eligibility based on time and/or situation of absence, can be introduced to allow an inclusive yet manageable service for out-of-country voters.

Once eligibility criteria have been defined, there may be an added complication in proving the eligibility, depending on documents available to the diaspora. Legal provisions permitting out-of-country voting will need to clearly define documentary requirements, or identify the authority responsible for defining these documentary requirements.

Proving eligibility is closely tied to voter registration of external voters, which is more challenging than registration of in-country voters, especially in the case of undocumented migrants. States need to consider the source, place and method of registration, which may vary from consular lists to in-person registration during elections.

Fraud and Perception of Fraud

Out-of-country voting operations are much more susceptible to actual fraud and perceptions of fraud than in-country voting. The methodology used will have a significant influence on this, with in-person voting methodologies providing more opportunity for security than postal or internet methodologies. However, even in-person methodologies are more difficult for the EMB to supervise and control as election administration staff is not present and it is unlikely that the process of out-of-country voting will be observed by independent observers or party agents. This lack of observation leads to a lack of transparency and an absence of the normal checks and balances provided by observation. This lack of transparency can create a perception of fraud a significant issue, with little scope for independent rebuttal and verification by the EMB. The percept that out-of-country voting is a 'black box' contains a significant risk that perceptions of fraud through diaspora voting, whether valid or not, can seriously undermine the integrity and acceptability of the overall electoral process.

The relevance of these complexities and risks will vary depending on the out-of-country voting methodology that is implemented. In the following section the complexities and risks will be analyzed for each of the major approached that are employed to enfranchise the diaspora.

Analysis of Out-of-Country Voting Methodologies

Return Voting

By the strictest of definitions, this methodology is not considered as out-of-country voting because it involves diaspora voters registering to vote in advance, often through a country's embassy, and returning to the country to actually cast their ballot. This can be facilitated by the establishment of polling stations at major airports in the country or major land entry points. The

requirement for voters to attend a polling station in-person provides the greatest opportunity for the prevention of fraud, as voters can be asked to prove their identity and eligibility at the point of polling. While return voting is simpler from an administrative perspective, it places a significant financial burden on prospective voters and is likely to only enfranchise wealthier groups of the diaspora, who are likely to have a particular political bias.

In-Person Polling Station

A second approach that can be used is the establishment of polling stations in locations where diaspora populations are concentrated. This will inevitably require the establishment of polling stations outside of embassy and consulate premises. Again, in-person voting provides the greatest protection against fraud. Polling stations outside of embassies/consulates allow a much greater level of voting service to be provided and a higher level of enfranchisement. The operational complexities of setting up such polling stations are, however, a huge logistic burden.

Further, it is very unusual for a host state to allow another nation to hold its elections on the host's territory. In most cases, such voting will simply not be allowed by the host state, and even if such operations are considered, defining the modalities of such voting operations will involve complex inter-governmental negotiations. This methodology is likely to be the most expensive option for out-of-country voting.

Embassy Voting

This option represents the same approach as in the in-person polling station approach, except that voting only takes place in the country's embassies and/or consulates. The operational complexities of this approach are less challenging and the limited number of locations allows for greater control of the voting process. The in-person approach is again more secure against fraud.

The biggest drawback of this methodology is the level of service provided to voters. Having to attend the embassy or consulate may effectively exclude diaspora voters because of the cost and time involved in travelling to the embassy to vote and, possibly, register. Further, the embassy facility may not have the capacity to deal with large numbers of voters.

Postal Voting

Under this methodology, ballots are mailed out to registered out-of-country voters and need to be completed and returned by mail for counting. They can be returned to collection points in host countries or directly back to the country. Postal voting provides an equal level of access to voting for the diaspora and is the easiest way to provide global access to out-of-country voters.

However, ballots need to be ready very early in the process for postal balloting to be feasible, and this methodology can lead to delays in the finalization of results due to the time required for mailing and returning ballots. Postal voting is also a very insecure voting methodology. There is no guarantee that the ballot has been completed by the registered voter. The vulnerability of postal voting to fraud creates concern over the integrity of out-of-country voting, with potential implications for the acceptance of election results.

Internet Voting

Internet voting is a new addition to the range of methodologies available for out-of-country voting. However, this technology is still in its early stages of development and is not generally considered to be secure enough to use for something as important as national elections. Only in situations where a relatively sophisticated technological and administrative infrastructure is in place, permitting the secure identification of the voter, should Internet voting be considered. To use Internet voting without such identification technology would unnecessarily expose the election to fraud and the perception of fraud.

