

Lebanese Emigration Research Center



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Absentee Voting Survey: Laws + Practice White Paper

Working toward an Absentee Voting Law for Lebanon

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Voting-I

Presented to

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I) Introduction

Democratic societies base the legitimacy of their governments on fair and free elections. Throughout the 20th century, discriminatory electoral systems and policies have been gradually eliminated on a global scale. Exclusion from the electoral process because of race, religion, sex, disabilities, income, education or geographical origin has largely been abandoned in the industrial democracies of the West. Attempts have also been made to lower the voting age in order to include the young. In some regions, e.g. the European Union, non-nationals are allowed to vote in local, and, in some cases, even regional and national elections.

This process of inclusion in the electoral process goes hand-in-hand with the introduction of absentee (often referred to as overseas or out-of-country) voting, especially in countries with significant expatriate or diaspora populations. The main reasons for leaving the country include 1) military service (e.g. USA, UK, India), 2) labour migration (e.g. Algeria, Mexico, Turkey, Philippines) and 3) forced migration because of military conflicts, political oppression or natural catastrophes (e.g. Bosnia, Iraq, Zimbabwe, Sri Lanka).

Inclusion and Electoral Reforms

Attempts to include all members of a country's population in the electoral process can be based on the universal principals of constitutionality, basic human rights and fairness, or on utilitarian considerations such as the facilitation of remittances, the encouragement of return migration ("braingain") and the integration of affluent and influential diaspora populations in domestic politics. For whatever reason, internationally, absentee voting has become the norm in both the traditionally democratic states of Europe, North America and Australasia, as well as many recently developed countries in the so called "Third World."

According to studies carried out recently by the major pro-democracy and election monitoring NGOs and IGOs, e.g. IFES, IDEA, EPIC and UNDP, almost half the

countries in the world now permit their civilian population, residing abroad on election day, to participate in elections (<http://epicproject.org/ace/compepic/en/VO04>). However, considering that China does not permit absentee balloting (and free elections for that matter) at all and India limits overseas voting to its military personal and diplomatic staff, the majority of the world's population is still excluded from the right to vote outside the country. Other countries that ban overseas voting completely include (in alphabetical order) Albania, Cambodia, Egypt, Guatemala, Pakistan, Jordan, Macedonia, Palestine, Sudan, Sri Lanka, Zambia and Zanzibar. The following Arab countries permit absentee voting: Algeria, Bahrain, Iraq, Morocco, Tunisia, Yemen. Out-of-country voting is not permitted in Lebanon according to the currently valid 2000 election law.

Technology and Globalisation

Large scale international migration, the effects of globalisation and the introduction of universally compatible ICT systems worldwide have, on the one hand, forced the absentee voting issue to the political forefront in many countries, and on the other, have eliminated the technical difficulties related to voting secrecy, dissemination of information and prevention of corruption. Today, expats move back and forth between their countries of origin and their host countries with great ease and frequency. Personal, financial, career related and political ties are maintained through the introduction of migration networks which closely knit villages, towns and urban centres throughout the world. Diaspora communities have demonstrated their continuous interest in politics both on the national and local levels in the "old country" and the new. Significant remittance-based investments also give them the financial clout to influence the decisions made by their families at home.

Democratisation

The ongoing democratisation process in the MENA region now means that fair and free elections are becoming more common on the national and local levels. Along with the inclusion of women, minorities, the young and people with disabilities in the electoral process, measure are now being taken in many countries to integrate emigrants, refugees and the second and third generation diaspora communities abroad.

Policy Implementation

As they say, "the proof of the pudding is in the eating." Even the best election laws mean very little if they are not implemented properly. One of the key hindrances to political and economic reform in the MENA region is the lack of proper execution of the law by a transparent and accountable executive branch, monitored by a free parliament and an independent court system. Any reform of electoral laws targeting the inclusion of women, protecting the rights of religious and linguistic minorities, guaranteeing access to people with disabilities and extending suffrage to the diaspora will have to be measured by its implementation on the ground over time.

Structure of this Survey

This whitepaper will attempt to put discourse on the introduction of absentee voting in Lebanon in an international perspective. In the following section, the basic technical questions involved in voting abroad will be introduced and discussed based on the hands-on experience of countries which have already introduced absentee balloting. In chapter three, the controversial issues surrounding electoral inclusion of immigrants, refugees and the diaspora in general will be presented and illustrated, according to the most common arguments used for and against absentee voting.

Country-by-Country

Chapter four will illustrate the wide spectrum of problems and issues related to the introduction of voting abroad by briefly dealing with various aspects of this field of electoral reform on a country-by-country basis. Much of this material is anecdotal and is being introduced for purposes of illustration only. Finally, in chapter five, the discussion in Lebanon will be introduced based on position papers, public statements and media reports, which were readably available at the time data was collected for this survey, i.e. up to the end of November 2005.

II) Voting Categories

A) Eligibility (age, citizenship, duration of absence, reason for absence, registration, dual-loyalty)

Reason for absence

Countries that have introduced absentee voting restrict participation based on a wide variety of considerations. Most common is the limiting of the franchise to members of the military and the diplomatic corps. This reflects the original reason for the introduction of absentee voting, i.e. the need to include occupation soldiers, mainly from the US and other allied countries, following World War I and II. Several countries still restrict voting to soldiers and diplomats, e.g. Ireland and Zimbabwe, or to their diplomatic staff exclusively, e.g. Georgia and Madagascar. On the other hand, the Philippines only permits its labour migrants to vote if they sign a declaration declaring that they do not plan to leave the country permanently.

Dual Loyalty

The Philippines also excludes dual nationals from participating in Philippine elections via absentee voting. The dual loyalty issue has been brought up over the decades in the United States with respect to Roman Catholics, who were until recently accused of a conflict of interest between the Vatican and the United States. With respect to absentee voting, American-Israelis are seen as being potentially disloyal to the US. US citizens living in the Arab countries have to date not been able to develop the same voting potential, this running parallel to the continued weakness of the Arab-Americans as a voting block within the United States. However, the "urban myth" that voting in elections in the Middle East as a dual national can lead to the loss of American citizenship is, according information provided by the Democrats Abroad USA, completely erroneous.

Reforming Dual Citizenship in the United States: Integrating Immigrants into the American National Community, October 2005
Center for Immigration Studies, Stanley A. Renshon,

<http://www.cis.org/articles/2005/dualcitizenship.html>

Voting in Foreign Elections

Voting is one of the essential elements of citizenship and a critical part of belonging to a political community. It both reflects and gives voice to one's stake in the community, while at the same time symbolizing one's membership in it. The United States has historically taken this set of citizen responsibilities and entitlements very seriously.

There are many bodies of evidence that support the centrality of voting for citizenship and community membership. The Constitution and American courts⁶ enshrine voting. The expansion of voting rights has been a critical element of American democratic practice beginning with the country's earliest history of expanding the right to non-property holders, through struggles for women's suffrage, and more recently the post-15th Amendment struggle for African Americans. Voting could hardly be more central to American community membership.

Voting is also at the heart of many discussions of civic responsibility and laments regarding its decline. It is the centerpiece of a major dimension of the study of political science both in this country and abroad. And, finally, it is central to the process through which immigrants become citizens. We ask immigrants to await an application and review process and a five-year period of time in this country before they can exercise the right to vote.

Bruce Fein writes that, "Approximately 60 countries permit expatriates or migrants to vote via absentee ballots, including Venezuela, Columbia, Brazil, and Honduras."⁷ Immigrants from these countries to the United States number in the millions. However, not everyone thinks that having Americans vote in foreign elections is a problem. In an otherwise thoughtful analysis, Schuck argues that it is "unproblematic ' so long as this participation does not embroil the United States in unwanted disputes with the other country that involve situations in which the voter subordinates the interests of the United States to the other country'."⁸ Schuck does not specify the kind of circumstances he has in mind, but they presumably involve situations where the U.S. and country X have a disagreement and American nationals from that country vote in a way consistent with their home country's interest and not those of the United States.

The basic problem with Schuck's position is that the conflicted attachments that underlie his concern about American citizens voting in foreign elections leading to conflicts have equally worrisome implications for American *domestic* politics and the community attachments that underlie them. American citizen nationals from country X may be tempted to vote in ways consistent with their home country's interests in measures or votes brought before the American people for resolution. Country X, for example, may want its languages to be the language of instruction at school, whereas American community interest would be for all its members to be fluent in English. Multiple and conflicted attachments are a problem at home, as well as abroad.

The enormous increase in the number of countries allowing dual citizenship is closely associated with the recognition by foreign governments that there are economic and political advantages to doing so. Princeton sociologist Alejandro Portes has written, "Consulates of Mexico, Columbia, El Salvador, Guatemala, and the Dominican Republic in areas of their concentration of their respective nationalities in the United States have

taken to promoting the acquisition of U.S. citizenship or at least permanent residence of their nationals. From these policies, it is clear that sending governments do not want their immigrants to return, but rather to achieve a secure status in wealthy nations "*from which they can make sustained economic and political contributions in the name of patriotism and home town loyalty.*"⁹

Those countries realize that voting is one principal way of organizing and extending their influence and of reestablishing and reinforcing immigrant ties to their "home" countries. And voting does not entail simply marking a ballot or pulling a lever, it is preceded by a campaign. When Mexico was considering whether or not to encourage dual citizenship for its nationals abroad (primarily in the United States), it conducted a study of the possible benefits. That study envisioned a scenario in which "Thousands of Mexican election officials have fanned out across the United States to supervise the balloting, which caps a campaign in which candidates have barnstormed through Mexican population centers, lambasting United States immigration, narcotics, and other policies unpopular in Mexico."¹⁰

Up until 2005 the numbers have not been as high as the Mexican government study scenario envisioned. However, part of the reason for this is that Mexican nationals had to return to Mexico in order to vote. No more. In June 2005, the Mexican government passed a law allowing absentee voting for its nationals abroad.¹¹ A few days later a story in the *New Times* carried the headline "Mexican Expatriates in U.S. Cheer Vote Law."¹² There is no doubt that the United States has and will become more of a campaign arena for foreign governments.

Because the election process also involves extensive campaigning, this too is a means of reinforcing and cementing immigrant ties to "home" countries. *The Washington Post* wrote, "Eager to reach their countrymen living in the United States, Mexico's two main opposition presidential candidates are barnstorming through Southern California as if it were Mexico's 32nd state."¹³ It is increasingly the case that the candidates of other countries actively campaign in the United States for financial and other kinds of support. When Vicente Fox campaigned for the Mexican presidency, he campaigned in Mexican communities in the United States.¹⁴ In 2000, Francisco Labastida, presidential candidate of the Institutional Revolutionary Party (PRI), appeared on the *Washington Post's* Live Online, an Internet Q&A, to campaign among his countrymen in the United States.¹⁵

This process has even spread to the state and local level for Mexican politicians.¹⁶ In 1998, candidates Ricardo Monreal and Jose Olvera rivals for the governorship in the central Mexican state of Zacatecas campaigned in California, where thousands of people originally from that state live and work.¹⁷ That same year, Mexico City Mayor Cuauhtemoc Cardenas Solorzano was in Chicago to inaugurate the first U.S. branch of Mexico's Party of the Democratic Revolution.¹⁸ A coalition "Mexicans Living Abroad" brought together Mexicans living in California, Texas, Iowa, and Illinois to press the Mexican government for the right to vote in Mexican elections.

Moreover, governments are increasingly taking affirmative steps to ensure that their nationals abroad vote in "home" elections. In Mr. Fox's 2000 presidential campaign, his National Action Party and Cardenas's Party of the Democratic Revolution organized caravans to take Mexican immigrants to polling places in Mexico from cities as far-flung as New York and Yakima, Wash.¹⁹ With the new absentee voting law, this will no longer be necessary and energy and attention can be better paid to getting out the Mexican vote in the United States.

These initiatives are now not confined to Mexico. In the 1999 Israeli elections, both major parties chartered jets to fly dual citizens to the polls in Tel Aviv.²⁰ Elsewhere, more than 50,000 Dominican immigrants, many of them U.S. citizens, are registered to vote in the Dominican Republic. In May 2003, they were able to vote in a Dominican election from the United States, forming long lines at the 16 polling booths set up in New York alone.²¹ In the 2004 Ukrainian presidential election, consulates in four U.S. cities were designated to receive the votes of American citizens of Ukrainian descent.²²

Voting Abroad: Some Issues

Voting is a critical and basic right of membership in any democratic community, but perhaps especially so in the United States. There it is, as noted, an absolutely integral part of democratic theory and American political development. With that right, however, comes great responsibility. Citizens are asked to give their informed choice, not just their vote. They are asked to frame their vote through the lens of national community interest, not merely self interest. It has been assumed for many centuries that the "national community interest" spoken of here is in fact the interest of the American national community, not the interest of a foreign country. Trying to do justice to both community and self interest in a citizen's voting decisions is hard enough. Throwing in the interests of a citizen's country of origin places too much unnecessary and counterproductive weight on top of what is already a difficult set of citizen calculations.

It is said that allowing American citizens to vote abroad will encourage democracy. Yet a review of the evidence suggests this is not necessarily the case. Americans who vote in foreign elections do so to further what they see as their own self-interest.²³ The idea that immigrant communities will necessarily foster democracy overlooks the fact that *many* political parties and interests in the "home country" are now seeking to organize their nationals abroad. Some of these groups are indeed democratic, as most Americans understand that word. However, some are not. During the civil war in El Salvador, the Marxist guerilla group FMLN "organized the Salvadorian communities abroad for solidarity and support activities."²⁴

Elections as Emotional Bonding Mechanisms

Advocates argue that the United States ought to encourage dual citizens to vote in the elections of their "home" countries as one way for America to be more welcoming of new immigrants. The question is whether this is the kind of welcome doesn't carry with it the seeds of an emotional good-bye. Are policies that facilitate continuing intense attachment to another country the kind of welcoming policies the United States ought to encourage?

