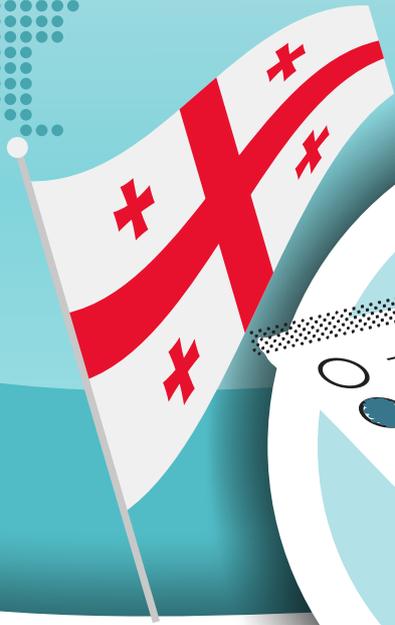




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EXTERNAL VOTING AND ITS REGULATION: INTERNATIONAL PERSPECTIVE

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INTRODUCTION

In the last fifty years there has been a notable increase in the number of countries which have extended voting rights to non-resident citizens, giving the right to millions of people around the world to vote in the elections of their countries of origin.¹ Today, 147 countries have extended voting rights abroad.² Voting from abroad is also known as external voting or out-of-country voting. The substantial increase in suffrage rights for those abroad comes in tandem with growing diaspora populations globally.³ According to a UN migration report, there are more than 280 million people (3% of the global population) who live in a country other than their country of origin.⁴ There is an understanding that these diaspora populations retain ties to their countries of origin, whether that be through remittances, personal ties, or business interests.⁵ These ties are increasingly viewed as justification for the extension of broad external voting rights.

Ultimately, there are two major factors that determine the form and shape of external voting. They include the legal provisions for external voting and then the implementation of those rights.⁶ It is important to separate these two aspects of external voting because while a restrictive legal environment may preclude the implementation of external voting, legally enshrined external voting laws do not always entail the full, or even partial, implementation of external voting in a given country.

There are countries with inclusive external voting laws, often providing all non-resident citizens with the right to vote without any major restrictions, and others with restrictive laws. The latter range from outright denial of the right to vote from abroad to requirements concerning residency and amount of time spent outside the country. Just as no two electoral systems are the same, the ways in which citizens abroad vote differ widely. They differ by the types of elections they are permitted to participate in, the modality through which they are able to cast their vote, and the type of representation afforded to these non-resident voters. Yet, the legal enshrinement of the rights for non-resident citizens to vote is by no means a guarantee that the ability to vote from abroad is provided for in practice.

Implementing effective and accessible voting processes for external elections is complex. It requires collaboration between home country government agencies and between home and host country governments. There are significant logistical concerns, financial and technical considerations, and the need to communicate with non-resident voters.⁷ There are many barriers that can cause governments to provide inadequate services to their non-resident citizens with the right to vote in any given election. Yet, there is strong evidence that the determining factor in expanding voting access

¹ Elizabeth Iams Wellman, Nathan W. Allen, and Benjamin Nyblade, "The Extraterritorial Voting Rights and Restrictions Dataset (1950–2020)," *Comparative Political Studies* 56, no. 6 (May 1, 2023): 897–929, <https://doi.org/10.1177/00104140221115169>.

² Nathan W. Allen and Elizabeth Iams Wellman, "Extending Voting Rights to Emigrants: A Global Analysis of Actors, Processes and Outcomes," *Diaspora Studies* 17, no. 1 (February 15, 2024): 1–17, <https://doi.org/10.1163/09763457-bja10078>.

³ "Interactive World Migration Report 2022," accessed April 15, 2024, <https://worldmigrationreport.iom.int/wmr-2022-interactive/>.

⁴ "DIASPORAS AND THEIR CONTRIBUTIONS: A Snapshot of the Available Evidence," iDiaspora, July 31, 2023, <https://www.idiaspora.org/en/learn/resources/research-and-studies/diasporas-and-their-contributions-snapshot-available-evidence>.

⁵ Maria Koinova, "Endorsers, Challengers or Builders? Political Parties' Diaspora Outreach in a Post-Conflict State," *International Political Science Review / Revue Internationale de Science Politique* 39, no. 3 (2018): 384–99.

