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Out-of-Country Voting

Learning from Practice

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Adhy Aman and Mette Bakken

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This report was developed as a result of a roundtable discussion on out-of-country voting (OCV) organized by International IDEA's Asia and the Pacific Regional Programme in November 2019. It served as a reference paper for participants in order to promote discussion. The conduct of out-of-country voting has long been a challenge that requires greater attention. At the same time, more and more states are considering the adoption of OCV systems. Such consideration should be accompanied by as much information as possible on the OCV practices of other states and the lessons that can be learned from them.

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Abbreviations

AEC	Australian Electoral Commission
Austrade	Australian Trade and Investment Commission
CFO	Commission on Filipinos Overseas
COMELEC	Commission on Elections (Philippines)
DFA	Department of Foreign Affairs (Philippines)
DFAT	Department of Foreign Affairs and Trade (Australia)
EMB	Electoral management body
FAQ	Frequently asked question
GDP	Gross domestic product
ICCPR	International Covenant on Civil and Political Rights
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
IFE	Instituto Federal Electoral (Mexico)

INE	Instituto Nacional Electoral (Mexico)
LNERE	La Lista Nominal de Electores Residentes en el Extranjero (Registry of Mexican Residents Abroad)
MFA	Ministry of foreign affairs
NSW	New South Wales
NSWEC	New South Wales Electoral Commission
OAVA	Overseas Absentee Voting Act (Philippines)
OCV	Out-of-country voting
OFOV	Office for Overseas Voting (COMELEC, Philippines)
OPVA	Online postal vote application
OWWA	Overseas Workers Welfare Administration (Philippines)
POEA	Philippines Overseas Employment Administration
PR	Proportional representation

1. Introduction

The right to cast a vote in democratic elections is at the core of people's political rights. However, guaranteeing this right to citizens residing abroad is less than straightforward. Should people who have made a decision to live in another country still have voting rights in their country of origin? If so, should the state be responsible for facilitating their voting from abroad—or should these citizens just simply have the option of returning to their home country to exercise their right? In addition, what happens to the voting rights of people who have been forced to leave their country of origin for reasons ranging from natural disaster to political differences or economic hardship? These questions prompted International IDEA to publish its Handbook *Voting from Abroad* (International IDEA 2007) and remain relevant today.

The COVID-19 pandemic that has shocked the world has brought a renewed realization of the importance of considering the impacts of voting overseas. Where the movement of voters living abroad is subject to the regulations imposed by their host government, this presents inevitable impediments to the exercise of voting rights. In the Republic of Korea's April 2020 national assembly elections, around 51 per cent of eligible Koreans overseas (approximately 87,000 voters) were unable to exercise their voting rights due to either their inability to reach the polling stations or the inability of the South Korean Government to keep open their overseas missions, where polling stations are typically located (Spinelli 2020: 5).

Figure 1. Number of international migrants by major area of destination and major area of origin, 2015

Source: United Nations Department of Economic and Social Affairs (UN DESA), International migrant stock: graphs. Number of international migrants by major area of destination and major area of origin 2015, <https://www.un.org/en/development/desa/population/migration/publications/wallchart/docs/MigrationWallChart2017.pdf>, accessed 21 May 2019.

In today's globalized world, international migration flows have prompted a debate around voting from abroad. There were nearly 272 million international migrants worldwide in 2015 (UN DESA 2015), an increase from 221 million in 2010 and 174 million in 2000. This continuing upward trend means that one in every 28 people in the world is a migrant living abroad. According to those UN reports, the increase in the global number of international migrants continues to outpace the growth of the world's population. In 2019, over one-fifth of all international migrants worldwide were born in Central and South Asia (50 million), while East and Southeast Asia were the regions of origin of an additional 37 million international migrants. Five of the ten countries with the largest number of emigrants worldwide are located in Asia: Bangladesh, China, India, Pakistan and the Philippines. In 2019, 202 million international migrants

(equivalent to 74 per cent of the global migrant population) were of working and voting age, meaning that they were between 20 and 64 years old.

1.1. What is out-of-country voting?

Out-of-country voting (OCV)—which is also referred to as voting from abroad or external voting—is defined as: 'procedures which enable some or all electors of a country who are temporarily or permanently outside the country to exercise their voting rights from outside the national territory' (International IDEA 2007: 8).

At their core, the voting procedures are based on four basic building blocks:

1. eligibility requirements;
2. voter registration requirements;
3. types of elections; and
4. voting methods.

Eligibility requirements

OCV eligibility requirements differ across countries. Some states have opted for a restrictive approach, whereby only citizens who reside outside their country of origin in an official capacity (i.e. diplomatic staff, public officials and military personnel) and their families are allowed to vote from abroad. In other states, there are no restrictions on eligibility, which means that other categories of citizen abroad, such as labour migrants, refugees, students and others, are also in principle allowed to vote. In between the restrictive and the more permissive or open approaches, there are a number of different arrangements. It is important to note that citizenship is a minimum requirement for being granted voting rights from abroad. If voters apply for citizenship in their new country of residence, and that country does not allow dual citizenship, this will have an impact on their ability to continue to participate in elections in their country of origin.

Voter registration requirements

More often than not, citizens residing abroad who are eligible to participate in an election in their country of origin are required to register to vote in such elections, in either their home country or their host country. The requirements in the process of registering as an out-of-country voter are linked: to the given registration modality, in particular whether the system is based on an in-person or a remote registration modality; to the period and location of registration; and to the requirements on identification documentation (see Box 1). All these elements

are likely to have an impact on the level of enfranchisement and of access to OCV that voters abroad will have.

Box 1. Labour migrants and access to identification documents

'Evidence shows that a large proportion of migrant workers, mostly those with irregular migrant status or lacking documents, do not usually possess or carry abroad official identification papers. Also, they are usually reluctant to carry out official procedures at their countries' diplomatic venues for fear that their migratory status could be disclosed, and they are unlikely to risk a trip back to their countries just to obtain documents permitting them to register to exercise their voting rights.'

Source: INE and UNDP, *Voting from Abroad in 18 Latin American Countries: Electoral Studies in Compared International Perspective* (Mexico: Instituto Nacional Electoral; United Nations Development Programme, 2016), ‹http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/electoral-studies-in-compared-international-perspectiveo.html›, accessed 21 October 2020, p. 33.

Types of elections

OCV can be applicable to different types of elections. The most common practice is to allow voters abroad to participate at the national level—in presidential and/or parliamentary elections. Some states also allow citizens to participate in subnational (regional/provincial/local) and supranational elections (for regional parliamentary bodies, such as the European and Andean parliaments).

Voting methods

Various voting methods can be made available to out-of-country voters. All have varying degrees of cost, administrative complexity, and robustness and security. The four main methods of OCV are:

1. *In-person voting*: Most commonly, out-of-country voters cast their ballot in person, for their constituency of registration, during a predetermined period before election day (advance voting). This period can vary according to different country practices from a day or two, to a few weeks or even a month. Generally, this OCV method takes place at special polling places such as diplomatic missions, through advance voting some days or weeks before election day.
2. *Postal voting*: Ballot papers are posted to the voter, either by default or on application (on-demand). Having marked the paper, the voter returns it by

post to special counting locations (or hand delivers it to a post office), along with some form of certification to demonstrate her/his identity.

3. *Proxy voting*: While not a common system, a proxy vote is used in some established democracies. This allows any registered voter to delegate her/his voting right to a representative, enabling this proxy to vote in their absence on their behalf.
4. *Internet voting*: Internet voting has been increasingly utilized for national elections in several states, although recent trends indicate a reversal as some countries abandon such systems due to heightened risks of cyberattacks and foreign interference in elections.

These methods obviously differ substantially when it comes to their preparation, logistics and administration. When choosing a method, there are tensions between the degree of control or supervision that the institution responsible can exercise and the degree of voter access. In general terms, it can be said that in-person voting at locations such as diplomatic missions, or similar facilities established for the specific purpose of voting, is likely to enhance control, whereas distance voting through proxy, postal or e-voting is likely to increase access.

1.2. Why adopt voting from abroad—or why not?

Advocates of the adoption of OCV in order to enfranchise citizens living abroad argue that voting is a fundamental human and political right. By participating in elections, citizens living abroad have an opportunity to contribute, by political means, to developments at home that have an impact on their choice of where to live. Citizens living abroad often maintain close relationships with their country of origin and continue to perceive themselves as 'belonging there'. These advocates also highlight the economic impact of migration. In 2018, remittance flows were estimated at USD 689 billion globally, and more than 70 per cent of this amount was sent to middle- or low-income countries (World Bank 2019). In other words, citizens residing abroad are major contributors to economic development in their country of origin, and in some countries remittances make up a considerable share of gross domestic product (GDP). Nonetheless, many of them are not enfranchised or not provided with an adequate level of support that would enable them to exercise their voting rights. The top five remittance-receiving states are India, China, Mexico, the Philippines and Egypt. The six states where remittances constitute the largest proportion of GDP are Tonga (40.7 per cent), Kyrgyzstan (33.2 per cent), Haiti (32.5 per cent), Tajikistan (29.0 per cent), Nepal (28.6 per cent) and Lesotho (23.0 per cent) (World Bank 2020). Finally, OCV can also be seen as 'high politics'. When Turkey introduced

OCV, for example, it was not 'a purely domestic political matter, but a part of Turkey's increasingly contentious foreign relations' (Koinova 2017). Migrants, albeit away from their home countries, have not lost ties with their heritage. While they may become citizens of their adopted countries, many retain dual citizenship as far as they are legally allowed to do so. As such they are politically linked to both the country they live in and the country they came from.