Before addressing that question, it is worth considering why voting became so central to American democratic development. One clue is found in the fact that it was not only the lack of representation that caused the rupture with England, but also the lack of the participation that was its foundation. One could, of course, have representation without participation. England's appointed viceroys and governors were examples. Future Americans, however, wanted participation to lead to representation, not to have the two divorced from each other.

In trying to separate participation and representation, England made a strategic mistake of the first rank. Political participation, especially around the exercise of voting choice and exercise of one's political voice, not only reflects attachments; it also helps create them. Taking part in a collective civic exercise, sanctioned perhaps idealized is a better word by a national community is part of a shared experience that helps to generate and maintain ties to that community.

Ginsberg and Weissberg found empirical evidence of participation's effects in an analysis of national survey data examined in 1968 and 1972.²⁵ They tested the proposition that one function of voting is to generate support for the government, independent of particular policies or whether a person's preferred candidate won or lost. They found that participation itself was strongly associated with an improvement in the extent to which citizens view the government as responsive even if their candidate didn't win.²⁶ They conclude, "Though elections are usually conceived as instruments of popular control, we have seen that American elections can also serve to mobilize citizen support for leaders and the regime itself. It is in the area of regime support that we find the clearest impact of elections."²⁷

The emotional bonding function of participation underlies the arguments that were made for expanding the suffrage over the course of American history. A lack of standing as a full citizen who could vote was viewed and experienced as unfair and alienating, as well as being morally, politically, and ethically suspect. Anger and alienation, of course, impede attachment, rather than facilitate it. On the other hand, participation is emotionally bonding. Those able and willing to participate feel more closely connected with the political community and way of life that supports it.

This is, not incidentally, the same reasoning that has led observers in Iraq to propose that, even though the Sunni Muslims chose not to take part in the early national elections, they still be brought into the political process in the allocation of parliamentary seats and the writing of the new Iraqi constitution. The psychological principle underlying both examples is quite clear: Participation as a legitimate member of a community develops and reinforces the ties to that community. The mechanism is the same whether we are speaking of new citizen ties to the American community, Sunni ties to the new Iraqi national community, or American dual citizens' ties to their countries of origin.

Knowledge of Different Political Universes?

Advocates for allowing Americans to vote in foreign elections say that it is possible to be a fully informed citizen of two countries. This is among the weakest of the arguments for multiple voting. There is no evidence that immigrants have mastered the information necessary to exercise responsible citizenship and voting in two cultures. Indeed, there is a great deal of evidence that suggests just the opposite, that it is increasingly difficult even for Americans to be considered informed citizens in their own country, much less to be substantially informed about two countries.

The following questions could be asked of everyone, more recent and older Americans alike, of almost any campaign, with sobering consequences: Did they pay close attention to the campaign? Did they read the news analyses? Did they hear or follow all the debates? Are they familiar with the details of the candidates' positions? Have they looked into the major issues themselves, not depending on candidates' views of them? As the *The Washington Post* put the matter, "it is fair to ask whether the desired quality of a citizen's genuine commitment to his country can be reinforced by anything short of full and undivided political allegiance to one sovereign, as expressed by the solemn act of voting."²⁸

Some argue that immigrants do as much in following the elections in their home countries as Americans do for theirs, which is to say some, but not a lot. Others point to the low level of information that Americans bring to their election choices and ask why immigrants should be held to a higher standard. The first argument isn't convincing because the question is not whether immigrants have the same level of understanding of their home country politics as Americans have of theirs, but whether it is possible to have

good enough knowledge of *two* different political systems, the American and the "home" country's.

The second argument is also unpersuasive, but for different reasons. Here the unstated premise is that low levels of understanding are fine for *both* immigrants and Americans. That is hardly an effective point in favor allowing American dual citizens to vote in foreign elections. The point is not whether immigrants are as ill-informed as Americans, but whether it is possible to be well informed about two different electoral systems and contents, and whether given limits of time, attention, and understanding, we ought to prefer *all* Americans to be knowledgeable first about their own system of government and election issues.

There is one other difference between native-born and immigrant Americans that is relevant to this particular argument, but rarely mentioned. Being born and raised in a culture gives one a foundation of understanding. The average ill-informed American college student has nonetheless lived in the country for 20 years, been exposed to its political culture for the same period, and lived through numerous local state and national elections and the events and issues that have been a part of them. It is likely that immigrants who come here as young adults and older do know more about their home countries' politics and culture, but that is no essential advantage here.

The politics of the Dominican Republic or familiarity with Indian politics are not a necessary or even useful template for American politics. In some ways, immigrants must learn not to interpret what they see the United States through the frames of reference they are used to. They must unlearn their past, as well as acquire new, more appropriate frames for their new country's politics. It is no easy matter.

The informed citizen is the basic foundation of democratic process.²⁹ If citizens don't know or won't learn the history and understand the policy dilemmas they face, a linchpin of democratic government has been lost. Widespread ignorance or historical amnesia is all the more dangerous at a time when the United States and its citizens must address the complex domestic issues of diversity and the dangers of catastrophic terrorism.

What do citizens in this country need to understand and appreciate? It would be helpful to have some knowledge of the ways in which the ideals of personal, religious, political, and economic freedoms motivated those who founded this country and those who followed. It would be useful to be familiar with the courage, determination, self-reliance, optimism, and pragmatism that accompanied those motivations. It would be important to know when and why they lived up to these ideals, as well as when they didn't.

These are not matters for immigrants alone. They apply equally to current and prospective citizens. Yet we are failing badly in both groups on these matters. The "test" for citizenship taken by immigrants requires knowledge of a number of disjointed facts requiring little, if any, knowledge of the traditions, political and psychological, that have shaped this country. Many thousands become citizens and require translations of ballots on which they cast their vote. It is hardly likely that these citizens have followed the complex pros and cons of these policy issues³⁰ since they don't well understand the language in which these debates are conducted. More likely, they gain their information from advocacy groups who have a very particular point of view, but one not based on dispassionate presentation of the issues so that new voters can make up their own minds.

Advocates of multiple citizenships assure that it is possible and desirable for Americans to be well versed in the culture, history, language, and political debates of other countries. As a general aspiration, this is certainly uncontroversial. A problem arises, however,

because there is overwhelming empirical evidence that children in American schools are not learning very much, very well, about their own country. Both citizens and immigrants fail badly on indicators of deliberative knowledge.

Consider that the Pew Research Center for the People and the Press reported that in 1996, "a quarter of those they surveyed said they learned about the presidential campaign from the likes of [Jay] Leno and David Letterman, a figure rising to 40 percent among those under 30."³¹ Not surprisingly perhaps in view of those figures, other national studies show that American schools are losing ground in what might well be considered the most basic element in preparing young persons for their role as citizens having a foundation of knowledge about the country in which they live and the political institutions that are the foundations of its freedom and way of life.³²

A national survey conducted by the National Constitution Center found, "only 6 percent can name all four rights guaranteed by the First Amendment; 62 percent cannot name all three branches of the Federal government; 35 percent believe the Constitution mandates English as the official language; and more than half of Americans don't know the number of senators."³³

The National Assessment of Educational Progress (NAEP) Report Card in Civics is a major test of subject knowledge for 4th, 8th, and 12th graders. The 1998 NAEP national surveys and "civics report card," divided scores on knowledge and proficiency into four groups: Below Basic, Basic, Proficient, and Advanced. At each of the three grade levels tested (4th, 8th, and 12th), Basic was defined as having "partial mastery and skills that are fundamental to proficient work at each grade," while Proficient was defined as representing "solid academic performance."

So how many students at each grade level were "Proficient" or even better "Advanced"? Not many. In 4th grade, only 25 percent scored as Proficient or Advanced, which means, of course, that 75 percent did not reach proficiency. In 8th grade the figures were 24 percent for Proficient or Advanced, and in 12th grade the figures were 30 percent for the two categories. These are composite scores and do not directly report the disparities by race and ethnicity that are, if anything, even more troubling. E.J. Dionne characterized the results as "a national scandal," but it is worse than that because, "When the country began establishing public schools in the last century, the whole idea was that freedom depended on an educated citizenry. Civics wasn't an add-on. It was the whole point."³⁴ Historical amnesia³⁵ and civic ignorance are dangerous to democracies that depend on their citizens' knowledge, perspective, and judgment. Without those virtues, a balanced perspective and understanding of one's country is not possible, and thus neither is an appreciation of, a pride in, and a commitment and responsibly toward this country, patriotism in short, possible.

Is it legitimate to hold immigrants to a standard unmet by citizens? It would seem that ignorance among the latter is not a good reason to support it for the former. Certainly, there is a legitimate case to be made for asking those seeking citizenship to be conversant with the traditions and practices of the country to which they are asking for entry. Yet, of course, the implications of these data are troubling for Americans and immigrants alike not only the latter.

Americans do not have, and are not acquiring, the levels of basic information and proficiencies that are essential to living in and supporting a democratic republican form of government. These deficiencies apparently extend from our average students to our "best and brightest." They raise severe questions about whether American children will have the tools to shoulder the responsibilities of living in and helping to guide the United

States through dangerous and difficult times. And they certainly don't give much comfort to those who believe it is no difficult matter to be sufficiently versed in the history, politics, and policies of two cultures. It remains to be seen whether it is truly possible to be conversant with the traditions and policy debates of two countries. Evidence keeps mounting that doing so even in one country is a task beyond the reach of increasing numbers of American citizens.

That fact however, does not argue for lower standards. On the contrary, the informed exercise of citizenship plays such a central, critical role in this democratic republic that it is extremely inconsistent for advocates to push more liberal dual citizenship policies in the name of furthering democracy, while at the same pushing for standards of knowledge and commitment that undermine it.

The dilemmas here are well captured in the work of David A. Martin, who underscored that, "Democracy is built on citizen participation, and its ideal is meaningful participation of an engaged and informed citizenry. This presupposes a certain level of devotion to the community enterprise, to approaching public issues as a unified community, even while leaving much to individual choice in deciding on the aims the polity should pursue or on specific policies to address specific public issues."³⁶

While Martin at first showed some sympathy to dual citizenship, he did go on to conclude that, "It must be conceded that the claims made..., If pushed to their limits, would argue strongly against dual nationality in the first place. If focusing primary political activity in this fashion [by allowing the right to vote in only one place] carries such benefits for solidarity, democratic engagement, and civic virtue, how much more could these goods be expected to flow from channeling *exclusive* political activity? And the point is even strong if the person, by surrendering, or being required to renounce, all other national ties, has thereby forsworn the use of the exit option when policies do not turn out as she favors."³⁷

Dual Votes Without Dual Responsibility

Martin points out that, "As the globe shrinks and international cooperation increases, political decisions made by other nations have an increasing effect outside their own borders. Human beings are generally represented in these settings by elected national political leaders, or by their delegates. A person who has a say in selecting two or more sets of those leaders secures an advantage."³⁸

However, the issues go deeper than whether select groups have a larger voice through multiple voting. There is also a very large issue of who bears the consequences of second, foreign votes. Certainly, not the dual citizens who continue to live in the United States while voting abroad.

Israel is a good example of this issue. In their 1999 elections, the two parties stood for very divergent policies with regard to the security of that country. Yet every American Jew who voted in that election, whether left or right in their political views, would not be in Israel for the consequences. It was, in effect, a free ride from the real responsibility that comes with living where the consequences will be most directly felt. Living with the consequences of your choice is one mechanism that helps to ensure focus and perspective.

This issue is not confined to foreign elections that have life or death implications. In June 2003, Americans of Polish descent went to the polls to vote on the issue of whether or not Poland should join the European Community. One local observer of the Chicago Polish

community wrote, "Some wish that residents with Polish roots would show the same enthusiasm about Chicago elections as they have about this one."³⁹ That article continued, "Polish names once figured prominently in city politics. Among the best known was Dan Rostenkowski, the former House Ways and Means Committee chairman. But that clout is waning as local Poles move to the suburbs and focus their attention on money instead of politics. 'Polish mothers don't raise their children to be alderman,' said Aurelia Pucinski, a former clerk of Circuit Court in Cook County. 'They raise them to be businessman. Unlike other ethnic groups, the political process is not something they see as important in their lives.' That has not been true with this issue."⁴⁰

One might reasonably ask why Americans of Polish descent who have been in this country for generations are voting on major policy in another country on another continent. A likely answer is: Because they have an interest and connection with their former communities. Yet that answer raises a further question: Is it not possible to have an interest and a connection without voting in another country's elections? Of course, it is.

The increasing use of the United States as an election arena for foreign nationals and nations is a real problem. It drains attention and attachment away from immigrants becoming more integrated into the American national culture. The question is what to do about it.

What to Do?

Some find the idea of American citizens voting in foreign elections and otherwise associating themselves with foreign governments contrary to America's best interests and want to take strong remedial steps. Constitutional lawyer Bruce Fein argues that "Americans who vote in a foreign election, occupy any office in a foreign state, enlist in a foreign army, attempt to overthrow the U.S. government, or otherwise affirm allegiance to a foreign nation should forfeit their citizenship."⁴¹ The problem with that approach is that the Supreme Court ruled 5-4 in *Afroyim v. Rusk* (1967) that Americans could not lose their citizenship for voting in a foreign election. Fein's solution: "Congress should either propose a constitutional amendment to overcome *Afroyim*; or, enact legislation that deletes the specific intent requirement in the expectation that the high court will reconsider the precedent."⁴² The problem with this approach is that passing a constitutional amendment is difficult at best, and one can anticipate howls of outrage at what will be argued is a punitive "anti-immigrant" measure. Moreover, having Congress pass a measure specifically framed to have the Supreme Court reconsider their opinion depends on the makeup of the court.