⁶ ELIZABETH IAMS WELLMAN, "Emigrant Inclusion in Home Country Elections: Theory and Evidence from Sub-Saharan Africa," *American Political Science Review* 115, no. 1 (2021): 82–96, <https://doi.org/10.1017/S0003055420000866>.

⁷ Peter Erben, Ben Goldsmith, and Aysha Shujaat, "Out-of-Country Voting: A Brief Overview," White Paper (The International Foundation for Electoral Systems, April 2012), 2.

to non-resident voters is the political environment; incumbent parties and governments often make the decision to expand or restrict external voter access based on their analysis of whether or not it is likely that the external vote will go in their favor.

The legal right to vote abroad, the differing electoral laws globally, and the particularities of implementation show us that there are no clearly accepted standards for the right to vote abroad. This report will investigate the themes that help explain differences between countries and examples where countries have had success in aspects of implementing external elections. Finally, external voting is highly dependent on context, and no one example should be seen as the correct position on external voting. Taken together these examples help to elucidate the challenges associated with external voting and strategies adopted around the world to address those challenges.

THE LEGAL RIGHT TO VOTE ABROAD

According to a study by the Venice Commission, “There are simply no international standards on the (dis)enfranchisement of citizens abroad.”⁸ Legal adoption of the right to vote for citizens abroad differs significantly, and there are no supra-national bodies, including institutions like the UN or the Council of Europe, that have established concrete recommendations for their member states. Yet, the Venice Commission has suggested to its member states that they adopt “a positive approach” to external voting, citing the mobility of European citizens as a justification.⁹ Yet, the Venice Commission also highlights the findings of the European Court on Human Rights that restrictions on the right to vote abroad can be justified. There are four grounds for justification:

- 1) *the assumption that a non-resident citizen is less directly or continuously concerned with, and has less knowledge of, a country’s day-to-day problems*
- 2) *the impracticality and sometimes undesirability (in some cases impossibility) of parliamentary candidates presenting the different electoral issues to citizens living abroad so as to secure the free expression of opinion*
- 3) *the influence of resident citizens on the selection of candidates and on the formulation of their electoral programmes*
- 4) *the correlation between one’s right to vote in parliamentary elections and being directly affected by the acts of the political bodies so elected*¹⁰

Ultimately, it’s the state’s sovereign decision whether or not to grant the right to vote abroad.¹¹ Many states extend this right to all citizens without substantive qualification. For example in Europe, 38 states did not place these restrictions on citizens abroad as of 2011.¹²

Other states place restrictions on citizens’ rights to vote abroad though concerns around period of absence and residency requirements. For example, in New Zealand, a voter is eligible to vote externally if they’ve spent twelve consecutive months in the country at any point in their life, and, either, are a citizen of New Zealand who has been in the country within the past three years, or are

⁸ Christina Binder, “COMMENTS ON ELECTORAL LISTS AND VOTERS RESIDING DE FACTO ABROAD,” Study (Strasbourg: EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), January 27, 2015).

⁹ “REPORT ON OUT-OF-COUNTRY VOTING” (Strasbourg: EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), June 24, 2011), 15.

¹⁰ “REPORT ON OUT-OF-COUNTRY VOTING,” 15.

¹¹ “REPORT ON OUT-OF-COUNTRY VOTING,” 3.

¹² “REPORT ON OUT-OF-COUNTRY VOTING,” 6.

a permanent resident of New Zealand who has been there in the previous twelve months.¹³ These restrictions are intended to include only voters with a time-dependent connection to their country-of-origin. This legislation is reflective of the argument that citizens abroad, who have not been in the country for an extended period of time, are less likely to have close links to the country and are less likely to be directly affected by the outcome of elections.¹⁴ Although the reality behind the spirit of the law would inevitably depend on each individual case, the implementation of time-bound and thoroughly defined requirements makes the New Zealand law, and those similar, implementable and enforceable.