At the same time, it has also been argued that OCV gives citizens who do not live in their country of origin undue influence over its national politics and development trajectory. Citizens living abroad—especially those who reside abroad for extended periods—might not necessarily be directly affected by political decisions made in a number of policy areas, such as road construction, rural development and education, to name just a few. Moreover, citizens residing abroad may pay little if any tax, and therefore not contribute directly to the state coffers. This argument was made by the Irish Government in the 1990s when debating overseas voting rights, using the slogan 'no representation without taxation' (Hickman 2015).

When considering the adoption of OCV, the relevance of the size of the diaspora population also frequently features in the public debate. For states with a large proportion of their citizens living abroad, it has been argued that OCV would allow a situation in which citizens abroad could 'swing the vote' in their country of origin and thus determine its political direction. In states where the electoral competition between political parties is very close, even a small number of out-of-country votes can tilt the balance of national results. In 2016, several reports discussed how the estimated eight million Americans residing abroad might potentially have an impact on the result of the US presidential election (see e.g. *The Economist* 2016; Bachman 2016). Presuming that most Americans living abroad were Democrats, an activist group known as Avaaz produced a software tool to simplify OCV registration processes and maximize voting against the candidature of Donald Trump (Overly 2016). While noting that in some instances the number of external voters may be large, the Council of Europe in one of its reports dismissed the 'public fear of a hypothetical mass invasion of electors from abroad' and urged European states to take a more 'realistic perspective' when making provision for OCV (Council of Europe 1999).

Ultimately, the decision on whether to adopt OCV often comes down to politics. It is the legislators in parliament, either via the constitution or through legislation, who determine whether citizens residing outside a state's borders should have the right to vote. Decisions on whether to adopt OCV may be influenced by self-interest on the part of political majorities, given their perception of the political choices of those living abroad. It is often assumed that citizens move abroad because they are dissatisfied with political life or lack of economic opportunities at home. In other words, they may be perceived as inclined to vote *against* the government of the day, which is responsible for

current political and socio-economic conditions and hence seen as the main reason for their need to leave the country.

In addition to politics, a state's administrative and financial capacity may also have an impact on its decision to allow its voters residing abroad to participate in elections. States such as Nepal and Sri Lanka, both of which are currently considering whether to adopt OCV, are grappling with these more practical considerations. Experience shows that OCV is a huge administrative undertaking with legal and political implications as well as substantial financial costs. Voter turnout in states that have adopted OCV systems often remains low in percentage terms, which brings value-for-money considerations into play. In addition, some countries simply cannot afford to go in this direction.

1.3. Global outlook

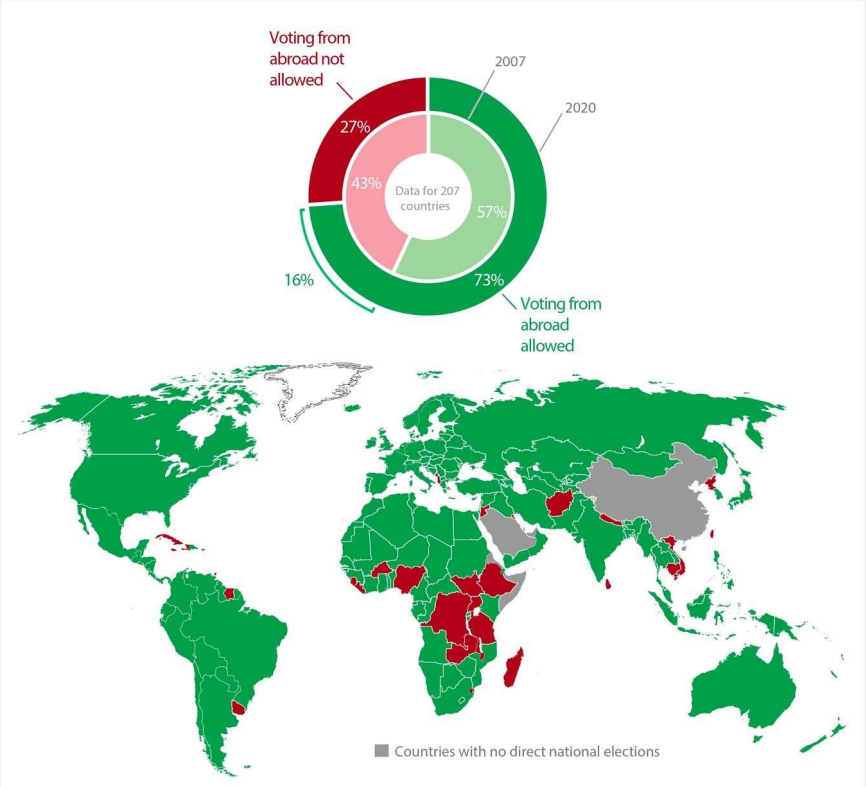
International IDEA's Voting from Abroad Database explores the legal provisions on OCV in 216 states and territories around the world (International IDEA 2020). Altogether, 125 states and territories allow people living abroad to participate in legislative elections, and 88 allow participation in presidential elections. Only 24 countries open subnational elections up to participation beyond their borders. In addition, 73 countries and territories allow citizens overseas to participate in referendums. More generally, 73 per cent of states and territories had adopted some form of OCV by 2020, marking a global increase of 16 per cent compared to 2007. Figure 2 shows the geographical spread of the adoption of OCV.

The voting methods offered to voters residing abroad differ considerably across countries: in-person voting is used in 109 states and territories, including Brazil, Egypt, Finland, Mongolia, Myanmar and South Africa; a postal vote is offered in 50 states, including Austria, Canada, El Salvador, Germany, Malaysia and Papua New Guinea; proxy voting occurs in 21 states, such as Belgium, Belize, Mauritius and Vanuatu; while e-voting is allowed in 12, including Armenia, Estonia and Namibia. Many states allow voters abroad to choose from multiple voting methods. In Australia, Denmark, Japan, Latvia and Thailand, for instance, voters from abroad can choose between in-person and postal voting. A combination of postal and proxy voting is applied in France, India, the Netherlands and the United Kingdom, whereas a choice between postal and e-voting is provided in Bhutan and Mexico. In New Zealand, voters can still cast their vote by fax.

In Asia, 33 states and territories allow their citizens residing abroad to vote in at least one type of election (see International IDEA's Voting from Abroad Database). This amounts to 77 per cent of the 43 countries that organize elections (Brunei, China, Qatar, Saudi Arabia and the United Arab Emirates do not). Altogether, 28 states allow citizens residing abroad to vote in legislative elections, and 18 allow such voters to participate in presidential elections. On

voting methods, 27 states use in-person voting, including Indonesia and the Philippines; eight states use postal voting, including Bangladesh and Malaysia; four states use e-voting, including South Korea; while India allows voters to vote by proxy and Turkey allows voters to vote at the border. Therefore, in-person voting is the method used most frequently in Asia. In the 24 states and territories where only one method of OCV is in operation, voters must cast their vote in person in 21 of them, such as Israel, Mongolia, Myanmar, South Korea and Singapore. In seven cases, out-of-country voters can choose between two different voting methods. Of the countries in Asia that organize elections, 11 do not offer OCV in any type of election (Afghanistan, Cambodia, the Democratic People's Republic of Korea (North Korea), Jordan, Kuwait, Nepal, Pakistan, Sri Lanka, Palestine, Taiwan and Vietnam).

Figure 2. Voting from abroad: adoption by states



Source: International IDEA, Voting from Abroad Database, 2020, <https://www.idea.int/data-tools/data/voting-abroad>, accessed 19 November 2020.

2. Legal frameworks

The International Bill of Rights establishes that political rights constitute part of the set of inalienable rights enjoyed by all people. More specifically, article 25 of the International Covenant on Civil and Political Rights (ICCPR) underlines the right 'to vote and be elected at genuine periodic elections . . . without unreasonable restrictions' (UN 1966). The key issue here concerns the grey area established by what constitutes 'unreasonable restrictions'. A number of ICCPR signatory states continue to restrict the rights of their citizens residing abroad.

Article 41 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW; see UN 1990) states:

> (1) Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.
> (2) The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

Even though it features in international and regional treaties, there is 'no international norm that explicitly binds states to enfranchise citizens abroad' (Lafleur 2015: 846). The decision by a state to adopt provisions that allow for a system of OCV is affected by the *external* diffusion of such ideas and practices—especially among states in a region or between neighbouring states—as well as the *internal* situation and socio-political and economic context. These establish the conditions and demand for enfranchising citizens residing abroad and the capacity of a state to adopt and implement a complex framework such as OCV.

At the national level, in some cases legal provisions on OCV can be part of the constitution, as for example in Portugal (see Box 2). The Constitution of New Zealand identifies voters abroad as 'special voters' (article 61). The 2014 Constitution of Tunisia establishes that 'the election law guarantees the voting and representation rights to the Assembly of the Representatives of the People for Tunisians resident overseas' (article 55). The 1841 Constitution of Norway is somewhat more restrictive in that a law shall determine who among Norwegian residents overseas will be eligible to vote (article 50).

While a number of constitutions explicitly refer to voters abroad in one way or another, none go so far as to provide a framework for such participation. In other words, provisions linked to voter eligibility and registration, type of election and voting method are usually promulgated in electoral laws.