Some, recognizing that voting in foreign elections is damaging to the interests of the American national community, have suggested a split-the-difference approach. Aleinikoff proposes that the United States negotiate a series of bilateral agreements with foreign countries whereby their former nationals be given a choice whether to vote in the United States or not.⁴³ An American dual citizen domiciled in a foreign country would have to return to this country one year prior to the election in which he or she wished to vote, or not be able to do so. This would involve the United States in the arduous and, I think, unnecessary negotiations with 150 separate countries.

Not only is this a clumsy and unnecessary idea, there are apparently a number of constitutional barriers to such a proposal.⁴⁴ These include the difficulty of establishing a "compelling federal interest," the problem of overcoming the strict scrutiny standard that would most likely be applied (because American dual citizens domiciled abroad would not be able to vote by absentee ballot), and the question of whether such a proposal is sufficiently narrowly tailored, among other things.

O'Brien, another multiple voting advocate, suggests several other alternatives.⁴⁵ Among his suggestions are a repeal of the Absentee Voting Act, a modification of Aleinikoff's proposal in which only those who have previously voted in foreign elections are given the choice, or establishing a universal "vote where domiciled" rule. Each of these has problems too. Doing away with absentee ballots would disenfranchise all Americans living abroad, including those serving in our military. The modification O'Brien proposes creates an incentive for dual citizens to get more involved more quickly with electoral politics of their former home country elections so as to preserve their options. And the search for a universal rule, vote where domiciled, forces Americans who live abroad not to vote in their own elections.

There is however a more fundamental flaw in all these suggestions. They are trying to accommodate American citizens voting in foreign elections. On balance, there is no compelling reason to do this, and certainly none to encourage it.

What the United States should be doing is encouraging immigrants, their families, and their descendents to consider *America* their "homeland." This is less likely to happen if there are continual pressures and incentives to look toward the foreign country from which they or their ancestors originally emigrated. There is no compelling reason to allow American citizens to vote in foreign elections and many reasons to discourage the practice.

Given the importance to the American national community and the republican democratic system that is an integral part of it, it seems prudent to do everything possible to encourage attachment to *this* community, and take steps to lessen the incentives for connections to other countries and their national communities. American law cannot, of course, mandate what other countries choose to do with regard to their former nationals, but it can make clear in a variety of ways that recruiting American citizens to vote in foreign elections will not be looked at with favor by the United States.

⁶ Anticipating the Twenty-fourth Amendment, in the case of *Harper v. Virginia board of Education* (383 U.S. 663 (1966)) the Supreme Court struck down poll taxes saying, "The political franchise of voting" is "a fundamental political right because (it is) preservative of all rights." For a closer analysis of the constitutional foundation and importance of voting as a key element of American citizenship see Eskridge 2001.

⁷ Fein 2005.

⁸ Schuck 1998, 235.

⁹ Portes (1999, 467 emphasis mine; see also Miller 1999, 11. Miller writes that many immigrant- sending countries have abandoned their opposition to dual citizenship. They now encourage it, " in the hope they will form lobbies to influence their host countries' policies towards the country of origin." Evidence however, suggests they are taking a much more active stance than hope in ensuring that it happens.

¹⁰ Dillon 1998, A3.

¹¹ McKinley 2005

¹² Associated Press, 2005.

¹³ Anderson 2000.

¹⁴ Belluck 2000.

¹⁵ Talk Back Live 2000.

¹⁶ A reciprocal process is under way as increasingly American politician travel to foreign countries to campaign for the votes of that country's nationals in the United States. Democratic and Republican political leaders from New York and elsewhere routinely visited Vieques, an Puerto Rican island used for Defense Department war exercises, to protest that use (Waldman 2000). In 2001, two top Democratic Party officials, Richard Gephardt, then House minority leader and Thomas Daschle, then Senate majority leader, visited several areas in Mexico, promising to do all they could to regularize the status of illegal aliens in the United States (Thompson 2001; Sullivan and Jordan 2001). New York governor George Pataki visited the Dominican Republic to pay a condolence call on the relatives of those killed in the crash of flight 857 which ran daily between New York and Dominican Republic; this was shortly in advance of his try for a third term in office (Associated Press 2002). Then Mayor-elect New York Michael Bloomberg made the same pilgrimage and included Puerto Rico, where he promised "closer ties" (Steinhauer 2001a,b).

¹⁷ Crawford 1998.

¹⁸ *Ibid.*

¹⁹ Belluck 2000.

²⁰ Nagourney 1999.

²¹ Sellers 2004, B01.

²² Johnson 2004.

²³ Itzigsohn 2000, 1146, argues, after reviewing the evidence, "transnational elites often challenge the existing sociopolitical order, *but theirs are demands for inclusion and recognition as part of that order, not for its radical change.*" (emphasis mine)

²⁴ *Ibid.*, 1144.

²⁵ Ginsberg and Weissberg 1978.

²⁶ *Ibid.*, 35-36.

²⁷ *Ibid.*, 52.

²⁸ Editorial, *The Washington Post* 1998.

²⁹ Thompson, 1970.

³⁰ What David Martin (1999, 31) refers to as "simple voting" is in fact anything but simple (Kelley and Mirer, 1974).

³¹ Quoted in Kurtz 1999; see also Delli Carpini and Keeter 1999.

³² Patrick 1977; Torney-Purta 1995a,b; Neimi 1999.

³³ Cited in Branson 1998.

³⁴ Dionne 1999, A29.

³⁵ Cole 2002.

³⁶ Martin 1999, 13. It was Martin (1994) who first emphasized the importance of "common life," and later (1999, 4-14) said he was persuaded to support dual citizenship, albeit subject to limits.

³⁷ Martin 1999, 27.

³⁸ Martin 1999.

³⁹ Pierre 2003; Eig 2003.

⁴⁰ Pierre 2003. Nor is the Chicago EU vote devoid of Polish government self-interest. Eig (2003) reports that, "In Poland where there are 29 million eligible voters, the referendum has widespread support, but government officials are worried about turnout. The results won't count unless more than 50 percent of eligible Poles vote. That helps explain why the Polish foreign ministry has instructed its staff in Chicago to get out the vote. Even 'no' votes will help push the eligibility figure toward 50 percent. 'It's an absolute priority to this office,' says Mariusz Brymora, deputy consul general. He has about 10 people in the consulate working full time to make sure the referendum passes."

⁴¹ Fein 2005.

⁴² *Ibid.*

⁴³ Aleinikoff 1998, 34-36.

⁴⁴ O'Brien 1999.

⁴⁵ *Ibid.*, 593-595.

Duration of Absence

Restrictions based on duration of absence are also very common; this includes a maximum of three years absence for New Zealand, five years for Canada, six years for Australia, 15 years for the UK and 25 years for Germany.

Citizenship

Australia and New Zealand allow non-nationals, under certain circumstances, to participate in absentee elections. According to the literature, these appear to be the

exceptions. "(...) few countries have formally enfranchised a national diaspora, and no country has enfranchised members of a diaspora who do not maintain the citizenship of the home country. In general, the larger the diaspora, the less likely the country of origin will offer external voting" (Grace 5).

Registration

This remains a thorny topic, with many countries requiring citizens to register at home as voters and again abroad for a specific election, as is the case in Mexico; the reason given for this being an decrease in election fraud. Many countries, such as the US, have made first time voter registration very simple in order to increase turnout abroad. Most continental European countries combine local registration of home owners and renters, with other issues as varied as car registration, schooling, taxation (and church taxes in the German speaking countries) and elections. Thus voters abroad are automatically registered in their home town on a permanent basis.

Age

Nowhere in the literature have we found cases in which the minimum age for absentee voters is different from that of voters at home.

B) Methods (embassy/consulate, postal ballot, fax, proxy; special polling stations, e-voting)

The methods implemented for absentee voting are as diverse as those used in elections at home. Two approaches are very common and are normally discussed when a country considers introducing overseas voting, i.e. 1) voting in embassies and consulates, 2) postal ballots; often a combination of both is considered.

Embassies and Consulates

Using the existing diplomatic facilities provided by the ministry of foreign affairs has the advantage that no additional infrastructure is required. This approach also

guarantees a high level of voter secrecy, assuming that the diplomats involved are impartial. Many former communist countries, including Russia, Poland and Ukraine, use this approach. Disadvantages are significant for countries with few diplomatic representatives abroad, or in cases where the diaspora is made up largely of low income economic migrants who face logistical and financial difficulties if they must travel long distances and take of work, which is often not an option because a lack of protection for basic workers rights. Filipino voters have complained about this problem.

Postal Ballots

This approach is common in Western Europe and North America, where the rule of law and a relatively reliable postal system have a long tradition. Voting by mail reduces cost and enhances accessibility. However, it also severely limits voter secrecy and increases the chances of fraud. Timing is also an issue for voters living in countries with unreliable postal systems. Voting by mail can also be a disadvantage in countries with no or only limited democratic traditions, i.e. foreign voters can easily be put under pressure either by unethical or illegal activities on the part of diaspora organisations or by the authorities of the host country itself. In order to deal with the time restraints, the US has introduced write-ballots which enable voters to register and vote in national elections (president, vice president, member of congress) through the use of a single form.

Proxy

Voting by proxy is foreseen in the United Kingdom and France, where it appears to be quite common; the drawback being that the proxy must be registered in the same voting district as the absentee voter.

Special Polling Stations

Normally this approach is introduced in cooperation with the host country government. Russia has set up special polling stations in cities in the US where consulates do not exist. In the upcoming Mexican elections in 2006, where over c. 11

million citizens will vote in the US (15% of the total population and 98% of all Mexicans abroad), a network of polling stations will be set up based on the same procedure prevalent in Mexico. **Iraq** has also set up special polling stations abroad for its parliamentary elections and constitutional referendum.

العراق.. وبين ما رحنا ما ننساه!!



الوثائق المطلوبة للتسجيل والتصويت

كي نتمكن من التسجيل والتصويت يجب أن نقتّم وثيقة واحدة على الأقل تثبت أنك عراقي الجنسية
امولود في العراق أو تحمل جنسية عراقية سابقاً أو الآن أو أحد والديك عراقياً، وأن تحمل هذه الوثيقة صورة حديثة وواضحة لك

الوثائق المقبولة الصادرة في العراق:
هوية الأحوال المدنية - هوية التقاعد - دفتر النفوس العراقي - 1957 - شهادة الجنسية العراقية - جواز السفر العراقي - دفتر الخدمة العسكرية
عقد الزواج الصاهر من محكمة عراقية - شهادة دراسية رسمية صادرة من جامعة عراقية رسمية - عقد الملكية (نظام)

الوثائق المقبولة الصادرة في دول أجنبية:
جواز السفر - بطاقة الهوية الشخصية - رخصة قيادة - وثائق النجاس - تصريح/بطاقة إقامة - وثائق لجوء صادرة عن المفوضية العليا لشؤون اللاجئين - وثائق جوء صادرة عن الدولة المستضيفة - وثائق خاصة بطالبي حق اللجوء - وثائق تقديم طلب اللجوء السياسي - إعمال لتسجيل الانتخابات السابقة مع هوية تعريفية تحمل صورة شخصية لك

13 - 15 كانون الأول انتخاب مجلس النواب
التسجيل والتصويت في وقت واحد

لمزيد من المعلومات: www.leciocv.org

برنامج التصويت خارج العراق
ده نكسبان له ده ره وه ي ووثاقى عئراق
Iraq Out-of-Country Voting Program

المفوضية العليا المستقلة للانتخابات في العراق
كۆمیسۆنی بائێ سە بە عێرێ هه ئێزازه نه كان له ئێ عێراق
The Independent Electoral Commission of Iraq

Fax and SMS

According to the ACE project report on remote e-voting, Canada, Spain and the UK have introduced voting schemes permitting technologies as diverse as SMS, fax and landline phones.

E-Voting

Electronic voting technology can be introduced either within the regular polling stations (polling place e-voting) or specifically for voting from home or at a distance (remote e-voting). Remote e-voting appears to be a largely a Western phenomenon,

including advanced technologies in the UK, Spain, the US and, more recently, Estonia.

C) Time Periods (same day, extended period prior to election, extended period following election)

Time restrictions vary widely with respect to the days and/or times during which voters abroad can vote. Ranging from between 30 to 60 (sailors) days prior to an election, to several days after the election, assuming that the absentee ballot is postmarked on election day. In the US, the individual states determine the deadlines for absentee voting.

D) Types of Elections (supranational government, national government, regional government, local government, referendums/recalls, primaries/party conventions, special absentee constituencies)

Voting from abroad is possible in all types of elections, from the supranational, e.g. the European Parliament, to special local referendums.

Supranational Elections

The European Union allows voters living abroad to either vote for an EMP from their district of origin or from their district of residence.

National Elections

Most countries that have introduced absentee voting include national elections.

Regional and Local Elections

Voting on the subnational level is less common and often includes more restrictive duration of absence clauses, as is the case in Scandinavia. In the United States, voters who chose to vote in state and municipal elections must also pay taxes to these authorities.

Referendums, Citizens' Initiatives, Recalls

Voting in direct democracy polling is permitted in many countries. In some countries, e.g. Venezuela, voters abroad have been prevented from participating in the preliminary petition process.

Primaries/Party Conventions

Diaspora communities are very important constituencies for countries of varying size and percentage of population abroad. Therefore, many political parties set up organisations to mobilise this potential. In some cases, e.g. the Democrats Abroad USA, expats are not only permitted to participate in the primaries, but can also send voting delegates to the party conventions.

Special Absentee Constituencies

France, Italy, Spain, Portugal and Croatia all have reserved seats in Parliament for their diaspora populations. There are efforts to introduce this model to Lebanon as well.

E) Active and Passive Rights (voting for election, running for election)

Many candidates have returned home from abroad to run for election. There are no indications in the literature that running for election from outside the country is dealt with in a specific manner.

F) Counting Votes

(in diplomatic representation, nationally, in voting district)

Vote counting is usually based on the same method as the voting itself.