Related to the diffusion of external voting rights globally, some countries' laws governing the restrictions have changed substantially over time. For example, in 2013, the European Court of Human Rights held that the UK had not violated the right to universal suffrage by imposing a 15-year limit since the last residency on its citizens.¹⁵ The court emphasized that "states must be allowed a margin of appreciation..." in the area of domestic parliamentary law and the granting of the right of to vote to non-resident citizens.¹⁶ Yet, with the passage of the 2022 Elections Act in the UK, the 15-year limit was removed, and as of January 2024 eligible British citizens are able to register, "regardless of how long they have been away from the UK."¹⁷ The UK example is indicative of how laws governing external voting can be relatively fluid and is representative of the trend toward more inclusive voting rights for non-resident citizens globally.¹⁸ The inclusivity of elections is also intertwined with the nature of how external voters participate in elections.

ALLOCATION OF EXTERNAL VOTES

External voter participation in different types of elections, including local, national, and presidential elections, is largely dependent on the specificities of a countries' electoral systems and design and there are many factors that determine how external votes are allocated. For instance, in Italy, according to articles 56 and 57 of the constitution, eligible voters abroad elect 12 deputies and 6 senators to the government.¹⁹ Italian voters abroad, therefore, do not vote for representation within their localities of origin, but rather, are represented through special overseas constituencies.²⁰ France has a similar system of representation for their citizens abroad, where their votes are allocated to overseas constituencies.²¹ This system is meant to ensure strong constituency links, where voters and their representatives are responsive to each other and share similar concerns.²² Yet, in some cases,

¹³ "How to Vote from Overseas," Vote NZ, accessed April 1, 2024, <https://www.vote.nz/voting/how-to-vote/vote-from-overseas/>.

¹⁴ *Shindler v. the United Kingdom*, No. 19840/09 (ECtHR May 7, 2013).

¹⁵ *Shindler v. the United Kingdom*.

¹⁶ *Shindler v. the United Kingdom*.

¹⁷ Elise Uberoi and Neil Johnston, "Overseas Voters," Research Briefing (House of Commons Library, January 4, 2024), <https://commonslibrary.parliament.uk/research-briefings/sn05923/>.

¹⁸ Staffan Himmelroos and Johanna Peltoniemi, "External Voting Rights from a Citizen Perspective – Comparing Resident and Non-Resident Citizens' Attitudes towards External Voting," *Scandinavian Political Studies* 44, no. 4 (December 1, 2021): 463–86, <https://doi.org/10.1111/1467-9477.12211>.

¹⁹ "Chamber of Deputies - Voting by Italians Living Abroad," accessed April 5, 2024, https://en.camera.it/4?scheda_informazioni=30.

²⁰ "Chamber of Deputies - Voting by Italians Living Abroad."

²¹ "The Graphic Truth: French Parliamentary Districts Overseas - GZERO Media," accessed April 14, 2024, <https://www.gzeromedia.com/Graphic-Truth/french-parliamentary-districts-overseas>.

²² "Constituency Link," accessed April 15, 2024, <https://www.electoral-reform.org.uk/voting-systems/what-are-voting-systems/constituency-link/>.

it can be argued that overseas constituency designs can result in a form of symbolic representation.²³ Battiston et. al, argue that in the case of Italy, the relatively low number of seats afforded to overseas voters penalizes citizens abroad.²⁴ This criticism has more to do with the representativeness of the overseas vote rather than the overseas constituency model itself. For instance, in Croatia the opposite is true, where the value of an overseas vote in terms of representativeness exceeds that of an in-country vote.²⁵ That said, most countries do not allocate votes to overseas constituencies.²⁶

Most countries allocate overseas votes to domestic electoral districts.²⁷ How votes are allocated varies widely, but in countries with a single nationwide electoral district, there is little question of how to allocate votes. In other countries with sub-national electoral districts, overseas votes are often allocated to the district where the external voter was last registered within the country.²⁸ In countries with sub-national electoral districts where overseas votes are allocated to a specific district, usually the district of the capital, concerns can arise about how the overseas votes affect the representation within that electoral district. A counterfactual argument is that if these votes were not allocated to that chosen district it may result in a different, and more locally responsive, representation. This is another form of the strong constituency link argument, representativeness is a major concern for how to allocate votes from citizens abroad.

MODALITIES

External election procedures should mirror those of domestic election procedures.²⁹ They should follow the same necessary concepts of free and fair elections, including universal, equal, free, secret and direct suffrage.