Box 2. Portugal: OCV promulgated in the Constitution

'The President of the Republic is elected by the universal, direct and secret suffrage of Portuguese citizens who are registered to vote in Portuguese territory and, in accordance with the following paragraph, of Portuguese citizens who reside abroad' (article 121(1)).

'Citizens who reside abroad and are properly registered to vote under the provisions of Article 121(2) shall be called upon to take part in referenda that address matters which specifically also concern them' (article 115(12)).

Source: Constitution of the Portuguese Republic, 7th Revision, 2005, Articles 115(12) and 121(1), <https://www.wipo.int/edocs/lexdocs/laws/en/pt/pt045en.pdf>, accessed 3 September 2020.

3. Operational matters

How voting and counting are conducted, as well as the planning and procedures for—and logistics and staffing of—the registration of voters are crucial aspects of OCV. Given that much of this takes place outside the jurisdiction of the state holding the election, some consideration needs to be given to addressing these challenges sufficiently ahead of time. Such operational matters are usually handled by the electoral management body (EMB), often with the cooperation or assistance of the ministry of foreign affairs (MFA).

3.1. Planning

Determining the location of out-of-country voters

The planning process should be initiated with an analysis of where potential out-of-country voters reside. The EMB may need to work in close cooperation with other authorities—such as the MFA, population registry or tax office—to obtain reliable data. Fundamentally, data and information on voters abroad are crucial for determining the resources required, for designing the most suitable and realistic system of OCV, and for logistical preparations. More specifically, as far as voting is concerned, they are a prerequisite for enabling EMBs to determine where to erect in-person polling stations and how to distribute postal voting materials, and also relevant for countries that allow proxy voting as forms will need to be prepared and approved, and for e-voting. More generally, knowledge of the potential whereabouts of voters will be required to allow EMBs to engage in voter information campaigns outside the country of origin.

Establishing polling stations

In-person voting often takes place in polling stations established within a diplomatic or consular mission. This can have considerable implications for voter

access: first, for those citizens who live far away from such embassies/consulate offices; and, second, for those citizens who reside in states where their country of origin has no embassy and/or consulate. Some states operate mobile polling stations or open extraterritorial polling stations outside diplomatic or consular missions. For its parliamentary elections in 2011, for example, Tunisia (see Box 3) established more than 100 polling stations in France alone, going far beyond its diplomatic/consular offices (Venice Commission 2015). Latin America exhibits considerable variations when it comes to selecting states in which to implement OCV (Box 4). Timor-Leste practises OCV by organizing in-person voting outside the premises of its diplomatic or consular missions in Sydney and Darwin, Australia (SBS News 2017).

Box 3. Tunisia: extensive access for voters abroad in 2011

Almost one-third of the estimated 720,000 Tunisians living abroad took part in the 2011 elections. About 60 per cent of Tunisian voters from abroad were residing in France. The EMB established around 100 polling stations across France in diplomatic and consular missions as well as extraterritorial venues. Given the size of its Tunisian voting age population (434,376), France was divided into two constituencies.

Source: Jaulin, T., *The Geography of External Voting: The 2011 Tunisian Election Abroad*, Transnational Studies Initiative (TSI) Working Papers No. 1/2015 (Cambridge, MA: TSI, 2015), <https://seminars.wcfia.harvard.edu/files/tsi/files/1-jaulin2015_tsiworkingpaper.pdf>, accessed 14 June 2020.

Box 4. Latin America: selecting OCV implementation countries

Latin American states vary when it comes to the geographical reach of OCV in practice. Analyses of labour migration flows are crucial. For Honduras, OCV is only implemented in the United States. In the Dominican Republic, the number of countries where OCV was in place expanded from five in the first OCV election to eight in the next. From Bolivia's first experience with OCV in 2009 to the second, which took place in 2014, the number of countries increased from 4 to 33.

Source: INE and UNDP, *Voting from Abroad in 18 Latin American Countries: Electoral Studies in Compared International Perspective* (Mexico: Instituto Nacional Electoral; United Nations Development Programme, 2016), <https://www.ine.mx/wp-content/uploads/2017/04/VFA_LA.pdf>, accessed 31 August 2020, pp. 55–56.

Preparation of electoral and voter information materials

EMBs should take active steps to inform voters abroad about the OCV provisions put in place to guarantee their enfranchisement. Regardless of which voting method is chosen, voter information materials, such as posters, newspaper advertisements and Internet or social media engagement, need to be produced, and possibly printed, to inform citizens abroad about where, when and how to register and to vote in elections. Examples from Norway and Canada are shown in Box 5 and Box 6. Where procedures for in-person voting are in place, the electoral materials required typically include ballot papers, envelopes, ballot boxes and foldable polling booths. In states that use postal voting for OCV, voting kits must be prepared for distribution to registered citizens abroad. Electronic or Internet voting obviously requires voting machines, a user interface and data servers, as well as the relevant security measures and, most importantly, adequate voter education materials.

Box 5. Norway: OCV election materials sent to embassies/consulates

Election materials sent to returning officers at embassies/consulates comprise:

- ballot papers;
- ballot paper envelopes;
- covering envelopes;
- postal envelopes;
- guidelines for voters; and
- ballots/envelopes/guidelines printed in braille.

Source: Norwegian Directorate of Elections, *Guidelines for Returning Officers in the Case of Voting in Advance Abroad and on Svalbard and Jan Mayen* (Tønsberg: Valgdirektoratet, 2017), <https://www.valg.no/en/elections/parliamentary-election-2017/pre-election/guidelines-on-voting-abroad/>, accessed 21 May 2020.

Box 6. Canada: ballot voting kit sent to postal voters

The ballot voting kit sent by Elections Canada to Canadian electors abroad comprises:

- a blank ballot paper (voters can access the list of candidates online and/or at the embassy);
- an inner envelope, unmarked;
- an outer envelope printed with details identifying the elector and electoral district;
- a declaration that the voter must sign stating that the name on the envelope is correct, and that they have not already voted in-person and will not attempt to vote again in the specific election;
- a return envelope; and
- instructions.

Source: Elections Canada, Registration and Voting Processes for Canadians Who Live Abroad, 2020, <http://www.elections.ca/content.aspx?section=vot&dir=reg/etr&document=index&lang=e>, accessed 3 September 2020.

Capacity of OCV staff

In states that use the in-person voting method, the staff responsible for facilitating OCV in diplomatic or consular missions and/or extraterritorial polling stations must be familiarized with the rules and procedures. For example, where diplomatic staff are responsible for managing the registration of eligible voters and/or the voting process, capacity can be ensured through the development of manuals and guidelines or, alternatively, through online or face-to-face training. In some countries, the EMB provides staff to diplomatic missions for the specific purpose of assisting with implementation of the OCV process.

In 2017, Norway's Directorate of Elections established guidelines for returning officers managing the OCV process from abroad. These guidelines outline basic issues pertaining to the receipt of OCV ballot papers (when, where and which materials), as well as procedures for accommodating in-person voters and postal voting, an overview of eligibility criteria and information about the electoral register. Because personnel from other states might serve as OCV returning officers, the guidelines are also available in English and French.

3.2. Timelines

OCV is quite labour intensive and requires a lot of time to implement. Even in countries with systems of *passive* registration of voters, where voter lists are merely

extracted from citizen registries, additional requirements may be in place to ensure that citizens who wish to cast their vote from abroad are eligible to do so. Australia, for example, has rules on the length of time voters have been away from their home country.

The timelines in which OCV is implemented differ substantially depending on which voting method is used, and also from country to country. In Canada, applications for voters to be enrolled on the International Register must reach Elections Canada Headquarters in Ottawa no later than six days before the election is held. This OCV system makes it the voter's responsibility to ensure that her or his postal vote arrives in Ottawa by election day. In Mexico, on the other hand, the registration process for OCV is concluded about six months before the elections take place, and postal votes must reach the EMB at least 24 hours before election day.

3.3. Host country agreements

The organization of an OCV operation often requires EMBs to engage with a wide variety of counterparts in the host countries where voters are located. The voting modality often sets the parameters for these negotiations and agreements. In-person voting in diplomatic or consular missions requires negotiation and, in some cases, formal agreements between the EMB and the host country authorities. Communication and interaction usually go through diplomatic missions, which are often in the best position to negotiate with such authorities. Importantly, 'there is no evidence of established guidelines or protocols for governments to arrange for the deployment of systems for voting from abroad . . . if the entire process is physically bound to the premises of diplomatic venues' (INE and UNDP 2016: 60). That said, it is advisable for countries to adhere to formal and informal rules of diplomacy, the legal frameworks of the host country and bilateral relations.

Other OCV methods require less interaction with the host country. Postal voting may require the EMB to engage with host country postal or courier services, such as DHL, FedEx or UPS. Negotiations may involve discussions on issues such as means of transportation, timelines for delivery, security and price. Finally, proxy voting and/or e-voting may only require communication with the host country to ensure that the EMB is able to provide (off-line) voter information and education to voters abroad.

3.4. Managing institutions

Normally, the overall responsibility for conducting OCV falls within the EMB's mandate. When it comes to implementation, however, other authorities and institutions may also have important roles to play. Where in-person voting is

used, coordination with the MFA is often essential, as roles and responsibilities in the OCV process may fall on diplomatic staff in embassies and consulates. In Indonesia and the Philippines, a specific OCV unit is established within the MFA to coordinate this complex operation. Other ministries with official missions abroad, such as trade missions, could also be used to support the OCV exercise. This has clear advantages in terms of the use of a pre-existing physical presence to contain costs. Regulations must be put in place to clearly establish the roles given to and the activities performed by any institution involved in OCV, and to establish budgetary parameters. For example, will the EMB reimburse the MFA for the costs of its diplomatic staff? As the entity ultimately responsible for the conduct of OCV elections, the EMB has final responsibility for the operation, even where some of its functions are 'outsourced'. An unclear division of roles and responsibilities can give rise to complications and controversy (see Box 7).