In Embassies and Consulates

If voting is carried out in the diplomatic representation or if postal ballots are sent to the embassies and consulates, the ballots are counted there, as a rule. Canada, Italy and New Zealand are exceptions, where postal ballots are forwarded to the appropriate local electoral boards.

Domestic Counting

If the postal ballots are sent to the country of origin, they are either counted nationally, e.g. based of proportional representation, or in the respective voting districts, e.g. if the single district electoral system is in use.

III) Voting Issues

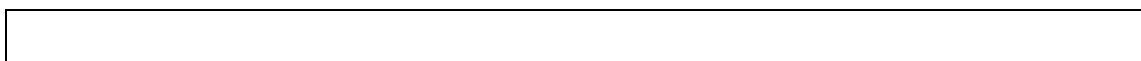
The issues surrounding the introduction and implementation of absentee voting rights can, in most cases, be used both as arguments for or against these policies. In many cases, the laws now in practice are the result of many years, if not decades, of struggle on the part of diaspora communities and their allies in the countries of origin. In following, each issue will be studied from both angles, i.e. as an asset in the struggle to introduce absentee voting and as a liability, i.e. as an argument against permitting citizens abroad from enjoying the franchise.

The experience that other countries have had with absentee voting illustrates that permitting citizens abroad to vote can strengthen democracy, facilitate development and nurture institutions supportive of rule of law, transparency and accountability. It can also undermine national sovereignty, exacerbate ethnic or religious conflict and lead to heightened tensions in already conflict-ridden regions such as the Balkans or the former Soviet Union.

- International Obligations (general equality and non-discrimination clauses, specific treaty obligations, international and regional enforcement authorities)

The International Covenant on Civil and Political Rights of 16 December 1966, which Lebanon acceded to on 03 November 1972, and which entered into force on 23 March 1976, guarantees (in article 2) "all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other persuasion, national or social origin, property, birth or other status."

Jeremy Grace sums the arguments for absentee voting according to international law as follows.



III. Justifications for Voting Abroad

The 150 to 200 million persons living outside of their home communities left for a variety of reasons, and this diversity affects the decision to allow them to retain the right to vote in homestate elections. In general, three categories of external voters can be distinguished:

Conflict-forced migrants: These persons are outside of their home community against their will. There are two distinct types: refugees or asylum seekers who flee across an international border because of a “well founded fear of persecution” and are “unable to avail themselves of the protection of their home state government;”⁸ and internally displaced persons (IDPs) who have fled natural or man-made catastrophes, including war and persecution, but do not cross an international frontier.

Expatriates and economic migrants: These persons are outside of their home-states for reasons of economic remuneration, diplomatic/military service or personal preference. In general, they intend to return to their home states, maintain their citizenship and often continue to pay taxes and/or send money home.

Members of a diaspora:⁹ These persons and their descendants have permanently left the home state and do not intend to return. They generally assume citizenship in their country of residence, either renouncing their former citizenship or assuming dual nationality. The chief characteristic of a diaspora is the maintenance by its members of a common cultural, religious or ethnic tradition, combined with an abiding interest in the affairs of the state of origin.

Should any or all of these populations retain their right to political participation while abroad? Opponents of absentee voting advance a number of arguments against the practice, including: 1) because external voters reside outside of the jurisdictions where their votes will help determine who wields power, they do not live with the direct consequences of the vote and may therefore vote less responsibly than those who do; 2) external voters may lack the information needed to make an informed decision because of difficulties in presenting candidate platforms and positions to non-residents; 3) the costs associated with reaching a voter who has voluntarily chosen to reside abroad may place an undue burden on those who remain; and 4) election administrators must confront issues of ballot secrecy and transparency in territories where they lack jurisdictional capacity.¹⁰

Nevertheless, a growing number of states allow external voting. In the case of conflict-forced migrants, the case for inclusion is strong.¹¹ To deny conflict-forced migrants the franchise would reward ethnic cleansing; those who use large-scale forced displacement of civilian populations should not be permitted to achieve political legitimacy in an election in which the displaced are not provided a voice. The international community has recognized the gravity of this problem and has included refugee and IDP voting programs in many post-conflict elections, including those in Namibia, Cambodia, Bosnia and Herzegovina, Kosovo and East Timor.

A case for the enfranchisement of conflict-forced migrants is also based on international human rights law, although the protections are stronger for IDPs than for refugees. IDP political participation is grounded in the non-discrimination principles contained in Article 2 of the ICCPR and in most other global and regional human rights instruments.¹² The *Guiding Principles on Internal Displacement*, although not treaty law, also address this issue, declaring in Principle 22 that:

“Internally displaced persons ... shall not be discriminated against as a result of their displacement in the enjoyment of the following rights: (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression; (...) (c) The right to associate freely and participate equally in community affairs; (d) The right to vote and to

participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right...¹³

However, the 1951 Refugee Convention does not address the political rights of refugees vis-à-vis their home states, so the legal case must be deduced. As Gallagher and Schowengerdt note: “Refugees have not in any way relinquished their citizenship by seeking asylum, but rather cannot avail themselves of the protection of their country of origin because current conditions therein pose a threat to either their lives or livelihood. As citizens, therefore, they have the right to participate in the electoral processes of their country.”¹⁴ In line with this reasoning, the 1999 *Istanbul Summit Declaration* of the Organization for Security and Cooperation in Europe (OSCE) declared: “We are committed to secure the full right of persons belonging to minorities to vote and to facilitate the right of refugees to participate in elections in their countries of origin.”¹⁵

However, for non-conflict-forced migrants (i.e., expatriates or economic migrants) the case for inclusion is not so clear. The general argument rests on the notion that citizens living abroad often pay taxes or provide remittances to their home states and should therefore have some say in how these resources are collected and re-distributed. In 2002 in the Philippines, for example, Parliament approved the “Absentee Voting Bill,” which enfranchised the substantial Filipino migrant community, provided they intend to retain their citizenship. This decision followed years of campaigning by expatriate Filipinos and was largely attributed to the growing recognition of the economic and social benefits that flow from an estimated 7.4 million Filipinos abroad who send home an estimated USD six billion per year.¹⁶

From the perspective of international law, there is no clear obligation to enfranchise economic migrants. The only relevant instrument is the 1990 *International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families*,¹⁷ which declares in Article 41 that: “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...” However, as of April 2004, only 25 states have ratified this convention. Most ratifying states do have significant populations of expatriate workers (Mexico, Philippines, El Salvador, Ghana and Belize, for example), but few industrial democracies have demonstrated an interest in ratification. As opposed to the generic “right to political participation,” the obligation to enfranchise migrants falls far short of constituting a customary rule of international law and is not universally applicable.

The issue of diaspora voting is the most politically sensitive. Arguments in favor emphasize the important role these communities play in advancing a country’s interests at the international level and their contribution to cultural and economic development. Many countries with substantial diasporas even maintain government ministries in charge of diaspora relations.¹⁸ Yet few countries have formally enfranchised a national diaspora,¹⁹ and no country has enfranchised members of a diaspora who do not maintain the citizenship of the home country.²⁰ In general, the larger the diaspora, the less likely the country of origin will offer external voting. Consider Ireland, Greece and Kosovo. All three have well organized diasporas, which are equal in size or even larger than the populations of the home states. In these cases, the extension of franchise to external voters could potentially swamp the electorate at home.²¹

A related problem stems from regional tensions that can occur when a state enfranchises its diaspora. In the aftermath of the fall of the Berlin Wall, several Eastern European states (Croatia, Hungary, Poland, Romania and Bulgaria) offered citizenship to diasporas that formed a “national minority” in neighboring states. The Hungarian offer of citizenship to ethnic Hungarians in nearby states, for example, has contributed to regional tensions, as Romania and Slovakia see the move as the staking of an irredentist claim to territory and as an effort to inflame secessionist movements. Similarly, the extension of citizenship rights and

the right of franchise to some 300,000 ethnic Croats residing in Bosnia and Herzegovina was widely viewed by the international community as complicating the implementation of the Dayton Peace Accords and as an attempt at electoral manipulation by the ruling Croatian nationalist party.

8 *Convention Relating to the Status of Refugees*, Art. 1(A)(2), 19 U.S.T. 6259, 6261, 189 U.N.T.S. 137, 152, 28 July 1951, entered into force 22 April 1954.

9 The 1993 Oxford English Dictionary defines “diaspora” as “any body of people living outside their traditional homeland.” This can include all categories of expatriate nationals, including refugees and economic migrants. We use the term to refer primarily to people who have no intention of returning to live permanently in their national homeland. Many will have renounced their citizenship; others may maintain dual citizenship.

10 Dieter Nohlen and Florian Grotz, “Legal Framework and Overview of Electoral Legislation,” in Draft Chapter for International IDEA: External Voting Handbook, Unpublished Report, International IDEA. 2000.

11 For a detailed analysis of the international rules and norms surrounding this issue, see Jeremy Grace, “The Electoral Rights of Conflict Forced Migrants: A Review of Relevant Legal Norms and Instruments,” IOM/PEP Discussion Paper No. 1 (June 2003). Available at <http://www.iom.int/pep>.

12 Article 5(c) of the Convention on the Elimination of Racial Discrimination (CERD) holds that “States Parties undertake to ... guarantee the right of everyone, without distinction ... Political rights, in particular the right to participate in elections—to vote and to stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service...”

13 “Guiding Principles on Internal Displacement,” United Nations Office for the Coordination of Humanitarian Affairs, U.N. Doc. E/CN.4/1998/53/Add.2, 2 November 1998. Available at http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html.

14 Dennis Gallagher and Anna Schowengerdt, “Participation of Refugees in Postconflict Elections,” in *Postconflict Elections, Democratization, and International Assistance*, ed. Krishna Kumar (Boulder: Lynne Rienner Publishers, 1998), 199.

15 *Istanbul Summit Declaration*, OSCE, SUM.DOC/2/99, 19 November 1999: Para. 26.

16 “Filipino Overseas Workers Given Vote,” *BBC News Online*, 13 February 2003. Available at <http://news.bbc.co.uk/2/hi/asia-pacific/2756791.stm>

17 *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, G.A. res. 45/158, annex, 45 U.N. GAOR Supp. (No. 49A) at 262, U.N. Doc. A/45/49 (1990). Available at <http://www1.umn.edu/humanrts/instree/n8icprmw.htm>.

18 Armenia and France both have special divisions in the foreign ministry dedicated to diaspora relations.

19 A national diaspora is defined as migrants who have been absent from the home state for extended periods of time and have no intention of returning.

20 Note that the issue is complicated for referenda in territories that are not self-governing, where citizenship must be determined for the purposes of electoral eligibility. See Jeremy Grace and Jeff Fischer, “Enfranchising Conflict Forced Migrants: Issues, Standards and Best Practices,” IOM Discussion Paper 2, 29 September 2003. Available at http://www.iom.int/pep/Standards_Final.pdf.

21 In Ireland, the denial of the external vote probably reflected both the size of the potential diaspora electorate and the political complications that would result from enfranchising the Irish in Northern Ireland.

The need to extrapolate the "right" to vote abroad from existing international agreements can be seen as an asset because it forces diaspora populations to organise both in their host countries and at home in order to establish democratic majorities for their cause. It is also a liability because of the domineering role they these very same

communities abroad have been known to play in many parts of the world. As will be illustrated in the case of Croatia in chapter IV further below, domestic, non-emigrant populations often resent the influence on national, regional and local politics that is exerted from abroad following the introduction of absentee voting. Therefore, as pointed out by Grace, a balance must be found between the rights of emigrants and those communities on the mother country.

- Voting Secrecy (role of kinship organisations, role of local and regional parties, confessionalism, equal rights for men and women)

This is one of the issues that most clearly reflect the level of rule of law in the respective countries of origin. As was shown above, many countries in Eastern and Eastern Central Europe do not encourage or permit voting by mail or internet because of the dangers of fraud and undermining voting secrecy. The role that both informal and formal kinship organisations play in Middle Eastern politics is well known. It is unclear whether absentee voting will perpetuate or undermine the power of extended families in determining the voting patterns of their members. It could very well be the case that voting abroad will enhance the role of the head of the extended family in determining who individuals vote. On the other hand, the exact opposite could be the case.

The conditions prevalent in the host countries will most likely play a major role in determining whether or not confessionalism, kinship ties and gender inequality are exacerbated or undermined through absentee voting. Anecdotal evidence seems to indicate that urbanisation, higher levels of education, secularisation, relative affluence and individualism, all dominant factors in Eastern and Western Europe, North and South America, as well as Australia and New Zealand, will lead to assimilation on the part of emigrants from the Middle East. It remains to be seen, for example, whether absentee voting will lead to new forms of organisation or merely transplant the existing political loyalties now existing in Middle Eastern countries such as Egypt, Lebanon, Palestine or Turkey, once absentee voting has been introduced.

- **Mobilisation** (government mandate, partisan organisations, non-partisan NGOs)

In many countries, governments play a major role in mobilising voters abroad, as in the case in the recent elections in Iraq. In countries with a longer tradition of absentee voting, governments often merely provide backup services (e.g. technical assistance, write-in ballots, lists of immigrants in a specific area) leaving it to the political parties themselves to "get out the vote." This is the case particularly in the United States, where the Democrats Abroad and Republicans Abroad bear major responsibility for reaching voters, providing them with background material and encouraging them to vote in both the primaries and elections every two years. In many cases non-partisan NGOs are formed in order to either increase voter turnout per se, or to encourage voters abroad to become involved in support of a specific cause, e.g. in the upcoming midterm election in the US in November 2006 anti-war initiative abroad are encouraging American citizens to vote for any candidate who supports an immediate withdrawal of troops from Iraq.

The positive aspects of non-governmental pre-election mobilisation include enhanced grassroots organisation abroad, voter interest in specific issues and common goals, encouragement of diaspora interest in domestic politics and the creation of a community spirit amongst the community of emigrants overseas.

On the negative side, partisan organisations can skew interest because of their emphasis on specific topics or the support of dominant political interests. Non-governmental, non-partisan initiatives are often short lived, disappearing after an election or because an individual activist or group of organisers have moved to another country or returned home.