Yet, the implementation of external voting is a complex and cumbersome endeavor. There are legitimate constraints on governments and electoral management bodies (EMBs) in implementing effective processes for the inclusion of all external residents with the right to vote from abroad.³⁰ These challenges become clear when looking at the modalities through which different countries allow their external voters to participate in elections.

The most common modalities of external voting are in-person, postal, and proxy voting. Some countries offer their citizens abroad a combination of these options. In-person voting is the most common modality, followed by postal voting and then proxy voting.³¹ According to International IDEA, proxy voting, “Allows any registered voter to delegate her/ his voting right to a representative, enabling this proxy to vote in their absence on their behalf.”³² This is an uncommon modality, but is used

²³ Simone Battiston, Stefano Luconi, and Marco Valbruzzi, “To Vote or Not to Vote in the Homeland Elections? Insights into Voting Abstention in Italy’s Constituency Abroad,” *Modern Italy* 29, no. 1 (2024): 73–96, <https://doi.org/10.1017/mit.2023.59>.

²⁴ Battiston, Luconi, and Valbruzzi.

²⁵ Shuji Yamauchi and Takashi Sekiyama, “Comparing the Election Systems for Overseas Constituency Representatives in Multiple Countries,” *Social Sciences* 13, no. 3 (2024), <https://doi.org/10.3390/socsci13030177>.

²⁶ A. Ellis et al., *Voting from Abroad: The International IDEA Handbook*, Gift Collection (International IDEA, 2007), 70, <https://books.google.ge/books?id=6BYVAQAAIAAJ>.

²⁷ Ellis et al., 70.

²⁸ Ellis et al., *Voting from Abroad: The International IDEA Handbook*.

²⁹ Hajnalka Juhász, “External Voting in the International Practice: A Comparative Analysis and Overview,” in *Trends and Directions of Kin-State Policies in Europe and Across the Globe*, vol. 16 (Minority Studies, National Policy Research Institute, 2013), <https://bgazrt.hu/minority-studies-16-szam/>.

³⁰ Erben, Goldsmith, and Shujaat, “Out-of-Country Voting.”

³¹ Erben, Goldsmith, and Shujaat.

³² Adhy Aman and Mette Bakken, *Out-of-Country Voting: Learning from Practice* (International Institute for Democracy and Electoral Assistance, 2021), <https://doi.org/10.31752/idea.2021.1>.

by some established democracies including the United Kingdom, Belgium, and Sweden.³³ Another modality, postal voting, consists of a voter filling out a ballot they have received and mailing it via the postal service to their home country.³⁴ Sometimes witnesses are required to confirm the voter's identity and confirm that the voter has filled out the ballot without interference.³⁵ This method is used widely in the United States and is the only modality (barring exceptions) used for external voting in Canada.³⁶ The major concerns around postal voting include secrecy of the ballot and the unreliability of postal systems in certain countries.³⁷

Finally, the most broadly used modality of external voting is the in-person method.³⁸ The in-person method requires voters to vote at designated polling stations. Most often these polling stations are located in diplomatic bureaus (i.e., embassies or consulates).³⁹ Yet, some countries open polling stations beyond those located at diplomatic bureaus; these can be referred to as neighborhood polling stations.⁴⁰ The in-person method of external voting is cumbersome because it comes with high operating costs, and requires diplomatic negotiations and effective collaboration between various government agencies. Yet, this modality is common among many developing democratic nations.

VOTER REGISTRATION AND IDENTIFICATION

Along with availability of polling stations to cast ballots, voter registration and identification is a significant barrier to voter access.⁴¹ According to International IDEA, there are four key features of external voter registration:

1. *Registration can be permanent or temporary*
2. *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*
3. *Registration can be continuous or temporal; that is, only open for specific periods of time*
4. *The types of identification documents required*⁴²

These features can skew toward inclusive or restrictive. For instance, in South Africa's 1994 external elections, where there was a strong push to engage the diaspora vote in the first democratic election post-apartheid, the EMB chose to allow South Africans abroad if they had any form of South African identification and they were not required to register in order to vote.⁴³ South Africa's 1994 elections are an example of lenient and inclusive registration requirements. Yet, concerns arise around electoral fraud when registration requirements are too lax, so this level of leniency is not the norm. Today, roughly two-thirds of countries require their citizens abroad to register to vote with their

³³ Ellis et al., *Voting from Abroad: The International IDEA Handbook*. 26.