Box 7. Sweden: unclear institutional arrangements

Swedish citizens residing abroad can vote in-person at embassies and consulates or by post. In the 2014 parliamentary elections, OCV was organized in 236 localities around the world and catered for approximately 35,600 in-person voters. In addition, approximately 31,800 postal votes were cast from abroad. Overall, votes from abroad constituted 1.08 per cent of the total votes cast in the election.

However, the Swedish EMB, Valmyndigheten, regards in-person voting as particularly resource-intensive, partly due to the fact that the respective roles and responsibilities in the OCV process of the EMB and the MFA are not clearly defined in the regulatory framework. While work with Sweden's local administrations on the organization of elections is based on a common IT system, most of the same work relating to OCV has to be carried out manually by embassies and consulates. Valmyndigheten has also experienced difficulties with the distribution of voting materials, and notes that that following up and tracking lost or delayed shipments of voting materials with foreign authorities is a resource-intensive exercise (Swedish Election Authority 2015: 11).

Figure 3. Provisional polling station, Swedish Embassy in London, 2014

(Photo credit: Jibecke Jönsson)

Source: Swedish Election Authority, *Annual Report 2014* (Stockholm: Valmyndigheten, 2015), <https://www.val.se/download/18.3017c9e61602fa11c025b5/1513346559426/Arsredovisning-2014.pdf>, accessed 3 September 2020 [in Swedish].

3.5. Voter registration

Out-of-country voters are usually required to register. Even in states that use passive registration, participation in voting from abroad may require voters to notify the authorities in their country of origin or their diplomatic or consular mission of their current address and residential status (see Box 8).

It is possible to identify four key features of out-of-country voter registration (INE and UNDP 2016). First, registration can be permanent or temporary. Some countries require out-of-country voters to re-register before each election, whereas in others this is not the case. Second, the registration of out-of-country voters can be passive (e.g. extracted from the civil registry) or active. Active registration can be categorized as in-person registration, registration by post/fax or online registration. Third, registration can be continuous or temporal; that is, only open for specific periods of time. A deadline is often used to ensure that the EMB has

adequate time to process applications for registration. A fourth and final feature is linked to the types of identification documents required.

Box 8. Examples of registration of out-of-country voters from around the world

In **Sweden**, eligible voters who have registered their addresses abroad in the national citizens' registry are automatically registered as out-of-country voters. They have automatic voting rights for 10 years after moving abroad, but after this are required to submit a form to be included for a further 10-year period. The application, which can be accessed via the Swedish Tax Agency website, must be submitted no later than 30 days before an election.

Source: Bernitz, H., *Access to Electoral Rights: Sweden* (Florence: European University Institute, 2013), ‹http://cadmus.eui.eu/bitstream/handle/1814/29826/ER_2013_22-Sweden-FRACIT.pdf?sequence=1&isAllowed=y›, accessed 19 June 2020.

In **Canada**, voters must apply to be listed on the International Register of Electors. The application form is available for download from the Internet, or can be accessed through the diplomatic missions or on request to the EMB. The form and copies of identity documents must be submitted by mail or fax. Following approval of the application, voters are notified of their successful inclusion on the register. Elections Canada sends a ballot voting kit to electors abroad prior to an election.

Source: Elections Canada, Registration and Voting Processes for Canadians Who Live Abroad, 2020, ‹https://www.elections.ca/content.aspx?section=vot&dir=reg/etr&document=index&lang=e›, accessed 21 May 2020.

In the **United Kingdom**, eligible voters must register online to vote from abroad. Registration as an overseas voter expires after 12 months and the voter must re-register to take part in future elections from abroad. Additional restrictions are in place for those who want to vote in Northern Ireland, as they must register by post by downloading a form from the Internet and provide a valid reason for registering their intention to vote from abroad.

Source: United Kingdom Government website, Voting if you move or live abroad, ‹https://www.gov.uk/voting-when-abroad›, accessed 21 December 2020.

In **Panama**, the Register of Voters Residing Abroad was established in 2006. A complex registration system was put in place for the first election after its establishment, whereby voters abroad were required either to register in person in Panama, or to complete, print and sign an online form that had to be authenticated by the consul or a local notary, and submitted to Panama with copies of identification documents. For subsequent elections, the process was simplified and the authentication process was replaced by a Skype interview, following which registration could be completed online. Voters abroad must register 12 months prior to the election to be able to vote.

Sources: Hoyo, H. and Rubi, M., *Access to Electoral Rights: Panama, Country Report 2017/02* (Florence: European University Institute, 2017), ‹http://cadmus.eui.eu/bitstream/handle/1814/46113/RSCAS_GLOBALCIT_ER_2017_02.pdf?sequence=1›, accessed 19 June 2020; and INE and UNDP, *Voting from Abroad in 18 Latin American Countries: Electoral Studies in Compared International Perspective* (Mexico: Instituto Nacional Electoral, United Nations Development Programme, 2016), ‹https://www.ine.mx/wp-content/uploads/2017/04/VFA_LA.pdf›, accessed 21 October 2020, p. 51.

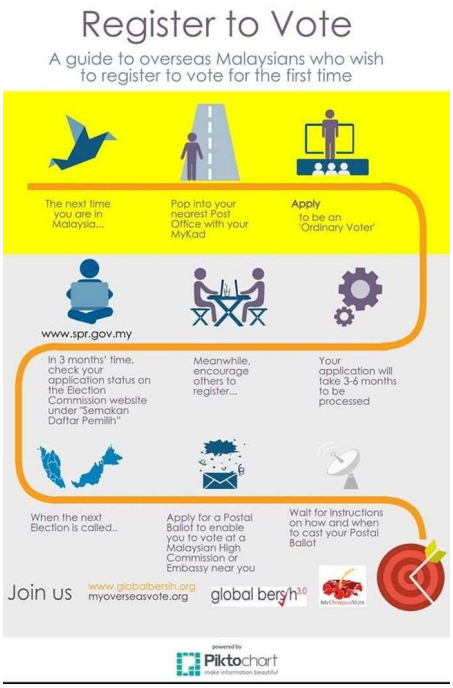
The **Dominican Republic** has established offices for civil and voter registration purposes in all the states where OCV is implemented. These offices are completely autonomous of the diplomatic missions.

Source: INE and UNDP, *Voting from Abroad in 18 Latin American Countries: Electoral Studies in Compared International Perspective* (Mexico: Instituto Nacional Electoral, United Nations Development Programme, 2016), ‹https://www.ine.mx/wp-content/uploads/2017/04/VFA_LA.pdf›, accessed 21 October 2020.

3.6. Conduct of voter information campaigns

Voter information for out-of-country voters primarily covers issues related to eligibility to vote and voting procedures. Important details on operational timelines and the deadlines for all phases of OCV must be included in the information material. Where forms are required, such as to register to vote or register a proxy, these must be user-friendly and easily available. Some EMBs and other election-oriented organizations have a frequently asked questions (FAQs) section on their websites to provide out-of-country voters with easy access to information on any legal or procedural issues that might be of interest, or of concern, to them. Examples include the Philippines (Republic of the Philippines n.d.); India (Election Commission of India n.d.) and the United States (US Government n.d.). Some embassies (see e.g. Embassy of the Republic of Singapore in Bern n.d.) produce FAQs for their specific areas of responsibility or links to relevant pieces of national legislation on OCV.

Figure 4. Malaysia: voter registration targeting voters living overseas



Source: 'Malaysians overseas: Right to vote', Facebook account, <https://www.facebook.com/MyOverseasVote/photos/a.295782173795160.76462.152162391490473/1061959977177372/?type=3&theater>, accessed 20 July 2020.

3.7. Shipment and retrieval of sensitive election materials

In-person and postal voting require careful consideration when it comes to the transportation of election materials. Essential equipment such as voter registration forms and ballots must be delivered to the right place well in advance of the registration process or of voting on election day. Security features to ensure the authenticity of materials and measures to ensure that ballots are securely delivered must also be put in place. During Indonesia's 2019 general election, it was discovered that tens of thousands of postal ballots had been intercepted by vote riggers. After voting, EMBs must receive the ballots cast in a timely manner to ensure that out-of-country votes can be counted with ordinary votes and that the election results are not delayed. In the 2019 general election, some 1,500 ballots from Thailand's overseas voters in New Zealand were not counted because they arrived at EMB headquarters too late. This caused much controversy in Thailand.

To minimise this risk, some states count out-of-country votes in the state where the votes were cast.

3.8. Voting and counting process

The type of electoral system in the country of origin determines to some extent the way in which citizens abroad vote and how their votes are counted. For example, if a country uses a proportional representation (PR) system with multi-member districts or the first-past-the-post system, voters abroad might be given the opportunity to vote as if they were still in the constituency of their last place of residence. Voters would therefore vote using a constituency-specific ballot that specified the parties and candidates running in that constituency. For countries that use PR with a single national district, on the other hand, OCV would be less challenging logistically as there would only be one ballot for the whole nation, including those voting from abroad.