- **Monitoring** (national, international)

The election officials of each respective national government normally monitor voting by their citizens abroad. Furthermore, in countries with a long tradition of absentee voting, the partisan expatriate organisations have their own self-regulating bodies, as is the case with the two major US political parties.

Absentee voting in crisis regions, e.g. which include significant refugee populations or histories of political turmoil or oppression, such as in the case of the Balkans or Middle East, often involve international monitoring through the inclusion of the International Organisation on Migration (IOM) of the European Union.

- **Liabilities** (taxation, military service, loss of citizenship or voting rights, illegal aliens)

Many citizens living abroad have expressed their reluctance to participate in the absentee voting process because the fear disadvantages in a variety of areas. As mentioned above, participation on supranational and national elections rarely affects the tax status of expatriates. However, voting in regional and local elections can lead to the need to file and even pay state and municipal taxes. Depending on the laws governing citizens and their families living abroad, registering to vote upon reaching the age of full adulthood (normally 18 or 21) can make the authorities aware of one's eligibility for mandatory military service.

Because of the ongoing debate about dual loyalty, many expats believe that making use of the active franchise will be interpreted in a way similar to the passive franchise, i.e. running for election. However, where serving as an elected official (or in the military) of a foreign government can be interpreted as an act of disloyalty in a crisis situation, merely taking advantage of one's right to vote as a dual national normally does not. Finally, registering to vote in one's home country as an illegal alien must not, but can make the authorities aware of one's presence and lead to expulsion. Thus many Latin American undocumented workers in the US and Canada refrain from taking advantage of the franchise in their countries of origin.

- **Rights of Spouses and Children** (duration of absence, right to pass on citizenship)

Many countries in the so called "Third World" restrict full citizenship rights to their male "heads of the family." Thus, whereas a husband and father can pass on absentee

voting rights to his wife and their children, once they are of age, wives and mothers can not. The fact that duration of absence restrictions can lead to the loss of absentee voting rights over time is quite common both in developing countries and in the industrial democracies does have a negative impact on passing absentee voting rights on to children. Many parents also neglect to register their children when living abroad with their diplomatic representatives, leading to loss of citizenship in the second or third generation.

- **Funding** (funding for embassies and consulates, financial and organisational burdens for local voting district authorities, introduction of special polling stations, travel reimbursements for voters based at great distance from a polling station)

There is a trade-off between the expenses for the government and the diaspora communities based on the technical nature of scheme chosen for absentee voting. Voting in diplomatic representations reduces the cost for the foreign ministry, thus improving the likelihood that an absentee voting scheme will be introduced by governments with limited resources. However, this forces low income economic migrants to cover most of the costs for the election process. Voting by mail, especially when the ballots are sent directly to the local voting districts, increases the organisational and financial investments of the respective governments in the countries of origin, both on the local and national levels. However, it reduces or even eliminates all expenses for the diaspora communities, thus increasing the incentive to vote.

The most expensive forms diaspora inclusion in the electoral process are the use of special polling stations abroad and the subsidising of transportation costs for expatriates returning home to voting in their local districts. Whereas special polling stations are paid for in full by the countries of origin, travel subsidies can either be covered in part or in full by the government, by non-partisan NGOs or by political parties hoping to improve their chances at the polls.

Many diaspora organisations have also demanded that the government either introduce voting by mail or pay the travel expenses of expats to the nearest embassy, consulate or special polling station on election day.

IV) International Context

An overview of the various aspects of absentee voting in an international context can enlighten the discussion on implementation strategies for Lebanon. In following, a wide variety of countries will be dealt with, chosen as much the disparity of their approaches as for their significance as role models for Lebanon and countries in the MENA region.

Though by no means complete, the Epic Project and Administration and Cost of Elections (ACE) Project supply a succinct overview of the absentee voting policies in a large number of the world's countries.



The image displays the ACE Project logo and logos of its partner organizations. The ACE Project logo is on the left, with the text 'PROJET', 'Proyecto', 'ace', and 'PROJECT' in various fonts and colors, and 'Version 1 - 2003' at the bottom. To its right are logos for IDEA (International Institute for Democracy and Electoral Assistance), the United Nations, and IFES (International Foundation for Election Systems). Below these are logos for EISA (Election Systems and Administration), Elections Canada, UNDP (United Nations Development Programme), and IFE (Instituto Federal Electoral).

Introduction

The Administration and Cost of Elections (ACE) Electronic Publication represents the first-ever attempt to provide a globally accessible information resource on election administration. It provides user-friendly, operationally oriented information on options, detailed procedures, alternative solutions and the administrative and cost implications associated with organising elections.

Three leading international organisations (The International Foundation for Election Systems (IFES), the International Institute for Democracy and Electoral Assistance (IDEA) and the United Nations Department of Economic and Social Affairs (UNDESA)) worked together to produce the materials on www.aceproject.org. These three ACE Project partner organizations met in January 2004 to further expand and enhance ACE as a high quality knowledge depository of electoral practice and to build a global partnership to promote knowledge sharing and capacity development. At this time, Elections Canada, the Federal Electoral Institute of Mexico and the United Nations Development Programme joined the project as full partners.

Goals and Intended Audience

The main goal of the project is to widen the range of choices available to electoral policymakers and administrators. The ACE Electronic Publication strives to provide complete and systematic election information to those who are faced with designing electoral systems and procedures and support those who furnish advisory assistance to election management bodies world-wide. It analyses the differences between electoral alternatives, with a focus on the cost and administrative implications of available choices, and provides sample materials, such as forms and manuals, as well as innovative and cost-effective country case studies for comparative purposes.

The ACE Electronic Publication is designed for use by an international audience of policy-makers, election professionals, political parties, media representatives, academics and students, multilateral institutions, non-governmental organizations (NGOs), donors agencies and others who can benefit from the widespread availability of information about different approaches to operating legitimate elections.

The need to support this broad audience with an easily accessible and comprehensive collection of information on different approaches to all aspects of election administration has been evident to the project partners for some time. Significant advancements in electronic publishing, the widespread adoption of Internet standards, increased world-wide accessibility to the Internet and sharply reduced costs for production and distribution of CD-ROMs helped make this project a reality. As the project moves into a new phase, the emphasis of the ACE Project will on ensuring the quality and relevance of the existing knowledge base, introduce dynamic elements to the online resource and develop a knowledge networking and capacity development dimension.

The Epic project website (<http://epicproject.org/ace/compepic/en/VO04>) offers the best overview publicly accessible to date. It is, however, not complete, countries as disparate as Syria and the United States of America have not been included.

epic project

Election Process Information Collection - Comparative and country-by-country data on election systems, laws, management and administration

<http://www.epicproject.org/> - EPIC Comparative Analysis: Voting Operations - last updated:

Tue Nov 1 23:41:05 2005 **Who can vote from outside the country?**

38 countries (31%):				a. Outside the country voting is not permitted
<u>Burkina Faso</u>	<u>Belize</u>	<u>Bahamas</u>	<u>Albania</u>	
<u>Dominica</u>	<u>Costa Rica</u>	<u>Chile</u>	<u>Cambodia</u>	
<u>Guatemala</u>	<u>Gambia</u>	<u>El Salvador</u>	<u>Egypt</u>	
<u>Lebanon</u>	<u>Korea, Republic of</u>	<u>Jordan</u>	<u>Hungary</u>	
<u>Niger</u>	<u>Nepal</u>	<u>Mexico</u>	<u>Macedonia, the Former Yugoslav Republic of</u>	
<u>Panama</u>	<u>Palestine</u>	<u>Pakistan</u>	<u>Niue</u>	
<u>Samoa</u>	<u>Saint Vincent and the Grenadines</u>	<u>Saint Lucia</u>	<u>Paraguay</u>	
<u>Sudan</u>	<u>Sri Lanka</u>	<u>Slovakia</u>	<u>Seychelles</u>	
<u>Uruguay</u>	<u>Uganda</u>	<u>Tonga</u>	<u>Togo</u>	
		<u>Zanzibar</u>	<u>Zambia</u>	
52 countries (42%):				b. Citizens residing outside the country
<u>Bahrain</u>	<u>Australia</u>	<u>Argentina</u>	<u>Algeria</u>	
<u>Bolivia</u>	<u>Benin</u>	<u>Belgium</u>	<u>Belarus</u>	
<u>Canada</u>	<u>Bulgaria</u>	<u>Brazil</u>	<u>Bosnia and Herzegovina</u>	
<u>Denmark</u>	<u>Croatia</u>	<u>Colombia</u>	<u>Cape Verde</u>	
<u>France</u>	<u>Fiji</u>	<u>Ecuador</u>	<u>Dominican Republic</u>	
<u>Honduras</u>	<u>Ghana</u>	<u>Germany</u>	<u>French Polynesia</u>	
<u>Latvia</u>	<u>Japan</u>	<u>Italy</u>	<u>Iceland</u>	
<u>Moldova, Republic of</u>	<u>Micronesia, Federated States of</u>	<u>Marshall Islands</u>	<u>Lithuania</u>	
<u>Netherlands</u>	<u>Namibia</u>	<u>Mozambique</u>	<u>Morocco</u>	
<u>Portugal</u>	<u>Papua New Guinea</u>	<u>Norway</u>	<u>New Caledonia</u>	
<u>Slovenia</u>	<u>Senegal</u>	<u>Russian Federation</u>	<u>Romania</u>	
<u>Ukraine</u>	<u>Turkey</u>	<u>Switzerland</u>	<u>Spain</u>	
<u>Yemen</u>	<u>Wallis and Futuna</u>	<u>Venezuela</u>	<u>Vanuatu</u>	

32 countries (26%):				c. Citizens outside the country (including those on vacation)
<u>Austria</u>	<u>Australia</u>	<u>Armenia</u>	<u>American Samoa</u>	
<u>Botswana</u>	<u>Belgium</u>	<u>Belarus</u>	<u>Bahrain</u>	
<u>Denmark</u>	<u>Czech Republic</u>	<u>Cote D'ivoire</u>	<u>Brazil</u>	
<u>Iceland</u>	<u>Germany</u>	<u>Finland</u>	<u>Fiji</u>	
<u>Morocco</u>	<u>Moldova, Republic of</u>	<u>Lithuania</u>	<u>Latvia</u>	
<u>Russian Federation</u>	<u>Puerto Rico</u>	<u>Poland</u>	<u>Namibia</u>	
<u>Tunisia</u>	<u>Switzerland</u>	<u>Slovenia</u>	<u>Senegal</u>	
<u>Yemen</u>	<u>Vanuatu</u>	<u>United Kingdom</u>	<u>Ukraine</u>	

18 countries (14%):				d. Members of the armed forces
<u>Denmark</u>	<u>Canada</u>	<u>Brazil</u>	<u>American Samoa</u>	
<u>Ireland</u>	<u>India</u>	<u>Germany</u>	<u>Fiji</u>	
<u>Puerto Rico</u>	<u>Namibia</u>	<u>Mozambique</u>	<u>Latvia</u>	
<u>Ukraine</u>	<u>Switzerland</u>	<u>Slovenia</u>	<u>Russian Federation</u>	
		<u>Zimbabwe</u>	<u>United Kingdom</u>	

18 countries (14%):				e. Students
<u>Bosnia and Herzegovina</u>	<u>Armenia</u>	<u>American Samoa</u>	<u>Algeria</u>	
<u>Germany</u>	<u>Fiji</u>	<u>Cape Verde</u>	<u>Canada</u>	
<u>Puerto Rico</u>	<u>Namibia</u>	<u>Mozambique</u>	<u>Latvia</u>	
<u>Ukraine</u>	<u>South Africa</u>	<u>Slovenia</u>	<u>Russian Federation</u>	
		<u>Vanuatu</u>	<u>United Kingdom</u>	

37 countries (30%):				f. Diplomatic staff
<u>Bangladesh</u>	<u>Armenia</u>	<u>American Samoa</u>	<u>Algeria</u>	
<u>Bosnia and Herzegovina</u>	<u>Benin</u>	<u>Belarus</u>	<u>Barbados</u>	
<u>Denmark</u>	<u>Colombia</u>	<u>Cape Verde</u>	<u>Canada</u>	
<u>Germany</u>	<u>Georgia</u>	<u>Fiji</u>	<u>Djibouti</u>	
<u>Latvia</u>	<u>Ireland</u>	<u>India</u>	<u>Guyana</u>	
<u>Mauritius</u>	<u>Madagascar</u>	<u>Lithuania</u>	<u>Lesotho</u>	

<u>Russian Federation</u>	<u>Puerto Rico</u>	<u>Namibia</u>	<u>Mozambique</u>
<u>Switzerland</u>	<u>South Africa</u>	<u>Slovenia</u>	<u>Senegal</u>
<u>Vanuatu</u>	<u>United Kingdom</u>	<u>Ukraine</u>	<u>Tuvalu</u>
			<u>Zimbabwe</u>

14 countries (11%): **g. Other**

<u>Ethiopia</u>	<u>Djibouti</u>	<u>Denmark</u>	<u>Canada</u>
<u>Mauritius</u>	<u>Kenya</u>	<u>Guatemala</u>	<u>Georgia</u>
<u>South Africa</u>	<u>Somalia</u>	<u>Puerto Rico</u>	<u>Nicaragua</u>
		<u>Tanzania.</u>	<u>Sweden</u>
		<u>United Republic of</u>	

Algeria

Relevant topics

Rights of illegal immigrants; location of polling stations in host countries; limited mobility in host countries; minority mobilisation, e.g. rights of the Amazigh.

Documents

<http://amazighworld.net/countries/algeria/documents/constitution/fr1976/1976annexe.php>

ANNEXE NO. 1

Ordonnance no. 76-96 du 14 novembre 1976 portant convocation du corps electoral et organisant le referendum sur la constitution.