A Process to Decide on Out-of-Country Voting

Assessing whether and how a country should have a facility for the diaspora to vote is a very complex and often controversial process that can be dominated by political interests and emotional issues. Diasporas often have a strong voice in domestic politics by, for example, appealing effectively to nationalistic values. Additionally, these groups can also yield significant political influence on states where their incomes contribute significantly to their home nations.

While there are often strong arguments for making out-of-country voting available, the complexities and inherent imperfections of the process can lead to a negative overall experience. This is exasperated by diasporas often placing pressure on politicians and electoral management bodies (EMBs) to deliver a level of service that is unrealistic. Therefore, during the process of deliberating and implementing out-of-country voting, it is important that electoral management bodies and politicians manage expectations carefully.

The decision process should be characterized by transparency and inclusion to further the highest possible participation and eventual buy-in from stakeholders who are directly affected. These stakeholders will likely be the most critical commentators on the eventual outcome, whether that is a decision not to allow the diaspora to vote or to provide a limited level of out-of-country voting services.

One approach to a transparent and inclusive decision making process is to establish a dedicated out-of-country voting committee that includes external stakeholders such as civil society and diaspora interest organizations. Such a committee must have the time and resources necessary

to carefully study global experiences of out-of-country voting and analyze them in the context of their nation.

The decision making process should also include public hearings – especially hearings held abroad with diaspora communities – to gain acceptance and support of the final decision. In the pursuit of transparency, a draft report could be widely circulated to illustrate all factors that influenced the recommendation of the committee and give interested stakeholders the opportunity to comment before the report is finalized.

The committee and other stakeholders interested in the process would benefit greatly from studying the resources referenced in this document and consulting international experts who have specialized and participated in out-of-country voting projects globally.

Key Resources on Out-of-Country Voting

General Publications and Literature

1. International IDEA, *Voting from Abroad - The International IDEA Handbook*, 2007.

The book examines the theoretical and practical issues surrounding external voting and contains case studies 20 different countries.

Available at:

http://www.idea.int/publications/voting_from_abroad

2. Grace, J., *Challenging the Norms and Standards of Election Administration: Standards for External and Absentee Voting*, IFES, 2007, pp. 35 – 58.

This paper examines the issues surrounding external voting and highlights human rights instruments and election standards in the context of OCV.

Available at:

<http://www.ifes.org/publication/3dd9c7573d5b38d597a995a5533d456e/3%20IFES%20Challenging%20Election%20Norms%20and%20Standards%20WP%20EXTVOT.pdf>

3. Council of Europe (Venice Commission), *Report on Out-of-Country Voting*, 24 June 2011.

This paper studies the issue of OCV with an emphasis on procedures and practices in European states.

Available at:

http://www.venice.coe.int/site/dynamics/N_Subject_ef.asp?T=8&L=E

4. Rojas, H., *A Comparative Study of the Overseas Voting Laws and Systems of Selected Countries*, September 2004.

This paper offers comparative analysis of similarities and differences of OCV laws and systems in selected countries.

Available at:

http://pdf.usaid.gov/pdf_docs/PNADA596.pdf

5. Goldsmith, B., *Out-of-Country Voting in Post-Conflict Elections*, ACE Electoral Knowledge Network, 2005.

The paper expands on the experiences of recent OCV missions in Iraq and Afghanistan.

Available at:

<http://aceproject.org/today/feature-articles/out-of-country-voting-in-post-conflict-elections/?searchterm=Ben%20Goldsmith%20Out-of-Country%20Voting%20in%20Post-Conflict%20Elections>

6. Baubock, R., *Stakeholder Citizenship and Transitional Political Participation: A Normative Evaluation of External Voting*, Fordham Law Review, Vol. 75, Issue 5, 2007.

The paper studies external voting from the perspective of extending citizenship status to individuals who are stakeholders in the future of a political community.

Available at:

<http://ir.lawnet.fordham.edu/flr/vol75/iss5/4>

7. Grace, J. & Fischer, J., *Enfranchising Conflict Forced Migrants: Issues, Standards and Best Practices*, IOM/PRESS, 29 September 2003.

The discussion paper highlights election standards, systems, issues and experiences in enfranchising CFMs.

Available at:

http://www.geneseo.edu/%7Eiompres/Archive/Outputs/Standards_Final.pdf

8. IDEA, *Voting by Mail*. The IDEA Technical Paper Series for Election Administrators, 1999.

The paper outline elements, rational, merits/demerits and operational aspects of E Voting using example from various countries.

Available at:

http://www.idea.int/vt/upload/voting_by_mail.pdf

9. Karp, J. and Banducci, S., *How All-Mail Elections Influence Turnout*, 2000.

The paper examines how the adoption of all-mail elections as a replacement for the traditional polling place impacts political participation in United States, emphasizing on the example of the state of Oregon.