Some states have opted for a system in which voters abroad elect their own special representatives. One or more electoral districts or constituencies are established for the OCV electorate. It has been argued that use of so-called external seats paves the way for citizens abroad to draw attention to and promote their specific interests. One major challenge with this approach is linked to ensuring similar districting for the territories. This requires the EMBs to monitor that the number of representatives elected by each OCV constituency is in proportion to the number of out-of-country voters in the district or region. Indonesia consolidates all out-of-country votes into a single existing constituency in its capital, Jakarta. The problem with this system, however, is that the interests of out-of-country voters are often different to those of constituents in Jakarta. Out-of-country voters' issues are often neglected because they have far fewer votes than the Jakarta residents. Box 9 provides examples of a variety of voting and counting practices.

Box 9. Examples of variations in voting and counting practices

In **Austria**, which uses a PR system in multi-member districts, out-of-country votes are allocated to constituencies according to the following hierarchy: (1) former residence in the country; (2) parents' last residence; (3) place of birth; (4) place of residence of relatives; (5) location of employer; and (6) real estate/property in the country.

Source: Stern, J. and Valchars, G., *Access to Electoral Rights: Austria* (Florence: European University Institute, 2013), ‹http://cadmus.eui.eu/bitstream/handle/1814/29803/ER_2013_11-Austria-FRACIT.pdf?sequence=1&isAllowed=y›, accessed 15 June 2020.

Cabo Verde has six seats in its parliament that are elected by out-of-country voters. The out-of-country vote is divided into three broad constituencies: (1) the Americas; (2) Africa; and (3) Europe and the rest of the world. Each OCV constituency elects two representatives to the Legislative Assembly.

Source: ACE Knowledge Resource Network, 'Cape Verde: A Large Diaspora and Low Turnout by External Voters', ‹http://aceproject.org/ace-en/topics/va/annex/country-case-studies/cape-verde-a-large-diaspora-and-low-turnout-by›, accessed 21 October 2020.

4. Financial costs

The costs of implementing OCV depend on a number of factors. There are likely to be considerable start-up costs the first time that OCV is implemented, linked to: (a) research and development of regulations; (b) the employment and training of new staff assigned to OCV at headquarters level, and possibly beyond the country's borders; (c) the development of manuals and training material for polling staff; (d) the design and production of OCV materials; (e) the procurement of ICT-based solutions and support systems; and (f) implementation of voting information campaigns. As a state moves from the first- to the second- or even a third-generation of OCV elections, the costs are likely to decrease.

The main cost items linked to external voting are:

1. *Electoral materials:* Development and production, printing and distribution/transportation.
2. *Voter information:* Development and execution of campaigns pertaining to voter registration and election day.
3. *Polling staff training/guidance:* Development and distribution of information and training materials, transportation and staff costs for face-to-face training, and follow-up of staff information and training programmes and ad hoc guidance.
4. *Technologies:* Development and maintenance of IT solutions and support systems.
5. *Security:* Development and implementation of security arrangements.

6. *Processing:* Receipt and registration of applications to vote; receiving, registering and counting the ballots.
7. *Planning and coordination:* Development, implementation and monitoring strategies for OCV; interaction with managing/partner institutions such as the MFA and population registration offices.

The voting method used will directly affect the cost of OCV. Generally speaking, in-person voting is more expensive than other methods as it requires considerable financial inputs with regard to operations such as the transportation of materials, hiring facilities and polling staff salaries. However, there may be considerable variations in cost among the OCV systems of different countries, depending on the specific set-up. For example, while some countries deploy staff from the national EMB to each host country to assist with OCV, others simply assign and train the diplomatic staff already on the ground to perform such functions.

Postal voting is usually considered a less expensive alternative to in-person voting, mainly because it requires fewer staff and no physical polling facilities. The main cost linked to postal voting is the delivery and retrieval of electoral materials, including the marked ballot paper. Delivery and retrieval of OCV materials can be expensive in some countries, especially if security or other practical considerations, such as the unreliability of the postal services, make it necessary to use international courier services.

The introduction of e-voting to assist citizens to vote from abroad normally has high start-up costs, as it requires considerable technological investment. Specifically, an online voting system must be developed that is not only user-friendly but also fulfils often contradictory security and transparency requirements, and provides guarantees against tampering. In Estonia, however, e-voting has been in place since 2007 and has proved not only cheaper in the long run, but also faster while at the same time maintaining the same high level of stakeholder trust as the previous, more traditional, paper-based voting system. Provided that sound, efficient and sustainable e-voting systems are put in place from the start, the experience of Estonia demonstrates that this method can pay off in the long run. Before embarking on high-tech solutions, however, serious consideration should be given to the idea of legitimacy: will stakeholders trust the results of a vote that takes place using machines and cables? Or are paper ballots still needed to ensure a legitimate outcome?

Proxy voting is likely to be lower cost than any other OCV method. It really only requires an EMB to produce a form by which the right to vote is transferred, by proxy, from the voter to a person of trust. No additional staffing of polling facilities is necessary. However, given that many consider voting in person to be a right that it is difficult to 'outsource', and the fact that this method of voting

could open the door to extensive vote buying in some contexts, only a few states allow voters abroad to vote in-country through proxy voting.

Over and above the actual voting method, the expansion of online access to new corners of the world has increased EMBs' use of digital means to reach voters abroad. Technological innovations have made it possible for external voters in some countries to register for OCV online. Moreover, radio and newspaper advertisements have to some extent been replaced by online OCV information and voter education campaigns, frequently through the use of social media.

Given the diversity of country experiences and of the OCV methods used, it is almost impossible to establish the *total cost* of such voting operations. In many cases, no separate budgets are put in place for this specific aspect of the electoral process. In addition, different jurisdictions (or institutions) may be responsible for different components of the OCV process. For example, where diplomatic mission facilities and staff are used for voter registration and voting processes, such costs may be borne by the MFA rather than the EMB.

Low levels of participation by voters abroad even where OCV provisions are in place have led to a focus on the financial considerations linked to OCV and its overall *cost per voter* (for an interesting perspective see Box 10). According to International IDEA, 'the main reason for not considering or reversing OCV seems to be its high costs' (International IDEA 2007: 8).

Box 10. Senegal: financial rationale for OCV restrictions

The electoral framework regulating OCV in Senegal requires at least 500 voters to register with a diplomatic mission in a given host country before the EMB can establish an OCV polling station. In other words, if fewer than 500 voters register, they will not be allowed to exercise their right to vote through OCV provisions. The rationale behind this regulatory restriction is linked to considerations about the financial and administrative costs of OCV: it is simply considered too costly to organize to enfranchise small communities residing overseas. While it could be argued that this practice violates the principle of equal voting access, it is an interesting example of the route that countries have taken to respond to the need to reduce the cost of OCV.

Source: ACE Knowledge Resource Network, 'Senegal: A Significant External Electorate', ‹http://aceproject.org/ace-en/topics/va/annex/country-case-studies/senegal-a-significant-external-electorate›, accessed 21 October 2020.

5. Country experiences

To provide some illustration of how different countries implement OCV, this chapter presents the experiences of Mexico, Australia and the Philippines. All these states have many citizens living abroad, but they have different electoral systems, different levels of resources and different ways of conducting OCV. This provides readers with a variety of implementation modes.

5.1. Mexico

Mexico has a large diaspora population. According to the country's MFA, about 10 per cent of Mexico's population, approximately 12 million people, reside abroad. The bulk of Mexican migrants are contract workers and a large proportion of them live in the USA. These migrants maintain a strong Mexican identity, as well as an affection for and cultural ties with their country of origin. They also contribute considerably to Mexico's economy through remittances. Mexico is ranked fourth in the world in terms of proportion of remittances to GDP. In 2017, migrants sent almost USD 29 billion to Mexico. It is estimated that almost 1.6 million households rely on this income (Consejo Nacional de Población 2018).

Over time, Mexicans abroad have organized themselves into committees and movements to pressure the Mexican Government for their fundamental political rights—notably the right to vote. Provisions for OCV were introduced into the federal electoral law in 2005. Mexicans residing abroad had an opportunity to vote in the presidential elections of 2006 and 2012. The 2014 General Law on Electoral Institutions and Procedures introduced important changes to the OCV system. Since Mexico has a federal structure composed of 32 autonomous states, the new provisions in the electoral law allow Mexicans residing abroad to vote not only in presidential and senatorial elections at the federal level, but also for

governors and parliamentarians at the state level. Therefore, in 2018 Mexicans living abroad voted for the governors and legislatures of eight state governments for the first time.

Legal framework

Mexico's legal framework establishes an inclusive approach to voter eligibility, whereby all citizens who are allowed to vote in-country are also allowed to vote from abroad. As an additional requirement, the law stipulates that voters living abroad must apply to be included in the Registry of Mexican Residents Abroad (La Lista Nominal de Electores Residentes en el Extranjero, LNERE) in order to exercise their voting rights from outside the country. Voters must also obtain a voter card. While voters previously had to collect this voter card in Mexico, the 2014 amendments to the electoral law paved the way for the National Electoral Institute (Instituto Nacional Electoral, INE) to issue voter cards in all Mexican consulates around the globe.

The 2014 general election law enhanced the political rights of Mexicans living abroad. As noted above, out-of-country voters can currently vote for the president, senators and governors at the national level and the Mayor of Mexico City in accordance with their respective state constitutions. The 2005 legal framework established postal voting as the only voting mechanism available for out-of-country voters. The 2014 law establishes new voting methods. To promote participation, the new law allows both in-person delivery of the marked ballot paper to the INE's OCV stands located in embassies and consulates, and electronic voting. The law mandated the INE to carry out feasibility studies and make decisions on the use of the OCV methods permitted by law.