AU NOM DU PEUPLE

Le Chef du Gouvernement, President du Conseil des ministres.

Vu l'ordonnance no. 65-182 du 10 juillet 1965 portant constitution du Gouvernement;

Vu la charte nationale;

Vu l'ordonnance no. 67-24 du 18 janvier 1967 portant code communal et notamment ses articles 33 et suivants;

Vu l'ordonnance no. 76-42 du 14 mai 1976 modifiant l'article 39 de l'ordonnance no 67-24 du 18 janvier 1967 susvisee;

Ordonne:

Article 1er __ Les electerus et les electrices, ages de 18 ans revolus, sont convoques le vendredi 19 novembre 1976, pour se prononcer, par voie de referendum, sur la constitution qui leur est soumise.

Art.2.__ Le droit de vote s'exercera dans les conditions prevues par les dispositions legislatives et reglementaires en vigueur.

Art.3.__ Il est mis a la disposition de chaque electeur deux bulletins de vote, imprimes sur du papier de couleurs differentes, dont l'un portera la reponse << OUI>> et l'autre la reponse <<NON>>.

La question qui sera posee aux electeurs sera la suivante : << Etes-vous d'accord sur la Constitution qui vous est proposee? >>.

Art.4.__ Le texte de la constitution soumes a referendum sera imprime et porte, par voie de presse et moyens audio-visuels, a la connaissance des electeurs prealablement au scrutin.

Art.5.__ Le scrutin sera ouvert a huit heures et clos a dix-neuf heures. Toutefois, les Walis peuvent, si les circonstances l'exigent, et apres autorisation du ministre de l'Interieur, avancer ou retarder cet horaire de quatre-vingt-dix (90) minutes au maximum.

Art.6. __ Dans les communes ou les électeurs, en raison de leur éloignement des bureaux de vote, ne peuvent, dans le délai ci-dessus fixé, exprimer leur suffrage, les Walis pourront, après autorisation du ministre de l'Intérieur avancer par arrêté, la date d'ouverture du scrutin.

Art.7. __ Les militaires de l'A.N.P. et les agents des corps de sécurité peuvent exprimer leur suffrage dans des bureaux de vote installés dans les casernes, cantonnements ou locaux administratifs où ils se trouvent affectés ou en fonctions.

L'urne contenant les suffrages devra être déposée, dès la fin des opérations de vote, au chef-lieu de la commune compétente en vue du dépouillement.

Art.8. __ Dans chaque bureau de vote, les résultats du référendum seront consignés dans des procès-verbaux en double exemplaire sur des formulaires spéciaux.

La commission électorale communale procédera au recensement des résultats du référendum obtenus au niveau communal, et quelle consignera dans un procès-verbal en triple exemplaire, dont l'un sera transmis immédiatement à la commission électorale de wilaya.

Art.9. __ La commission électorale de wilaya se réunira au siège de la cour.

Elle sera composée, conformément à l'article 74 de l'ordonnance no. 67-24 du 18 janvier 1967 portant code communal, d'un membre de la cour, président, et de deux magistrats des tribunaux, tous désignés par le ministre de la justice garde des sceaux. Elle centralisera les résultats des communes de la wilaya.

Ses travaux devront être achevés au plus tard le lendemain du scrutin à 10 heures.

Elle transmettra aussitôt les procès-verbaux correspondants, sous plis scellés, à la commission électorale nationale.

Art.10. __ Les citoyens algériens, résidant à l'étranger, jouissant de la capacité électorale, et régulièrement immatriculés auprès des chancelleries algériennes, peuvent exercer leur droit de vote dans les bureaux créés à cet effet, avec l'assentiment de l'État concerné, dans les ambassades et consulats.

Dans chaque bureau de vote, les résultats du référendum seront consignés dans des procès-verbaux établis en double exemplaire, dont l'un sera transmis immédiatement à la commission électorale siégeant à l'ambassade.

Cette commission sera composée:

---- du chef de poste diplomatique;

---- de deux électeurs.

Elle procédera au recensement général des votes au niveau consulaire, qu'elle consignera dans un procès-verbal en triple exemplaire dont l'un sera transmis immédiatement à la commission électorale nationale siégeant à la cour suprême d'Alger.

Art.11. __ Il est créé, à titre temporaire, une commission électorale nationale se réunissant à Alger au siège de la cour suprême et composée du premier président et de six magistrats de la cour suprême désignés par arrêté du ministre de la justice, garde des sceaux.

Cette commission sera chargée de procéder au recensement général des votes et de constater les résultats définitifs du référendum.

Art.12. __ Tout électeur aura le droit de contester la régularité des opérations de vote en faisant mentionner sa réclamation au procès-verbal de son bureau de vote.

Cette réclamation devra immédiatement et par voie télégraphique, être déférée à l'article 11 ci-dessus.

Art.13. __ La commission électorale nationale procédera aux annulations et redressements nécessaires, si elle constate des irrégularités dans le déroulement des opérations.

Ses travaux achevés, la commission électorale nationale constatera les résultats définitifs du référendum, au plus tard le surlendemain du scrutin à 18 heures, par procès-verbal.

Ce procès-verbal sera transmis au ministre de l'intérieur qui proclamera les résultats officiels.

Art.14. __ La présente ordonnance sera publiée au journal officiel de la République Algérienne Démocratique et Populaire.

Fait à Alger, le 14 novembre 1976

HOUARI BOUMEDIENE

Australia

Relevant topics

Registering to vote overseas when voting the first time; restrictive duration of absence policy; voting, even state and local, is essentially compulsory; special position of Commonwealth citizens.

Documents

<http://www.australianpolitics.com/voting/systems/compulsory.shtml>

Compulsory Voting in Australia

The electoral roll is a list of all people who are registered to vote in Australian elections. In Australia, all citizens over the age of 18 must enrol to vote. It is compulsory by law to enrol and compulsory by law to attend a polling place at election time.

Seventeen year olds may provisionally enrol and will be able to vote if their 18th birthday falls on or before polling day.

Enrolment and voting in federal elections was voluntary from 1901.

Permanent electoral rolls were established in 1908.

Enrolment became compulsory in 1911.

Queensland was the first State to introduce compulsory voting in 1915.

Compulsory voting for Federal elections was introduced in 1924 and first used in the 1925 elections where 91.31% of the electorate cast a vote.

Enrolment and voting for Aboriginal people became compulsory in 1984.

Other countries which have some form of compulsory voting are:

Argentina

Austria

Belgium

Bolivia

Brazil
 Cyprus
 Dominican Republic
 Egypt
 Greece
 Guatemala
 Honduras
 Liechtenstein
 Luxembourg
 Panama
 Philippines
 Singapore
 Switzerland (some cantons only)
 Uruguay
 Venezuela

The only non-Australian citizens eligible to vote at federal elections in Australia are: British subjects who were on a Commonwealth electoral roll before 26 January 1984, at which time the eligibility requirements were altered.

The following people are not entitled to enrol and vote:

prisoners serving a sentence of five years or more

people who have been convicted of treason and not pardoned

people who are incapable of understanding the nature and significance of enrolment and voting

Austria

Relevant topics

Introduction of e-voting; absentee voters need a witness; special role of EU electons.

Documents

http://www.e-voting.at/print_view.php?ID=53

The research group e-Voting.at led by Prof. Prosser tests absentee voting using the Internet.

In a test election parallel to the Student Union election at the WU Vienna in May 2003 the possibility to cast votes electronically (e-voting) will be available for the first time in Austria. A prototype developed at the WU Vienna by Prof. Prosser and his research group e-Voting.at is used that has been funded by the **Anniversary Fund of the City of Vienna**.

This system implements an absentee voting procedure and is based on the Austrian National ID Card ("Bürgerkarte"): Before Election Day the voter applies for the issuing of an electronic voting token, that is saved on the National ID Card. On Election Day only this electronic voting token is supplied by the voter to prove his right to cast a vote. Special cryptographic methods ensure strict voter anonymity and the non-repudiability of the results.

As signature smart cards and National ID Cards, resp. are not available in large numbers, the test election will use an arbitrary storage medium. The test election is restricted to students of IT-oriented majors (over 1000 eligible voters), the application of the electronic voting token, as well as the vote casting itself take place remotely over the Internet.

Prof. Prosser comments on that: "The test election is not only the first use of such a new technology , but it will also enable us to draw conclusions on the acceptance of such systems in general. If in the future, appropriate National ID Cards are available, it will be possible to offer electronic voting for the real election electronically during the 2005 Student Union elections with this system in full compliance with the constitutional rules for elections."

Fact Box

Procedure of the first online election in Austria

Test election:
parallel to the student union election in May 2003

Sample:
1000 WU students with IT-majors - all voters eligible to vote will be contacted individually

Method:
Analogous to absentee mail voting: (i) Application of an electronic voting token and (ii) online vote casting

(i): May 1st 00.00 till May 19th 24.00 Application for the electronic voting token, then

(ii): May 20th 09.00 till May 22th 15.00 online voting.

Croatia

Relevant topics

Political clout of the diaspora; political one-sidedness of expat voting; de facto non-citizens can vote (sic), ethnic and religious radicalisation.

Documents

<http://headheeb.blogmosis.com/archives/018685.html>

Candidates abroad

Dragan Antulov, who you should be reading if you aren't already, has some excellent coverage of the Croatian general election, including a series of posts about what it all means [[1](#), [2](#), [3](#), [4](#)]. It's all well worth reading, but the part that caught my attention was that three seats of the legislature are reserved for candidates from the diaspora.

A number of countries allow expatriate citizens to vote, but few allow non-resident citizens to run for office, much less specifically reserve seats for them. There are, in fact, only two other countries that currently provide for such representation. In Italy, more than three million registered Italians living abroad elect 12 of 630 members of the Chamber of Deputies and six of 315 senators. The French Senate, the subordinate upper house of the National Assembly, also contains 12 representatives of French citizens abroad, who are indirectly elected by a 150-member council of French expatriates. Proposals for diaspora representation have also been floated in Ireland during the past decade, but have not been enacted.

Expatriate representation in national legislatures has often been controversial, particularly in Croatia. The original post-independence constitution reserved 12 seats for diaspora candidates, which gave expatriate Croats twice the representation *per capita* as those living in the country. Since the majority of expatriate Croats supported Franjo Tudjman's HDZ party, this was widely seen as a means of securing HDZ's parliamentary majority. The electoral law has since been changed so that diaspora seats are allocated in proportion to the total number of voters, but the inclusion of expatriate legislators has still favored HDZ. In addition, since many of the diaspora candidates and voters were Bosnian Croats, they were sometimes viewed as a veiled method of staking a claim on Bosnian territory.

Despite the problems created by the political distinctiveness of some diasporas, however, the trend has been toward rather than away from including them in national decision-making processes. This may be due in part to the fact that, thanks to greater population mobility, more countries have sizable diasporas. At the same time, however, there is also an increasing recognition of expatriates as national stakeholders. Remittances from expatriates are an important source of income in many countries and, in some, are the main source of financial stability. Diaspora communities are also frequently called upon to provide political support to their homeland. National homelands are increasingly seen as the core of transnational communities that include diasporas and in which expatriates have an interest. Although formal legislative representation is still rare, a number of countries have recently taken measures to formalize their relationship with their expatriates. Lebanon

and Israel both have cabinet-level agencies responsible for diaspora relations, and China and Greece have sub-cabinet-level offices. Greece, South Korea and Serbia also have state-sponsored umbrella organizations whose mission includes advising the government on diaspora matters. Several Indian state governments also have formal relations with their expatriate communities, and a high-level commission empaneled by the national government has recommended similar measures at the federal level. States in the process of formation have frequently paid even greater attention to expatriate communities. Many of the members of the Somali Transitional People's Assembly, for instance, are from the diaspora. This may reflect their family ties to the clan chiefs who appointed them more than any democratic inclusiveness, but it nevertheless points to Somali expatriates as an important source of political, financial and moral support. At least one pan-Africanist organization has also suggested allocating 90 seats in its proposed African Parliament to members of the African diaspora.

The proto-state that has arguably gone farthest in recognizing its diaspora as national stakeholders is Palestine. Articles 110 to 112 of the most recent draft constitution, which was unveiled in January of this year, create a 150-member Consultative Council that will function as the upper chamber of the legislature. The membership of the council shall give "due consideration... to the ratio of distribution of Palestinians in Palestine and abroad" - which, if the current population distribution is maintained, would result in more than half the seats being held by expatriates. Although the council would have no voice in purely national matters, it could make decisions relating to the rights of Palestinians abroad, "general strategic issues" and "general policy in Arab and foreign affairs."

The Consultative Council is a recognition of Palestine's unique relationship with its diaspora. The refugee problem has been integral to the Israeli-Palestinian conflict from the outset, and Palestinian nationalist organizations have traditionally claimed to represent the diaspora as well as those living in the West Bank and Gaza. It is likely that any Palestinian state would continue to depend heavily on the diaspora for political support and investment, and that the ill treatment of Palestinians in many host countries will still be a matter of national concern.

As in Croatia, representation of the Palestinian diaspora in the national government could raise problems of political distinctiveness and territorial claims. If Israeli Arabs are included in the diaspora, for instance - a somewhat strained definition of the term given that they are living in their homeland, but a likely one - their representation in the Consultative Council might be interpreted as a continued claim on Israeli soil. This issue might become particularly acute if an Israeli Arab sat on the Knesset and the Consultative Council simultaneously. On the other hand, the cultural and family connections between Israeli Arabs and citizens of Palestine would virtually mandate their inclusion in any body representing Palestinians worldwide.

At the same time, while the Consultative Council might be a source of conflict with Israel, it might also be a model. In many ways, Israel's relationship with the Jewish diaspora mirrors that between the Palestinian Authority and the refugees. Israel claims to represent world Jewry and reserves the right to protest global anti-Semitism; in some cases, the Offences Committed Abroad Act 1973 gives Israeli courts jurisdiction to punish terror attacks against world Jewish organizations. The Israeli government has also repeatedly called upon the diaspora for political and monetary support. As such, Jews worldwide - as well as expatriate Israeli citizens, both Arab and Jewish - can be considered stakeholders in the Israeli state.