³⁴ Ellis et al. 6.

³⁵ Ellis et al.

³⁶ Winston Szeto, "Canadians Living Abroad Have the Right to Vote. Here's Why," *CBC News*, September 8, 2021, <https://www.cbc.ca/news/politics/canadian-expats-right-voting-questions-1.6166922>; "Americans Can Vote. Wherever They Are.," Federal Voting Assistance Program, accessed April 6, 2024, <https://www.fvap.gov/info/about-absentee-voting>.

³⁷ Erben, Goldsmith, and Shujaat, "Out-of-Country Voting."

³⁸ Wellman, Allen, and Nyblade, "The Extraterritorial Voting Rights and Restrictions Dataset (1950–2020)."

³⁹ Wellman, Allen, and Nyblade.

⁴⁰ Wellman, Allen, and Nyblade.

⁴¹ WELLMAN, "Emigrant Inclusion in Home Country Elections: Theory and Evidence from Sub-Saharan Africa," 202.

⁴² Ellis et al., *Voting from Abroad: The International IDEA Handbook*.

⁴³ WELLMAN, "Emigrant Inclusion in Home Country Elections: Theory and Evidence from Sub-Saharan Africa."

diplomatic mission in advance of election day.⁴⁴ This alone can be a cumbersome requirement for prospective voters abroad, who may be required to make an in-person visit to a diplomatic bureau in order to register. There are vastly different requirements across countries for external voter registration and identification, but by balancing concerns around election security and inclusiveness, EMBs can implement external elections efficiently and maintain a high standard of accessibility.

IMPLEMENTATION OF IN-PERSON EXTERNAL VOTING

Focusing on the most prevalent option of external voting, in-person voting, a number of considerations for implementation arise. These considerations are chiefly operational, diplomatic, and political. By understanding these considerations, the constraining factors of capacity and political will to implement external elections become apparent. Yet, these challenges can be addressed to better enfranchise citizens abroad, allowing them to exercise their voting rights more equally and freely.

There is little research into the cost of implementing in-person elections abroad, as the scope and scale of external voting operations vary widely across countries, but, according to International IDEA, it can often be the most expensive method of external voting.⁴⁵ These costs can include the training of election staff, travel for election staff, security, equipment, the transportation of materials to the polling stations, and etc.⁴⁶ The costs associated with implementing external elections have led to multiple EMBs rolling back external voting (Morocco and Liberia).⁴⁷ Yet, the cost of conducting an election is not a strong justification for curtailing the fundamental political right to vote.⁴⁸ Cost should be seen as an obstacle to be overcome. The cost to the legitimacy of a democratic system of not conducting external elections should weigh heavily in the decision-making for home-country governments.

The ability of home-country governments to effectively implement in-person external elections is also dependent on the reach of their diplomatic relations. Organising in-person external elections requires negotiation between home and host country governments. The responsibility for these negotiations often falls to the ministry of foreign affairs of the home country, rather than the EMB directly. These negotiations follow the formal and informal rules of diplomacy, rather than any defined procedures.⁴⁹ There is a lack of international agreements, protocols, and guidelines for the implementation of external elections, so agreements tend to be ad-hoc, based on relationships and precedents.⁵⁰ For this reason, in countries where a diaspora exists, but where there are no diplomatic ties between the two countries, it is unlikely that that population will be able to vote in-person within that host country.⁵¹ In that case there is simply a lack of capability to conduct an effective in-person external election. Overall, the necessity to negotiate with each country where there is a sizable diaspora population is a significant strain on the capacity of a home country's Ministry of Foreign Affairs, and ongoing efforts should be made to create bi-lateral processes which facilitate the efficient conducting of external elections cycle to cycle.

⁴⁴ Wellman, Allen, and Nyblade, "The Extraterritorial Voting Rights and Restrictions Dataset (1950–2020)."

⁴⁵ Erben, Goldsmith, and Shujaat, "Out-of-Country Voting."

⁴⁶ Ellis et al., *Voting from Abroad: The International IDEA Handbook*, 118.