Operations

The LNERE is a temporary register that must be compiled for every election. Voters abroad must submit an application to the INE to be included on the registry. The application comprises a form accompanied by a readable photocopy of the voter's voting card, with signature and fingerprint, as well as documents that prove the residential address of the person living abroad. The application can be personally delivered to diplomatic/consular offices or sent to the INE by ordinary post or electronic means. Normally, the voter registration process for citizens abroad takes place over a period of three months and is concluded approximately six months before election day. While this approach may ensure a 'cleaner' voter list and prevent citizens who are no longer in the country from being retained on the registry (and thus increase turnout), it could be seen as an additional hurdle to participation as voters must actively register well ahead of each election.

The INE is responsible for processing registration requests and establishing the provisional list of voters abroad. This list is made available for scrutiny by

electoral stakeholders, after which the INE makes any necessary modifications in time to be declared final approximately one month before the elections.

In the past three presidential elections, the postal electoral packages (see Box 11) were prepared by the Federal Electoral Institute (Instituto Federal Electoral, IFE). This organization was replaced by the INE in the 2014 electoral law. The packages are dispatched by certified post to voters on the LNERE shortly after the registry has been finalized. Voters are required to cast their postal ballot and ensure that the package containing it will be received by the INE at least 24 hours before the start of election day in Mexico. Postal ballots that arrive after the deadline are not counted.

Box 11. Postal electoral package: Mexico 2018

The postal electoral package sent to electors abroad for the 2018 presidential elections comprised:

- instructions on casting an OCV ballot;
- information about the candidates and their platforms;
- an OCV ballot;
- an OCV-ballot envelope (the ballot must be put into this envelope); and
- a prepaid return envelope.

After the electoral law came into effect allowing the use of additional voting methods, the INE carried out assessments to examine the legal, administrative, technical and financial issues connected to the implementation of e-voting for OCV in the 2020–2021 local elections.

The legal provisions on e-voting require the INE to carry out public testing and obtain the endorsement of two reputable international entities that will provide absolute guarantees on the security and certainty of the electronic voting system before it can be utilized in an election. The INE has initiated this process and will continue its preparatory work so that Internet voting can become an integral part of OCV alongside postal votes in the 2020–2021 state elections.

The INE is responsible for receiving, registering and classifying OCV ballots, and safeguarding them until election day. The votes are counted by designated citizens located in a single office on its premises.

Management

The INE is the national authority legally mandated to organize federal elections for Mexicans living abroad. The 2014 General Law on Electoral Institutions and Procedures empowers the states of Mexico, through their constitutions or the Government Statute of the Federal District, to make decisions on the enfranchisement in state elections of citizens living abroad. For those states where OCV rights are applicable, the INE shares managerial responsibilities with the relevant state-level EMB for implementing OCV. The division of responsibilities is outlined in Table 1.

Table 1. Division of responsibilities between INE and state-level EMB

Responsibilities of the INE	Responsibilities of state-level EMBs
Enroll eligible voters in the LNERE	Produce electoral materials and documents for the election to be sent to voters abroad
Organize electoral training for poll workers	Dispatch the postal electoral packages
Determine the number of Scrutiny and Counting Committees to be located in a single office, as determined by the General Executive Board	Receive and register the OCV envelopes containing the ballot paper
Define OCV mechanisms and guidelines	Safeguard the received OCV envelopes and preserve the secrecy of the vote until the day of the election
	Define the necessary conditions for the scrutiny and counting of the out-of-country votes

Costs

The major costs of the OCV operation are related to:

- planning, coordination and follow-up;
- engagement with the general public and with other institutions;
- establishing the OCV registry and printing the resulting list of voters;
- production of OCV electoral materials and documents;
- dispatching, receiving and safeguarding OCV ballot papers;
- scrutinizing and counting out-of-country votes;
- promotion and communication; and
- deployment of information and communication technologies.

In the 2018 presidential election, the total cost of the voting abroad exercise was approximately MXN 230.8 million (EUR 8.8 million). With 98,470 votes cast from abroad, the cost per vote was MXN 2,344.1 (EUR 90). While high, this represents a considerable cost reduction compared to the 2012 elections, when the total cost of the voting abroad exercise was MXN 155 million (EUR 6 million). With 40,714 votes cast from abroad, the cost per vote in 2012 was MXN 3,812 (EUR 146).

Notwithstanding the considerable investment, OCV turnout has generally been low. Of the approximately 12 million eligible voters living abroad, only a fraction registered to vote. Of the 41,000 citizens registered to vote in the OCV operation in 2006, 33,000 (a turnout of 80 per cent) cast their vote. The following elections experienced a slight increase in OCV registrations when around 60,000 citizens registered for OCV, but a decrease in turnout to 68 per cent as only around 41,000 voted. In the 2018 presidential election, 181,873 citizens registered for OCV and 98,470 voted in the election (a 54 per cent turnout). By comparison, turnout for the presidential elections in Mexico as a whole was 59 per cent in 2006 and 63 per cent in both 2012 and 2018.

The INE implemented cost-saving measures for the 2018 federal elections, while using a digital media strategy to promote OCV in order to increase its geographic and demographic reach. The INE also worked with local authorities in the states in which local elections were held to optimize the shipment of postal electoral packages, thereby reducing shipping costs.

Box 12. OCV through e-voting

In the election for the Mayor of Mexico City in 2012, e-voting was used for OCV for the first time, exclusively targeted at Mexican citizens living on the Latin American continent. The INE contracted a company with considerable experience in the field of elections and technology to develop and operate the e-voting system to be used for OCV. Nonetheless, OCV registration numbers remained low and only 10,782 voters from Mexico City enrolled in the state's Registry of Mexican Residents Abroad (LNERE). Of the 7,915 votes cast, 5,276 were received by mail and 2,639 via the Internet. Just 33 per cent of the out-of-country votes cast in the election came through the e-voting pilot exercise.

E-voting could not be used for the federal and local elections in 2018 because the new legal provisions adopted in 2014 required the INE to ensure public testing and obtain the approval of two major international corporations that could certify the security and certainty of any electronic voting system before it is employed in the electoral process.

As the 2021 electoral cycle approaches, 10 states (Baja California Sur, Chihuahua, Colima, Guerrero, Jalisco, Michoacán, Nayarit, Querétaro, San Luis Potosí and Zacatecas) will hold elections involving OCV. The INE is continuing its efforts to employ e-voting for OCV alongside postal voting.

In mid-2019, the INE approved guidelines setting out the general characteristics of the e-voting system for OCV. The auditing guidelines for the system were also approved later that year.

Approval of a system of legally compliant e-voting for the electoral processes in 2020–2021 will be considered by the INE General Council in August 2020. It is clear that the INE—and its counterparts at the state level—are making considerable efforts to ensure the right to vote for citizens residing abroad while also trying to reduce costs. It is thought that implementation of e-voting will considerably assist these efforts. On the issue of political rights versus costs, an INE official noted:

> It is true that voting from abroad has not delivered the large number of eligible voters estimated by the Mexican diaspora. However, it is an institutional duty to guarantee that citizens are enfranchised, and to facilitate the exercise of their right to vote. While it can be challenging for the INE to increase citizen participation in OCV while also controlling costs, the number of voters does not affect the right to exercise their vote, as one of the most important fundamental human rights.

5.2. Australia

Australia has a history of providing is citizens abroad with an opportunity to participate in democratic elections that goes back over 100 years. While initially included 'by default', as Australia offered the option for all citizens to vote by post, the notion of every citizen's right to participate underpins OCV efforts today. Australia has in many ways served as a regional—or even global—pioneer when it comes to electoral management. Numerous lessons have emerged from the work carried out by Australia's federal and subnational EMBs when it comes to the implementation of OCV. Pilot projects have been rolled out at the subnational level to apply technology to extend voting modalities in an effort to increase turnout while also controlling costs.

Legal framework

The introduction of postal voting at the beginning of the 1900s, which was also applied to citizens living overseas, paved the way for Australians around the world to participate in elections. While initially applied to legislative and subnational elections, postal voting from abroad was expanded to include referendums in 1984. In 1993, overseas voters were enabled to cast an in-person vote at select Australian offices abroad (embassies, high commissions, consulates and multilateral missions).

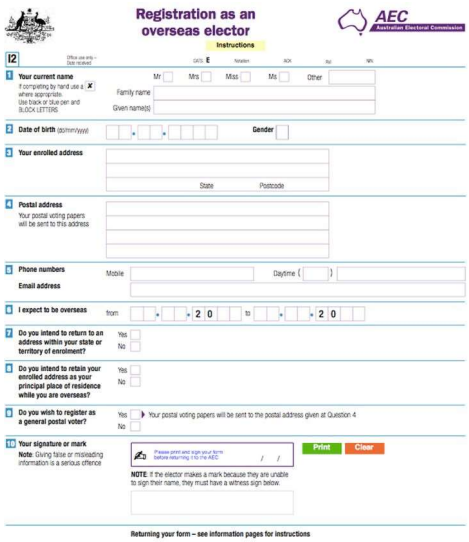
The Commonwealth Electoral Act of 1918, which governs federal elections, takes an inclusive stance on eligibility, whereby all citizens enrolled on the voter list are entitled to vote. This federal provision also applies to citizens abroad, regardless of whether they are out of the country to study, on business, on holiday, to work or for any other reason. Citizens who are residing out of the country but intend to return within six years can apply to be enrolled as an 'overseas elector' within three years of their departure from Australia.