Israel, however, goes to the opposite extreme by denying the vote to all citizens living abroad except diplomatic staff. This is unlikely to change under the current government, and any attempt to include the diaspora in Israeli affairs will raise the thorny question of who is a Jew. In the long term, however, representation in the Knesset or in a semi-advisory upper chamber might be an equitable means of ensuring that the Israeli state represents the diaspora in a manner consistent with its concerns. Similar arrangements might also make sense in other countries with large diasporas that remain connected to the homeland - Lebanon, India, China the Philippines and certain Pacific islands are notable examples. In India and China, where the overseas population is relatively small compared to that of the homeland (20 to 35 million as compared to one billion or more), proportional representation in the national legislature might be feasible. In the Pacific islands and Lebanon, however, the diaspora is often larger than the resident citizen population, and proportional representation would result in the national government being effectively turned over to expatriates. In these cases, limited representation or creation of a consultative council as proposed for Palestine might strike a more equitable balance. Representation of some kind, however, is a necessary part of recognizing that one doesn't have to live in a country to have a genuine stake in its policies.

**Posted by jonathan at
December 1, 2003 07:52
PM in [Error! Hyperlink reference not valid.](#) | [TrackBack](#)**

Czechia

Relevant topics

In October 2005 the Communists in parliament blocked absentee voting.

Documents

<http://archiv.radio.cz/news/DE/1998/01.04.html>

Kein Auslandswahlrecht

Das tschechische Abgeordnetenhaus hat heute erneut einen Gesetzesvorschlag abgelehnt, mit dem im Ausland lebenden tschechischen Staatsbürgern die Teilnahme an Wahlen ermöglicht worden wäre. Von 167 anwesenden Abgeordneten unterstützten 84 den Antrag der Kommunisten und Republikaner, den betreffenden Gesetzesvorschlag zurückzuweisen. Dies bedeutet in der Praxis, dass tschechische Bürger im Ausland, die sich an den Wahlen beteiligen wollen, zu den jeweiligen Terminen extra anreisen müssen. Die Ablehnung des Gesetzes hat allerdings keine Auswirkung auf die vorgezogenen Neuwahlen im Juni, sondern

kommt erst im Herbst bei den Senatswahlen zum Tragen.
 Weitere Gesetzesvorlagen, mit denen sich die tschechischen
 Abgeordneten heute beschäftigen werden, betreffen das
 Gesundheitswesen und die Sicherheitslage im Lande.

Estonia

Relevant topics

Pioneer in e-voting; “re-voting” on election helps prevent unethical political influence; voting prior to election day.

Documents

<http://www.vvk.ee/elektr/docs/Yldkirjeldus-eng.pdf>

The National Election Committee

General Description of the E-Voting System

- Tallinn 2004 -

2

Annotation

This paper gives an overview of the technical and organisational aspects of the proposed Estonian e-voting system. Since the initiation of the e-voting project in August 2003, working papers on the e-voting concept and its security analysis have been prepared. This text has been created with the aim to consolidate the concept and corrections made to it as a result of the said security analysis and to give the reader a full overview of the e-voting system. This paper is written on a moderately basic level: in order to learn more about the requirements and description of the system the above-mentioned working papers should be consulted. The present paper is aimed at the general public.

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France

Relevant topics

Choice between absentee voting on all levels or just on national level; special councils in parliament for expats (CSFE); e-voting widespread; proxy voting possible.

Documents

<http://europa.eu.int/idabc/en/document/1004/320>

E-voting gets legal for French citizens living abroad

eGovernment News – 03 April 2003 – France - eDemocracy

The French National Assembly on 27/03/2003 adopted a law authorising French citizens living abroad to vote electronically for the elections to the 'Superior Council of the French leaving abroad' (*Conseil supérieur des Français de l'étranger*, CSFE). The CSFE was created in 1948 and is a representative body for French citizens established in other countries. It is chaired by the Minister of Foreign Affairs and composed by 150 members directly elected by citizens living abroad, 20 members nominated by the Minister of Foreign Affairs for their specific expertise, 12 Senators representing the French established in other countries, and one representative of the Principality of Andorra. It is a consultative body giving advice to the Government on issues of interest for French citizens established abroad.

The number of French citizens established abroad is evaluated at around 2m, of which 600,000 are registered as voters within French consulates. Until now these citizens could vote either physically in consulates or by mail. The new law will make it possible for them to vote electronically as well, the aim being to increase participation rates (currently ranging from 10% to 25%). French citizens living in the USA will be the first to test e-voting for the next elections to the CSFE, which are due to take place on 1 June 2003. It will be the first test of electronic voting for political elections in France.

Further information:

[Law proposal authorising electronic vote for elections to the CSFE](#)

Articles by [the Forum for Internet Rights](#), [01Net.com](#) and [NetEconomie.com](#)

[Latest eGovernment News](#)

[eGovernment News - April 2003](#)

Ghana

Relevant topics

Vital issue: cost of registration and voting at embassies and consulates; maintaining political links to children and grandchildren when they become eligible to vote while abroad; English legal tradition (what isn't forbidden is allowed); constitution is self-executing leading to automatic right to vote abroad.

Documents

Opinions

http://www.ghanaweb.com/law_cms/article.php?ID=2299

Should Ghanaians Living Abroad Be Registered to Vote?

The recent debate on whether Ghanaians living outside Ghana should be registered to vote in the forthcoming elections is, at bottom, a debate over whether we want to be ruled by the constitution or by PNDC laws. Article 42 of the constitution makes it abundantly clear that “every citizen of Ghana of eighteen years of age or above and of sound mind has the right to vote and is entitled to be registered as a voter for the purposes of public elections and referenda.” Plainly and unambiguously, this article grants the right to be registered to vote to any and all sane Ghanaians who are eighteen years or older without any residential qualifications.

Further, not only does article 42 extend the right to be registered to vote to every eighteen year old sane Ghanaian, but also the constitution imposes significant sanctions on any qualified Ghanaian who fails to register. For instance, one who is not registered to vote is disqualified from being a member of Parliament (MP) (see article 94(1)(a)). One who cannot be an MP is disqualified from holding many public positions including a minister of state (see article 78(1)); a member of the EC (see article 44(1)); president or Vice President (see article 62(c)); a member of the Public Services Commission (see article 194(3)(a)); and a member of the National Commission for Civic Education (see article 232(3)).

Thus, the right to be registered as a voter is one that is to be taken very seriously by all Ghanaians, especially the Electoral Commissioner (EC) who must do everything

within his powers to ensure that no qualified Ghanaian, who is willing to register, is denied access. In light of the importance of the right to register, the Supreme Court ordered the EC to register Tehn Addy for the 1996 elections, even though Mr. Addy showed up to register after the EC had closed down his registration window.

It is important to understand that because the right to be registered to vote is conferred by the constitution itself, it is entirely meaningless, as Parliament tried to do under a certificate of urgency, to re-grant it to Ghanaians living abroad. You cannot be given what you already have. Nor, more important, can that right be taken away by any law (or for that matter by social commentators, political leaders, or student leaders). As Chief Justice Acquah indicated in *Tehn Addy versus Electoral Commissioner*, a right that is granted by the constitution can only be taken away by the constitution itself. Ergo, the only one way to modify or otherwise alter article 42 is by a constitutional amendment. Further, because article 42 is an entrenched provision, it can be altered only by a referendum held throughout Ghana, where at least forty percent of the persons entitled to vote (including registered Ghanaians everywhere) actually cast a ballot and where at least seventy-five percent of the persons who voted cast their votes in favor of the amendment. Put another way, the grant of universal adult suffrage in article 42 is a perdurable feature of our constitutional edifice. And for good reason for all our other rights are illusory unless they are backed by the right to vote. It follows that any law that takes away the right to vote as provided in article 42 is unconstitutional, void and of no effect.

If article 42 is so clear, what then seems to generate this debate on who should and should not be registered to vote? The answer, annoyingly, lies in section 7 of PNDCL 284 (Representation of the People Law), which imposes a residency requirement for being registered as a voter. Like many of the PNDC laws that we fought so hard against, section 7 of PNDCL 284 ignores the plain mandate of article 42 and illegally imposes its own registration scheme. That unconstitutional section 7 provides that an eighteen year old citizen of Ghana who is of sound mind must be resident in a polling division, defined as having a place of abode in the division, before she can be registered. Further, the section provides that “a person shall not be deemed to be resident in a polling division if she has been absent from her place of abode for a continuous period of six months ending on the qualifying date.”

What is the effect of section 7? First, plainly section 7 automatically disenfranchises Ghanaians who are resident overseas. Unknown to many people, traveling to Ghana does not make you eligible to register under PNDCL 284. Second, that section disqualifies otherwise qualified citizens who reside in Ghana but who travel and stay outside the country for the 6 months period preceding the registration exercise. Thus, if Ama Serwaa, a trader at Kantamanto, travels overseas to visit his son for 6 months (perhaps to see the grandkids) and Ama Serwaa flies back into Ghana on March 15, 2004, our EC would not register her because of section 7 of PNDCL 284. This encumbrance on Ghanaians who live in Ghana is one that is not well known.

Further subsection 8 of the same law exempts some Ghanaians living abroad from the reach of the law. The exempted persons include those who work in the diplomatic missions and their spouses, persons working with international organizations of which Ghana is a member (e.g., World Bank, IMF, UN), students on government scholarship, and members of the armed forces and the police on peacekeeping duties. These persons are registered through the assistance of the Ministry of Foreign Affairs or the appropriate military or police authority. Once registered, they can either vote in person in Ghana or vote by proxy.

The preceding background information raises two questions: (1) can PNDCL 284 undo the registration scheme in article 42? (2) Assuming that PNDCL 284 is stricken down as unconstitutional, which it should be, can the EC nevertheless treat Ghanaians living abroad differently (that is, can the EC selectively register Ghanaians Overseas)?

The answer to the first question has to be a resounding negative. The very first article of the constitution provides that “the Constitution shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void.” That resolves the matter and PNDCL 284 is not enforceable and should not be enforced. Second, any doubts about what article 42 means has already been resolved by the SC, which has held that the right to vote is derived from the constitution itself and cannot be denied in the absence of a constitutional provision to that effect. Third, in light of this interpretation by the Court, all bodies who uphold PNDCL 284 are in contempt of the SC and should be so held. Therefore, in my opinion, the EC is in contempt of Court.

Article 17(1) of the constitution is relevant to answering the second question. That article provides that “all persons shall be equal before the law.” That is a terse way of asserting that similarly situated Ghanaians should be treated in like manner. Neither the EC nor any governmental agency is allowed to discriminate unless there is a valid reason for doing so. What is a valid reason is, of course, dependent on the right in question. Here, we are dealing with the right to register to vote, which is the most precious right in a democracy. Consequently, only a compelling reason by the EC will justify the selective registration. Put another way, the selective registration of Ghanaians living abroad CANNOT pass constitutional muster!

Again, the case law should counsel the EC to put an end to this discriminatory practice. In *Tehn Addy*, the EC opened the supplementary register for Ghanaians who had turned 18 but not for Mr. Addy. The Court rejected the selective registration and held that Mr. Addy should be registered. PNDCL 284 allows some Ghanaians (those working in Ghana’s foreign missions, students on government scholarships abroad and Ghanaians working with international organizations of which Ghana is a member), but not others, to register in their country of residence. That is the type of selective registration that was rejected by the Court. Having found a way to register some Ghanaians resident overseas, the EC is bound by the constitution to extend that facility to all eligible Ghanaians. To register some eligible voters resident overseas, but not others, would create a system of constitutional caste that is manifestly contrary to article 17(1) and article 42, that ignores the holding in *Tehn Addy*, and that does irreparable harm to the excluded class.

Therefore, once sections 7 and 8 of PNDCL 284 are stricken down, as they should be by the Supreme Court, the EC’s excuse for failing to register Ghanaians who live overseas or those who stay overseas for 6 months would eviscerate and the debate on whether overseas residents should be registered would be resolved. Let me now turn my attention to the so called logistical problems that some have used in pursuit of their agenda of disenfranchising their fellow Ghanaians. As I have noted, the EC has a facility in place already to register some Ghanaians who live abroad. Therefore, what we are talking about here is not the emplacement of a new facility but an extension of an existing facility to all Ghanaians wishing to exercise their constitutionally protected right.

The existing laws allow the EC to appoint the head of a Ghana Mission or Embassy abroad as a registration officer, and give appropriate instructions to him or her for purposes of registering voters. The various registration officers so appointed by the

EC will simply invite interested citizens to apply to register with supporting materials indicating that they are qualified (sane, Ghanaians and over 18 years). This is hardly a daunting task. As a matter of fact, many of the embassies already maintain a database of Ghanaians and such an exercise would be one of maintenance.

As with citizen at home, citizens in the Diaspora will register for the districts and constituencies that they “hail from” or “reside in.” Voting can then be done by proxy, mail or as with most developing countries by voting at the embassies. With this latter approach, the EC, based on the registration exercise at the embassies, will send the required number of ballots to the embassies for distribution to the registered voters. The voters simply cast their ballots and mail it to the embassies. Significantly, voting by overseas residents is so commonplace that it is now standard practice for an embassy to obtain the necessary assistance from the election authority in the respective country to conduct the election. In effect, the EC of Ghana can simply enter into agreements with the EC of various countries to assist in this process.

As one who condemned the recent increase in the number of MPs on cost grounds, I will be remiss if I did not touch on the cost of this project. The solution is to make it a self-financing project. In other words, let the overseas residents bear the cost of this exercise. If the administrative cost of extending the facility to them is, as an example, \$25 per head, then each registrant should be made to pay that cost.