Country Reports and Studies

10. Council of Europe (Venice Commission), *Out of Country Voting Legal Provisions*, 6 October 2010.

This paper contains listing of legal provisions for OCV in member European states.

Available at:

http://www.venice.coe.int/site/dynamics/N_Subject_ef.asp?T=8&L=E

11. International Organization for Migration, *Southern Sudan Referendum Out-of-Country Voting, Final Report*, January 2011.
12. IOM & IFES, *Afghan Presidential Elections 2004: Out-of-Country Voting and Registration Programme for Iran and Pakistan, Final Report*. November 2004.
13. Electoral Commission (U.K.), *Absentee Voting in Great Britain: Report and Recommendations*, March 2003.

Available at:

http://www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0020/16049/AbsentvotinginGBfinal_9869-7240_ENSW.pdf

14. Barstow, D. & Van Natta, D Jr., *How Bush Took Florida: Mining the Overseas Absentee Vote*, New York Times, 15 July 2001.

Available at:

<http://www.nytimes.com/2001/07/15/us/examining-the-vote-how-bush-took-florida-mining-the-overseas-absentee-vote.html>

Online Resources

ACE Voting from Abroad: <http://aceproject.org/ace-en/topics/va>

About the Authors

Peter Erben, Senior Electoral Advisor

International Foundation for Electoral Systems (IFES)

Peter Erben is a senior electoral advisor who specializes in the management of electoral projects and in assistance to the strengthening of democratic institutions in post-conflict, transitional and developing countries.

He has previously been the Chief Electoral Officer and Electoral Commissioner of Kosovo and Afghanistan and directed the out-of-country elections for both Afghanistan and Iraq.

Based on this experience, he has managed numerous large scale electoral programs; acting as a senior advisor and providing assistance to electoral institutions in many countries including Bosnia and Herzegovina, the Palestinian Territories, Nepal, Pakistan and, currently, Indonesia.

In between these longer assignments Erben has been utilized throughout the world; participating in and leading electoral missions to Egypt, Libya, Burma/Myanmar, Lebanon, the Philippines, Iraq, Bangladesh, Sri Lanka and other countries.

Over the past 18 years, he has been deeply involved in the holding of 16 high profile elections in 8 different countries and has made significant contributions to strengthening the democracies of other nations.

In 2005, the former King of Afghanistan, Mohammed Zahir Shah, awarded Erben the Ghazi Mir Bacha Khan Superior State Medal for his contributions to Afghanistan. In 2008, Queen Margrethe II of Denmark knighted Erben for his contribution to furthering democracy around the world. He graduated from the Copenhagen Business School.

Ben Goldsmith, Senior Electoral Advisor

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Ben Goldsmith is a senior electoral advisor with over 10 years of experience advising and managing election administration projects in post-conflict and developing democracies. Goldsmith currently serves as IFES' Chief of Party in Kosovo. He manages the implementation of an electoral assistance program directed at the Election Commission of Kosovo and Kosovo civil society

Goldsmith has helped to conduct elections in Bosnia, Kosovo, Afghanistan, Iraq and the United Kingdom, including serving as the Deputy Chief Election Officer for the 2005 National Assembly and Provincial Council Elections, and has provided technical assistance in Georgia, Egypt, Lebanon, Nepal and Pakistan.

Prior to IFES, Goldsmith held electoral roles with and on behalf of the UK Foreign and Commonwealth Office, the Organization for Security and Cooperation in Europe, the International Organization for Migration, the United Nations and International Non-Governmental Organizations such as The Asia Foundation. He holds extensive experience in a number of different regions, including Europe, South Asia and the Middle East, and has managed projects in over 20 countries.

Goldsmith holds two master's degrees from the University of Bristol: a M.Sc. in International Relations and a L.L.M. in International Law. Goldsmith has published numerous articles on elections, out of country voting and Central Asian politics.

Aysha Shujaat, Out-of-Country Voting Expert

Aysha Shujaat is an out-of-country voting expert and an electoral professional who focuses on supporting democratic institutions in post-conflict and developing democracies. She has over eight years of experience working with national and international institutions in South Asia, Middle East and Africa.

Shujaat has been involved in organizing and conducting five of the most significant out-of-country voting projects in recent times including, South Sudan, Iraq and Afghanistan. Recently she was the Deputy Country Coordinator in Kenya for the International Organization for Migration's out-of-country voting mission in support of the Southern Sudan Referendum. Prior to this, she was associated with IFES Pakistan where she worked effectively as the second deputy on the project and the chief of staff of the organization. Over the years she has been involved in various electoral missions, managing large scale operations and multi-national teams during her assignments.

Shujaat holds a Masters in Political Science and is a BRIDGE certified trainer.