⁴⁷ "34. - Diffusion and Practice of External Voting in North and West Africa" (Switzerland: International Organization for Migration, September 16, 2020), Policy Commons, <https://policycommons.net/artifacts/1724478/34/>.

⁴⁸ Ellis et al., *Voting from Abroad: The International IDEA Handbook*.

⁴⁹ Ellis et al.

⁵⁰ Ellis et al.

⁵¹ Aman and Bakken, *Out-of-Country Voting*.

Similarly, for effective implementation, there must be a high level of collaboration between home-country government agencies, namely the Ministry of Foreign Affairs and the EMB.⁵² The Ministry of Foreign Affairs is often tasked with compiling the lists of voters abroad, using consular registration data, as well as data supplied to them by host country governments. This information is provided to the EMB, which uses the information to determine polling locations and carry-out managing some of the operational aspects of the external election, including the sending of election materials and equipment. The EMB can also enlist other home-country agencies with representation abroad, such as trade offices, to assist in the communication of election information. The EMB, as the agency ultimately responsible for conducting elections, has a responsibility for creating coalitions and effectively communicating their requests to all relevant parties.⁵³ Confusion and ineffectiveness can occur when there are not clear regulations and procedures which define the roles of the agencies which manage external elections.

There are specific considerations for opening extraterritorial, or neighborhood, polling stations (those beyond diplomatic bureaus) for in-person external elections. This, again, requires a significant amount of negotiation between the host country and home country. On top of the diplomatic challenge, the logistical and informational challenges are cumbersome.⁵⁴

Often, EMBs do not have accurate or precise data about non-resident citizens in their countries of residence. This limits the EMBs ability to place polling stations in the most efficient locations for external voters to visit. This lack of knowledge can be overcome through effective MFA initiatives which locate diaspora citizens. Senegal and Cape Verde have conducted external censuses themselves.⁵⁵ Conducting external censuses has allowed their respective EMBs to have a more granular picture of their diasporas, and where they are located. These censuses have been instrumental in the opening of more accessible polling locations during external elections. For example, Senegal, which began conducting a comprehensive census of citizens abroad in 2009, opened 809 polling stations abroad, in 51 countries for its 2024 presidential elections.⁵⁶ This represents a high level of inclusivity and accessibility for Senegalese voters abroad. Overall, the more polling stations opened abroad the more accessible voting is for diaspora populations.

Once the EMB knows the locations of the polling stations, they must staff them. In the case of Moldova's 2014 parliamentary elections, where there was a large increase in the number of extraterritorial polling stations, the electoral management bodies found it difficult to find and train electoral staff for the Precinct Electoral Bureaus (PEBs).⁵⁷ According to expert comments by the Venice Commission, political parties found it difficult to find non-political candidates to nominate and the staff

⁵² Aman and Bakken.

⁵³ Aman and Bakken.

⁵⁴ Jean-Michel Lafleur, "Transnational Politics and the State: The External Voting Rights of Diasporas," *Transnational Politics and the State: The External Voting Rights of Diasporas*, January 4, 2013, 94, <https://doi.org/10.4324/9780203077283>.

⁵⁵ Ismaila Madior Fall et al., *Election Management Bodies in West Africa: A Comparative Study of the Contribution of Electoral Commissions to the Strengthen* (African Minds, 2016), <https://doi.org/10.47622/9781920489168>; Etienne Smith, "Diaspora Policies, Consular Services and Social Protection for Senegalese Citizens Abroad," in *Migration and Social Protection in Europe and Beyond (Volume 3): A Focus on Non-EU Sending States*, ed. Jean-Michel Lafleur and Daniela Vintila (Cham: Springer International Publishing, 2020), 289–304, https://doi.org/10.1007/978-3-030-51237-8_17.

⁵⁶ "Elections in Senegal: 2024 Presidential Elections," February 28, 2024, <https://www.ifes.org/tools-resources/election-snapshots/elections-senegal-2024-presidential-elections>.