Australia is one of a handful of countries worldwide where voting is compulsory. It is important to note, however, that voting is not obligatory for citizens who are overseas on election day. Finally, given the country's federal structure, state-specific laws and regulations apply to subnational elections, which are operated by subnational electoral bodies.

Operations

Within Australia, enrolment on the voter list is compulsory (Commonwealth Electoral Act 1918, section 101). For citizens abroad not already on the list, however, enrolment is voluntary. Australians abroad who fulfil enrolment requirements and wish to enrol while overseas can do so by completing a form (AEC 2020a) that can be downloaded from the Australian Electoral Commission (AEC) website or by uploading a scanned copy from its website. It must then be submitted by post or fax to the AEC. Citizens already enrolled complete a form to register as an overseas elector and submit it following the same procedure (AEC 2020b; see also Figure 5). There is no separate voters list for voters' from abroad. Instead, it is noted in the regular voters list that a voter has registered as an overseas elector.

Figure 5. Form to register as an overseas elector



Registration as an overseas elector

AEC Australian Electoral Commission

Instructions

12

1 Your current name
If completing by hand use a ✗ where appropriate. Use black or blue pen and BLOCK LETTERS
Mr Mrs Miss Ms Other
Family name
Given name(s)

2 Date of birth (d/m/yyyy)
Gender

3 Your enrolled address
State Postcode

4 Postal address
Your postal voting papers will be sent to this address

5 Phone numbers
Mobile
Daytime ( )
Email address

6 I expect to be overseas
from 2 0 to 2 0

7 Do you intend to return to an address within your state or territory of enrolment?
Yes
No

8 Do you intend to retain your enrolled address as your principal place of residence while you are overseas?
Yes
No

9 Do you wish to register as a general postal voter?
Yes Your postal voting papers will be sent to the postal address given at Question 4
No

10 Your signature or mark
Note: Giving false or misleading information is a serious offence
Please print and sign your form before returning it to the AEC
Print Clear
NOTE: If the elector makes a mark because they are unable to sign their name, they must have a witness sign below.

Returning your form – see information pages for instructions

Source: AEC website, Registration as an Overseas Elector, September 2020b, <https://www.aec.gov.au/Enrolling_to_vote/overseas/overseas-elector.htm>, accessed 20 December 2020.

The electoral system requires that voters vote in district-based ballots. Therefore, they cannot enrol at an overseas address but must record the address at which they were last entitled to vote before leaving Australia. This information is checked and verified by the AEC.

As noted above, voters can cast their vote by post or in person at select Australian foreign missions abroad. Current laws prevent the use of e-voting for federal legislative elections. However, different rules apply at the subnational level, as these depend on state-specific election laws and regulations. In New South Wales, for example, e-voting (see Box 13) or voting by telephone are available to voters abroad.

Box 13. iVote in New South Wales

In 2010, the New South Wales (NSW) Premier asked the NSW Electoral Commission (NSWEC) to investigate e-voting for visually impaired people to enable them to cast a secret ballot. The resulting report outlined a series of recommendations that led to the NSW Parliamentary Electorates and Elections Act 1912 being amended to enable 'Technology Assisted Voting'. Consequently, the NSWEC has offered technology assisted voting at state elections since 2011, using its 'iVote System'. In addition to people with impaired vision, the legislation also enabled people living interstate or overseas on polling day to use iVote.

To vote via iVote, voters are required to register (New South Wales Electoral Commission 2020). Registration can be done online or by telephone. When registering, the voter provides a six-digit PIN and subsequently receives an eight-digit iVote number. Voting via iVote is open for about two weeks and ends at 18:00 on election day. iVote is compatible with all major web browsers (Chrome, Explorer, Firefox and Safari) and with mobile devices, and the phone service offers both automated touch-tone voting and operator-assisted voting. On casting a vote, the voter receives a unique 12-character receipt code that the voter can use to verify that the vote has been received and counted. Votes cast through the iVote system are unlocked by a quorum of NSW election officials, and are printed and counted together with other votes cast.

The iVote system was used for the first time in the NSW state elections in 2011, when about 47,000 people voted using the system (ECANZ 2013). It has since been used for the 2015 NSW state general election, when over 280,000 votes were accepted—over 6 per cent of the total vote—and in multiple state by-elections. While around 90 per cent of iVote users are using the system because they are outside the state, separate data on usage by overseas voters is not available. However, iVote has proved more reliable than postal voting. Only 129 postal votes were counted of the over 5,800 postal vote packs sent to overseas addresses, and around 2,000 of those voters turned to iVote to successfully cast their vote.

Remote electronic voting often raises security and integrity issues. The NSWEC iVote System Security Implementation Statement (NSWEC and iVote 2014) analyses the security context in which the iVote system operates, identifies key security issues and explores approaches to addressing these issues. It also outlines control mechanisms linked to people, processes and technology, which are then integrated into the system that has been put into use.

Management

The AEC is the body responsible for organizing federal elections abroad. To do so, it relies on the services provided by staff at the Department of Foreign Affairs and Trade (DFAT) and the Australian Trade and Investment Commission

(Austrade), who are based in select international offices—embassies, high commissions, consulates and multilateral missions. In 2016, there were 100 such offices managed by DFAT and 16 by Austrade, although not all of these provided elections-related services.

Training of DFAT and Austrade staff takes place on site. To ensure that the necessary capacity is in place, the AEC maintains: (a) an overseas voting processes manual; (b) an online training course for officers in charge and staff issuing ballot papers; and (c) an online portal that contains relevant information, updates and FAQs on the conduct of elections abroad. In addition, a 24-hour OCV telephone helpdesk is available from the beginning of the voting period until all the completed pre-poll declaration votes have been collected from the overseas posts and returned to Australia.

The AEC contracted a logistics service provider to support the roll-out of OCV in the 2010, 2013 and 2016 elections. The service provider is typically responsible for:

- the storage of election materials;
- picking and packing election materials;
- the sub-contracting of printing services to produce all the ballot papers required for the overseas voting process;
- transporting election materials from Australia to every in-person overseas voting location; and
- the return of completed pre-poll declaration envelopes from each in-person overseas voting location to Australia.

The AEC has indicated that one of the main challenges for the existing management structure is ensuring that consistent, clear and concise communication is maintained at all times through the planning, implementation and delivery phases of the OCV exercise. In addition, it is important to ensure that resources are sufficient across all phases—in particular given that the OCV roll-out takes place around the world and across different time zones. Finally, the delivery of elections abroad depends on rigorous and often immovable timelines. Ensuring that all the organizations, contractors and sub-contractors involved realize the importance of these timelines can present challenges.

Costs

The main costs to the AEC associated with overseas voting are:

- logistics, vendor management and other costs;

- picking, packing and freight costs (inbound and outbound);
- ballot paper production costs;
- AEC staff travel costs;
- AEC overseas voting team overtime costs; and
- reimbursement charges for DFAT and Austrade.

In 2016, the cost of in-person overseas voting—excluding costs linked to regular staffing costs and non-ballot materials, such as ballot boxes and voting screens, which are purchased under other budgets and therefore not included in the OVC budget—was a little over AUD 1 million (EUR 609,000). The average cost per vote was AUD 14.03 (close to EUR 8.5). However, looking more closely at the variations in voting costs per overseas location, the average cost per vote varied between AUD 5.85 (EUR 3.5) and AUD 517.69 (EUR 315). Given that postal votes cast from abroad are merged with postal votes cast from within the country, total and average costs for postal voting from abroad cannot be established.

It is generally believed that approximately one million Australians (around 5 per cent of the total population) live abroad. However, there are no exact figures on the potential voting population, which in turn makes it difficult to establish turnout among Australians abroad. The issue is further complicated by uncertainty around how many postal votes are cast from abroad. From the records for in-person voting at foreign missions, it appears that participation increased from 54,743 in 2004 to 70,232 in 2016 with a peak of 72,679 in 2013.

The AEC implemented an online postal vote application (OPVA) system in 2013. Previously, Australians overseas made their postal vote applications directly to the in-person voting location overseas, and these were processed at that location. Under OPVA, the applications are processed and the ballot material sent directly from Australia. The new process has reduced the time and effort required at overseas posts. As a side-effect, it has also reduced the reimbursement charges to DFAT and Austrade.

5.3. The Philippines

According to estimates, approximately 10.2 million Filipinos, or 10 per cent of the country's citizens, live overseas (CFO n.d.). Almost half have moved abroad permanently, mainly to the USA, while the other half are temporary (42 per cent) or irregular (10 per cent) migrants, mainly located in the Middle East or other states in South East Asia.

The high number of Filipinos abroad has emerged due to socio-economic conditions but has further been encouraged by the government's proactive policy

to promote temporary labour migration as a response to high unemployment rates at home. From the 1970s onwards, labour migration emerged as a top priority for the country's foreign policy and a comprehensive regulatory and institutional framework was put in place. Labour migration is common and seen as a desirable way to establish a better life for yourself and your family. Labour migrants are entitled to benefits and privileges, and an annual award presented to the 20 outstanding migrants of the year demonstrates the important role migration has played in society (O'Neill 2004). Migration is also a huge economic factor, and remittances accounted for about 10 per cent of GDP in 2018 (World Bank 2020). The decision taken to allow Filipinos to vote from abroad must therefore be seen in the context of the government's investments in facilitating Filipino labour migration.