⁵⁷ Lurie Ciocan and Nicolae Esanu, "COMMENTS ON ELECTORAL LISTS AND VOTERS RESIDING DE FACTO ABROAD CASE-STUDY: MOLDOVA," Case Study (Strasbourg: EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), March 9, 2015); "SUMMARY REPORT ON VOTERS RESIDING DE FACTO ABROAD," Summary Report (Strasbourg: EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), December 21, 2015).

of the diplomatic core was too small to cover all external polling stations.⁵⁸ 1034 PEB officials were nominated for the 2014 elections.⁵⁹ 28% were nominated by the Ministry of Foreign Affairs, 45% by the EMB through consultation of the registry of election officials, and another 27% by political parties and organizations.⁶⁰ This broad mix of responsibility for appointing PEB members shows the amount of inter-agency collaboration needed to administer an external election. The participation of various stakeholders also helps to decrease the likelihood for a biased composition of PEBs officials. Connected to the appointment of electoral officials abroad, is the need to train them.

The members of Moldova's PEBs abroad received training from the Center for Continuous Electoral Training, which had been recently established, and is said to have increased the professionalism, quality, and diversity of the electoral training process.⁶¹ The participants in these programs were evaluated, certified, and then included in the EMB's Register of Electoral Officials.⁶² Through the establishment of a particular body responsible for the training of electoral staff and providing that organization with the necessary resources to effectively train electoral officials abroad, has helped Moldova in its process of securing legitimacy, capacity, and sustainability in its external elections.

Another operational necessity is to inform the citizens residing abroad of the relevant election topics, including proper registration, deadlines, and polling stations.⁶³ It is important to foster continuous engagement with diaspora voters in order to have an informed voting public. This can be a particular challenge when diaspora populations have differing levels of access to information.⁶⁴ EMBs may decide to collaborate with host-country governments and institutions in order to run information campaigns that reach as many prospective voters as possible.⁶⁵ This strategy can be especially effective if the diaspora population is concentrated in a few countries abroad, with which the home country has strong diplomatic relations.⁶⁶ In other situations, informational campaigns may be much less far-reaching due to practical limitations.

Although the challenges of implementing elections abroad are vast, Wellman argues that politics is the decisive factor.⁶⁷ Wellman draws on the example of South Africa, which shows that voter access decreased during the elections in which the incumbent party perceived that the diaspora vote was likely to vote against them.⁶⁸ In comparing the 1994 and 2014 parliamentary elections, Wellman found that the decline from 187 polling stations abroad in 1994 to 124 in 2014 was due to incumbent party perceptions of diaspora support.⁶⁹ In Wellman's broader analysis, she argues that de facto voter rights are expanded or restricted based on incumbent parties' political interests. Ultimately, a restriction of access amounts to voter suppression for citizens abroad.⁷⁰

⁵⁸ Ciocan and Esanu, "COMMENTS ON ELECTORAL LISTS AND VOTERS RESIDING DE FACTO ABROAD CASE-STUDY: MOLDOVA."

⁵⁹ Ciocan and Esanu.

⁶⁰ Ciocan and Esanu.

⁶¹ Ciocan and Esanu.

⁶² Ciocan and Esanu.

⁶³ Erben, Goldsmith, and Shujaat, "Out-of-Country Voting," 27.

⁶⁴ Ellis et al., *Voting from Abroad: The International IDEA Handbook*.

⁶⁵ Ellis et al., 144.

⁶⁶ Ellis et al., 144.

⁶⁷ WELLMAN, "Emigrant Inclusion in Home Country Elections: Theory and Evidence from Sub-Saharan Africa."

⁶⁸ WELLMAN.

⁶⁹ WELLMAN.

⁷⁰ "Voter Suppression Goes Global, with Elizabeth Iams Wellman — Scope Conditions Podcast," Scope Condition Podcast, accessed April 10, 2024, <https://www.scopeconditionspodcast.com/episodes/episode-12-voter-suppression-goes-global-with-elizabeth-iams-wellman>.