Legal framework

The Overseas Absentee Voting Act (OAVA) was passed in 2003 (Act No. 9189; Republic of the Philippines 2003) and amended in 2013 (Act No. 10590; Republic of the Philippines 2013). The OAVA establishes that:

> It is the prime duty of the State to provide a system of honest and orderly overseas absentee voting that upholds the secrecy and sanctity of the ballot. Towards this end, the State ensures equal opportunity to all qualified citizens of the Philippines abroad in the exercise of this fundamental right.
> (Republic of the Philippines 2013: section 2)

Sections 4 and 5 of the law outline the eligibility criteria. The Act grants voting rights to all Filipino citizens above the age of 18—with restrictions on Filipinos who: (a) have lost or renounced their citizenship; (b) have been convicted of offences punishable by more than one year in prison; or (c) have been declared insane or incompetent by the authorized authorities. In the original law of 2003, Filipinos who had taken up permanent residence in another country were required to declare their intention to move back to the Philippines within three years, and that they had not applied for citizenship in another country. However, this provision was removed from the new law.

Filipinos abroad are entitled to vote in national elections for the president, the vice president, senators and party-list representatives. Following amendment of the OAVA in 2013, the law requires labour contracts processed and approved by the Philippines Overseas Employment Administration (POEA) to 'state the right of migrant workers to exercise their constitutional right of suffrage' (Republic of the Philippines 2013: section 11).

Voter registration

The Commission on Elections (COMELEC) is responsible for managing a continuous system for registering voters abroad (see Republic of the Philippines 2013, 2016). Between elections, voters can register at embassies, consulates and other designated field or mobile registration centres abroad as well as in their country of origin. (For the mid-term elections scheduled for 13 May 2019, for instance, the voter registration period was 1 December 2016 to 30 September 2018.) Prospective voters are required to appear in person to submit their application for overseas voting (registration/certification), together with their passport or, in its absence, certification from the Department of Foreign Affairs, as well as their biometric photograph, fingerprint and signature captured using a biometric voter registration machine. Registration is for first-time voters not yet on the register in the Philippines, while certification as an overseas voter is required for those already on the register. Dual citizens must also provide a copy of their oath of allegiance or order of approval from the Bureau for Immigration, while seafarers must provide a copy of their Seaman's Book (for more information, see Republic of the Philippines, n.d.).

COMELEC and its Office for Overseas Voting (OFOV) issue overseas voter identification cards and establish the Certified List of Overseas Voters 90 days before the voting from abroad period begins. Electronic and hard copies of the list are provided to embassies and consulates, which publish it on their information boards and websites.

The number of Filipinos registering to participate in elections from abroad is increasing. Before the 2016 presidential elections, 1.38 million Filipinos overseas registered to vote (Gavilan 2016). While this failed to meet COMELEC's stated goal of having 2 million voters on the list, this represented a considerable increase on the 670,000 voters abroad registered in 2013.

Voting, counting and transmission of results

Overseas absentee voting takes place over a 30-day period. The last day for OCV is election day itself (seafarers have a 60-day period; see Republic of the Philippines 2003: section 16.3). OCV is conducted by the Board of Election Inspectors, which comprises a Chair (usually an ambassador/general consul) and two members (Philippine citizens). This constitutes the body that in effect manages the vote on behalf of COMELEC in the foreign offices' respective areas of responsibility.

Both in-person voting and postal voting are used. Postal voting was only authorized in three countries—Canada, Japan and the UK—in 2004 (CMA 2011) but has expanded since. In 2016, foreign offices opting for in-person voting could choose between a traditional manual system, by which voters cast a paper ballot, and the automated election system, whereby a paper ballot is fed

into a vote-counting machine, which prints a receipt that is checked by the voter and placed in a receptacle. (This automated election system was also used in the Philippines on election day.) It is not up to voters to decide which method to use but determined by the office in question. Of the 82 offices undertaking OCV in 2016, 30 used an automated, in-person election system, while 26 used manual in-person voting and 26 postal voting (Republic of the Philippines 2015).

Participation in elections from abroad has been low. In 2013, only 17 per cent of those registered to vote from abroad cast their ballot. In the 2016 presidential elections, however, the figure increased dramatically to 31 per cent (NAMFREL 2016). While the OFOV and its supporting agencies carried out a number of activities to promote both registration and participation, it was the passionate election campaign and the tough stances taken by presidential candidate Rodrigo Duterte that contributed to the increased level of participation.

The Board of Election Inspectors is responsible for counting the vote and for transmitting the results of the count by fax or e-mail to COMELEC. As a control mechanism, the Board of Canvassers is appointed to check the returns of the Board of Election Inspectors and to submit a certificate of canvass to COMELEC. Unused ballots, including ballots received by post after election day, are required by law to be returned to COMELEC within six months of the closing of the election (Republic of the Philippines 2013: section 24.6/7).

Management

COMELEC's OFOV is in charge of overseeing and supervising OCV. However, the legal framework stipulates that government offices have a duty to assist the OFOV and 'take reasonable measures to expedite all election activities, which the Commission shall require from them' (Republic of the Philippines 2013: section 34). Among the agencies specifically mentioned in the law are the Department of Foreign Affairs (DFA), the Department of Labor and Employment, the Philippines Postal Corporation, the POEA, the Overseas Workers Welfare Administration (OWWA) and the Commission on Filipinos Overseas (CFO).

To ensure the effective implementation of elections abroad, COMELEC entered into a Memorandum of Understanding with the DFA to create the Overseas Voting Secretariat. The secretariat is based at the DFA and tasked with assisting the OFOV, and directing, coordinating and overseeing the implementation of election-related activities carried out by embassies, consulates and other foreign establishments. For the purpose of registering voters abroad, various cooperation agencies administer five local field offices (the CFO, the Maritime Industry Authority, the OWWA and the POEA). According to the OFOV (2017), 'this management structure is the best method for optimizing the use of the existing facilities, personnel and mechanisms of the various government agencies for purposes of data gathering, data validation, information dissemination, facilitation of registration and voting processes'.

Costs

While it has not been possible to access information on budgets and expenditure on overseas voting in the Philippines for this study, it is interesting to note that cost-effective measures have been incorporated into the legal framework governing elections. First, diplomatic services are provided to assist overseas voting on a no-cost basis (Republic of the Philippines 2013: section 34). The use of embassy staff who have other primary duties but are available to COMELEC to administer the registration of voters, the voting and the counting on the ground, including of postal votes received from abroad, is an important and cost-effective measure. Furthermore, on the continuous registration facility, section 11 of the OAVA (Republic of the Philippines 2013) states that 'the Commission shall be authorized to utilize and optimize the use of existing facilities, personnel and mechanisms of the various government agencies for purposes of data gathering and validation, information dissemination and facilitation of the registration process'. Moreover, it is specifically stated that unused and cancelled ballots (received after election day) 'shall be . . . shipped to the Commission by the least costly method' (Republic of the Philippines 2013: sections 24.6 and 24.7). In 2016, unused and cancelled ballots were sent by diplomatic pouch or private/public courier depending on the cheapest option available.

6. Conclusions

As stated in the beginning, the right to cast a vote in democratic elections is at the core of people's political rights. For citizens living abroad, however, the issue is less straightforward. Should citizens who wish to cast a ballot be required to go to their country of origin? Or should the state take action to facilitate their voting from abroad? The global trend is moving in the direction of the latter. At the same time, eligibility and registration requirements, as well as methods of voting from abroad, differ significantly from one state to another. States embarking on the introduction of OCV could benefit considerably from the experiences of countries where OCV is already in use, such as those outlined in this study.

Two key issues should be specifically mentioned. First, OCV is generally expensive and requires careful planning. Start-up costs can be significant as new systems must be put into place. The EMB must work out how to identify potential voters abroad, establish records of their whereabouts, inform them of and sensitize them to their right to participate, implement timely registration and voting procedures and ensure the transportation—physical or digital—of OCV ballots so they can be swiftly counted and included in the final results. These actions require not only enhanced capacity in the EMB, but also good relations with and capacity building of the other institutions with which the EMB must work in order to effectively implement OCV.

The second issue worthy of note is that technology could revolutionize how states implement OCV for their citizens abroad in the future. The basic idea behind introducing such innovations is to improve voter access to registration and voting from abroad. Moreover, it is argued that technical solutions can reduce costs. Start-up costs might be high as systems must be put into place, but these are likely to prove value for money in the long run. However, considerations around the use of technology in OCV must take account of security, to ensure that voting from abroad does not reduce the credibility of elections.

Another issue that is peripheral to the topic of this paper but still worthy of note is how electoral campaigns are regulated and conducted in the context of OCV. Germany, for example, has some time ago forbidden Turkish politicians from conducting campaigns to solicit the votes of Turkish citizens living in Germany. Should registered political parties be allowed to conduct activities in a foreign country? The most obvious means used by politicians to attract overseas voters are through social media outlets. Is it even possible for such means to be regulated and managed?

There are significant issues related to OCV that are worth discussing. This paper is intended to promote such discussion at the national, regional and global levels.

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The right to cast a vote in democratic elections stands at the core of people's political rights. However, for citizens residing abroad the issue is less straightforward. Should people that have made a choice to live in another country still have voting rights in their country of origin? If so, should the state be responsible for facilitating their vote from abroad—or should citizens simply have the option of returning to exercise their right?

Countries embarking on introducing out-of-country voting (OCV) may benefit from the experiences made in countries where voting from abroad is available. This report presents practical examples from different countries and highlights key issues to be considered before introducing out-of-country voting measures.

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