There are multiple methods by which incumbent parties can restrict voter access through institutional manipulation.⁷¹ According to Van Ham, these include, “manipulation of the legal framework, the electoral system and the electoral management body.”⁷² If there is significant opacity in the law around external voting, a captured EMB could restrict voter access by citing the challenges of external elections previously mentioned, including cost, capacity, and logistical concerns. For example, in Moldova’s 2014 elections there was significant criticism of the EMB for limiting the number of polling stations in the Russian Federation.⁷³ The lack of transparency in the decision-making around where to open polling stations contributed to the idea that the EMB sought to restrict voter participation in Russia.⁷⁴ The Venice Commission highlights the concept of reducing arbitrariness in the decisions around polling stations by incorporating procedures into law rather than leaving such choices to internal administrative regulations.⁷⁵ Therefore, legislating clear rules for the scope and scale of external voting procedures may be an effective means of regulating an incumbent party’s ability to expand and restrict external voter access on the basis of political strategy.

CONCLUSION

Voting rights for citizens residing abroad are more important than ever. The levels of global migration have led many to re-think what it means to be a citizen abroad.⁷⁶ The ties people maintain with their countries of origin have been strengthened by technological progress, which has collapsed distance in some ways. More attention is being paid to the importance of this segment of voters globally.

The legal requirements to participate in elections vary across countries, but can contain requirements around residency and period of absence. These requirements are designed with the intention of making sure that the voters are likely to have strong links to their country of origin. Yet, many countries only require external voters to be citizens of voting age, seeing it as a fundamental political right.

The implementation of external voting is another matter, where the challenges associated with voting abroad ultimately result in inadequate services provided to external voters, as compared to in-country voting. EMBs face challenges in collaborating with necessary partners, financial capacity, and logistical capacity. They often lack clear information about where voters abroad reside and have short time frames in which they must open polling stations, place election officials, and send relevant supplies.⁷⁷ These challenges all result in lower access for voters abroad.

Politics is the other decisive factor in the level of external voter access. There is strong evidence that incumbent parties will use whatever methods available to expand or restrict external voter access depending on their beliefs about diaspora support.⁷⁸ Research has shown that when an incumbent party believes that the diaspora will be unsupportive of their party, that party will restrict voter

⁷¹ Carolien Van Ham, “Choosing from the Menu of Manipulation Explaining Incumbents Choices of Electoral Manipulation Tactics,” *SSRN Electronic Journal*, 2016, <https://doi.org/10.2139/ssrn.2788475>.

⁷² Van Ham.

⁷³ “OSCE/ODIHR Election Observation Mission Final Report - Republic of Moldova Parliamentary Elections, 30 November 2014” (Warsaw: OSCE/ODIHR, March 10, 2015), 7.

⁷⁴ “OSCE/ODIHR Election Observation Mission Final Report - Republic of Moldova Parliamentary Elections, 30 November 2014.”

⁷⁵ “REPUBLIC OF MOLDOVA - JOINT OPINION ON THE DRAFT ELECTORAL CODE” (Strasbourg / Warsaw: Venice Commission and OSCE/ODIHR, October 11, 2022).

⁷⁶ Lafleur, “Transnational Politics and the State: The External Voting Rights of Diasporas.”

⁷⁷ Ellis et al., *Voting from Abroad: The International IDEA Handbook*.

⁷⁸ WELLMAN, “Emigrant Inclusion in Home Country Elections: Theory and Evidence from Sub-Saharan Africa.”

access by decreasing the number of polling stations abroad or tightening voter identification and registration requirements.⁷⁹ The incumbent party can achieve this through the passage of politically motivated legislation or through the capture of electoral institutions. In order to decrease the ability for incumbent parties to politically influence the decisions around external voting, clear procedures designed to reduce arbitrariness should be legislated.

External voting is increasingly accepted as a fundamental political right around the world. On top of that, international IDEA claims that, “HRC and CMW jurisprudence calls upon states to take all necessary measures to ensure that these citizens can cast their vote under the same safeguards as those voting in country.”⁸⁰ This means home governments should implement external elections with the same care for free, secret, equal, and universal suffrage as they do for domestic elections. It is an ever increasingly globalized world, with migrants living in record numbers abroad. The rights diaspora populations hold in their countries of citizenship create an obligation for governments to safeguard them. Whether the ballot is cast from home or abroad, the ability to vote in practice ought to be afforded to all those who possess the right to do so.

⁷⁹ WELLMAN.

⁸⁰ Leandro Nagore de Sousa, Domenico Tuccinardi, and Manuel Wally, “International Obligations for Elections: Guidelines for Legal Frameworks” (Stockholm: International IDEA, 2014).