It must be reiterated that the EC, when PNDCL 284 is stricken down, cannot merely declare a two weeks period and invite all Ghanaians living abroad to come home and register any more than he can ask all citizens in Ghana to come to Accra to register. For the right to register to be meaningful it must be accessible and for those who live outside Ghana that means registering at the embassies, which after all exists for exactly these matters.

Let me conclude by expressing my utter disappointment with those Ghanaians who, somehow, think they have the right to determine which Ghanaians are eligible to be registered as voters. The right to be registered to vote is not a right that is going to be decided by opposition press conferences and NUGS statements or by some Ghanaians. The right to be registered to vote is not a right that is going to be decided by PNDC laws. It is a right that is guaranteed to all Ghanaians by the constitution! The right to be registered to vote is the most important right and all true patriots must make it their civic commitment to ensure that that right is NEVER denied to any qualified Ghanaian.

Author: S. Kwaku Asare

Japan

Relevant topics

Forced by supreme court ruling; Diaspora initiatives responsible for achieving change in the law; “technical” arguments used by the government to oppose absentee voting were overruled by the courts; government had to pay financial penalties; courts used globalisation as an argument.

Documents

<http://search.japantimes.co.jp/print/opinion/ed2005/ed20050920a1.htm>

EDITORIAL

Counting the overseas vote

Article 1 of the Constitution makes it clear that sovereign power resides with the people, and Article 15 says, "The people have the inalienable right to choose their public officials and to dismiss them." Thus the right to vote in elections is the most important constitutional right for Japanese citizens.

In this connection, the Supreme Court on Sept. 14 made a long-overdue decision when it found that a provision of the Public Offices Election Law -- which prevents qualified Japanese voters living abroad from voting for local candidates in Diet elections -- is unconstitutional.

The ruling is confirmation that, beginning with the next Diet election, voters living abroad may cast their ballots for individual candidates in local constituencies as well as for political parties in proportional-representation constituencies. An Upper House election is scheduled to be held in the summer of 2007, so the Diet must revise the Public Offices Election Law as soon as possible.

The 12-2 ruling by the top court's Grand Bench has been viewed as epoch-making because, until now, the nation's highest court has tended to avoid taking a clear stance on the constitutionality of an action or inaction by the government or the Diet. The latest ruling marks the seventh time since the inception of the current Constitution that the Grand Bench has deemed something "unconstitutional." In effect, the ruling severely censures the Diet for not assuring the voting rights of Japanese citizens living abroad. Of the 960,000 Japanese who live overseas, more than 720,000 are expected to become eligible to vote.

Under the Public Offices Election Law, enacted in 1950, otherwise eligible voters living overseas were not allowed to vote in Upper and Lower House elections. Fifty-three Japanese voters living in eight countries decided to challenge this restriction by filing a lawsuit with Tokyo District Court. The plaintiffs, who had not been permitted to vote in the October 1996 Lower House election, claimed that the law was unconstitutional and sought a 5,000 yen solatium for each plaintiff.

In 1998, the law was revised to partially rectify the situation. The revision let eligible voters living abroad vote only in proportional-representation segments of Diet elections. The right was not extended to local constituencies, however, on the grounds that it was too difficult and time-consuming for election officials to send a fair amount of information on each candidate to each voter. The district court and the Tokyo High Court turned down the plaintiffs' demand in 1999 and 2000, respectively, saying the state could restrict voting rights to operate elections equitably and efficiently. The two courts avoided passing judgment on the law's constitutionality.

The Supreme Court last week overturned these lower court rulings, saying that restricting the exercise of voting rights cannot be condoned in principle, since the Constitution guarantees electoral equality. The court said the restriction at issue is unconstitutional and that an exception can be made only when it is impossible or extremely difficult for officials to let voters exercise their voting right while ensuring the fairness of an election. It added that the conditions creating such an impossibility or difficulty do not appear to exist.

The top court attached importance to the fact that a revision bill that the government submitted to the Diet in 1984 would have made it possible for eligible voters overseas to vote for individual candidates. That bill died after the Lower House was dissolved in 1986. The court, therefore, censured the Diet for doing nothing for almost a decade afterward.

Calling the Diet's inaction an "extreme omission," the court awarded the 5,000 yen solatium to the plaintiffs, who have dwindled to 13 in number. It also pointed out that, as the means of communication progresses rapidly on a global scale, it will not be so difficult for election officials to distribute the necessary candidate information to voters living abroad.

For the Sept. 11 Lower House election, about 83,000 Japanese living abroad were put on the rolls of registered voters who could exercise their voting rights. About a quarter of them actually voted. Although the Supreme Court's ruling is a big step forward, it does not refer to specific forms the law should take after the Diet's anticipated revision.

Procedures for voting abroad are complicated. A voter must go to a Japanese diplomatic mission and ask for a registered certificate in his or her name. The request is sent to the relevant election management committee in Japan, and the certificate is sent to the voter; this alone is said to take about three months. The voter then either casts his ballot at the diplomatic mission or mails it. Obviously the top court's ruling will not become meaningful until the Diet and government ministries concerned work out a viable procedure convenient to overseas voters.

The Japan Times: Sept. 20, 2005

Iraq

Relevant topics

Special polling stations set up around the world; problems with travel expenses and the lack of a sufficient number of polling stations; after US led invasion the emigration trends shifted to include Sunnis and Christians fleeing the fighting; IOM monitors the process; registration lists for election are made public in order to combat fraud; lack of freedom in many host countries makes voting difficult; c. 15% of the population live outside the country.

Documents

http://news.bbc.co.uk/2/hi/middle_east/4198071.stm

Iraq exile vote runs into trouble

Iraqis living abroad are being given more time to register in the country's election because of a low turnout.

The International Organization for Migration, which is organising voting in 14 countries, said registration would be extended for two days.

By Thursday, the fourth day of registration, fewer than one in 10 Iraqis had registered abroad, out of more than a million eligible voters.

In Iraq, new security measures have been announced for the 30 January poll.

In other developments:

The Ansar al-Sunna group says it has executed 15 Iraqi national guards who were kidnapped last week

A militant group says it has kidnapped a Brazilian man in an attack on a US firm in Iraq, Arab television station al-Jazeera reports

Eight Chinese hostages taken hostage in Iraq have been released, the Chinese embassy in Baghdad says

At least six Iraqi soldiers are injured in a car bomb near Hilla, south of Baghdad.

A US soldier is sentenced by a military court to three years in jail over the killing of an Iraqi woman translator in November

Registration for Iraqi exiles and expatriates had been due to end on Sunday, but is now being extended until Tuesday.

The IOM said registration rules were also being eased. An Iraqi passport will now be accepted as identification, instead of the two documents demanded previously.



Iraqi authorities insist the election will go ahead despite the violence

IRAQ'S OVERSEAS POLLS

Syria: 500,000

Jordan: 360,000

US: 313,000

UK: 250,000

Iran: 134,137

UAE: 100,000

Sweden: 91,600

Germany: 75,000

Australia: 75,000

Netherlands: 44,000

Turkey: 40,000

Canada: 36,000

Denmark: 26,000

France: 8,000

This week, the head of the Jordan-based programme for registering expatriate Iraqi voters, Peter Erben, told the

Number of Iraqis living in 14 nations where voting is to be held

(Source: IOM)

BBC News website there could be several factors why so few had come forward.

They included the requirement for people to attend polling stations twice, once to register and then to vote - inconvenient for those who have long distances to travel.

The absentee voting will take place as planned on 28-30 January, the IOM said.

In Iraq, the interim government has given more details about the security arrangements for the election, amid fears that insurgents will try to disrupt the poll.

New restrictions

Baghdad's airport is to be closed for two days and overnight curfews in certain cities will be expanded, interim Interior Minister Falah al-Naqib said.

The movement of pedestrians and cars close to polling stations will also be restricted, and non-official cars will be prevented from travelling between Iraq's 18 provinces.

On Friday, Iraq's interim Prime Minister, Iyad Allawi, said it would be impossible to provide full security for the vote.

However, Mr Naqib said the authorities were doing their best to ensure a peaceful vote.

"All of our security forces have been put on alert to face any terrorist attacks targeting these elections," Mr Naqib told reporters, confirming that security forces would be paid special bonuses.

The Iraqi interior minister said 29, 30 and 31 January would be public holidays, during which many areas would hold curfews from 2000 to 0600 (1700 GMT - 0300 GMT).

People will be barred from carrying weapons during that period, Mr Naqib said.

Iraq had already announced plans to close its land borders for three days, except for pilgrims returning from the Hajj in Mecca, Saudi Arabia.

Italy

Relevant topics

Expats are represented through overseas constituencies; registration is via local municipal authorities; 75% reimbursement for those who travel home to vote; comprehensive lists of overseas voter are maintained by foreign ministry in cooperation with the municipalities.

Documents

<http://www.italianconsulate.bc.ca/English/VotoEsteroEng.html#Anchor-La-30840>

Law No 459/2001 **(open file in pdf format) The right of Italian citizens living abroad to vote by correspondence**

1. What is the purpose of the vote ?
2. Who is eligible to vote ?
3. Who is eligible for candidature ?
4. What is the process for casting votes ?
5. How are elections held ?
6. The option to vote in Italy.

1. What is the purpose of the vote ?

Italian citizens residing abroad have the right to vote to elect Members of the Chamber of Deputies and of the Senate of the Italian Parliament. They also have the right to vote when popular referenda for the abrogation or confirmation of existing laws are held.

In the case of political elections, voters will elect 12 Deputies and 6 Senators for the "Circoscrizione Estero".

The Circoscrizione Estero is subdivided into 4 geographical groups: a) Europe; b) South America; c) Northern and Central America; d) Africa, Asia, Oceania and Antarctica.

Voters will cast their votes for the candidates appearing on the lists presented in their respective geographical group. For each group one Deputy and one Senator will be elected. The remaining seats will be distributed among the geographical groups in proportion to the number of residents.

2. Who is eligible to vote ?

Italian citizens resident abroad aged 18 or over may vote to elect members of the Chamber of Deputies; those aged 25 or over may vote to elect also members of the Senate. Only electors listed in the Registers of Electors are eligible to vote.

The Registers of Electors will be compiled according to updated records based on local AIREs and Consular data. To ensure the accurate updating of electoral records, Law 459 requires electors to return to the Consular Office the form "Personal Information Form (pdf document)".

3. Who is eligible for candidature ?

The candidates appearing on the electoral lists presented by each geographical group must be both resident and electors of that group.

4. What is the process for casting votes ?

Italian citizens residing abroad can cast their votes by post.

Within 18 days of the date of the election, the Consular Office will send to all electors an "electoral pack" containing: the electoral certificate; the ballot paper or ballot papers and related envelope; a larger, pre-stamped, envelope containing the address of the Consular Office; the list of candidates; an explanatory sheet on voting modalities; the text of Law 459/2001.

Electors must return the ballot papers to the Consular Office in the appropriate envelope not later than 10 days prior to the election date. The Consular Office will send the ballot papers to Italy immediately to ensure that counting can take place in conjunction with that of votes cast within the national territory.

Electors who have not received the "electoral pack" within 14 days before the election can collect it in person at the Consular Office.

5. How are elections held ?

Diplomatic Missions have stipulated agreements with the Governments of the States where Italian citizens reside in order to guarantee that the postal voting is exercised in conditions of equality, freedom and secrecy, without any prejudice whatsoever for electors' employment rights and any other right. Italian citizens residing in countries where such agreements could not be stipulated, will be able to exercise their right to vote only by travelling to Italy.

Election campaigns will be conducted according to specific forms of co-operation previously agreed with foreign governments. However, the absence of such forms of co-operation will not prevent the casting of the postal vote.

6. The option to vote in Italy.

Italian citizens residing abroad are not compelled to cast their vote by post. Law 459 foresees that electors have the option to vote in Italy if they so wish, by travelling to the national territory and by voting for the candidates of the constituency in which they are registered in Italy.

Electors wishing to return to Italy to cast their vote must notify the competent Consular Office of their intention in writing by the 31st of December of the year before the natural expiry of the legislature or, in the case of earlier dissolution of Parliament, within 10 days of the calling of the election. The option will remain valid for a single election or referendum.

Enclosed with this letter is the Option Form with which electors can, as of now and within 60 days of receipt, notify the Consular Office of their wish to vote in Italy. The option will be valid for the next election/referendum only.

It must be noted that receipt of the present communication and the sending of the option form will not constitute recognition of the right of vote on the part of the sender. Eligibility to vote will subsequently be verified by the Italian authorities.

There will be no reimbursement of travelling expenses incurred by electors opting to vote in Italy.

Voting in Italy will remain compulsory for Italian citizens residing in those countries where it has not been possible to stipulate governmental agreements as per item 5 above, as well as for those residing in countries whose political-social situation does not guarantee, even temporarily, respect of the conditions contained in the agreements. In such cases, and for those electors residing in countries where no Italian Diplomatic representation is available, up to 75% of travelling expenses for the journey to Italy will be reimbursed. To this end electors will need to apply to their Consular Offices, enclosing the electoral certificate and travelling documents.

Instructions *in Italian and English (file pdf)*

Option Form *in Italian and English (file pdf)*

To be completed, signed and returned ONLY if you intend to exercise the right to vote for the next Italian election or referendum IN ITALY and NOT IN CANADA

Send to:

Italian Consulate General Vancouver
1100 - West Hastings Street
Vancouver,
BC, Canada
V6B 1L8

Mexico**Relevant topics**

Campaigning abroad by Mexican political parties is not permitted; not registration for voter cards abroad; 15% of the population lives abroad; diaspora population hopes to increase influence in Mexico through absentee voting; special voting stations will be set up in the US for the c. 15 million voters.

Documents

<http://www.hacer.org/current/Mex117.php>

Mexican expatriates' vote:

How powerful?

By Lourdes Medrano

For the first time in history, Mexicans living outside Mexico will be able to vote in their native country's presidential election next year without having to return home. Recently approved changes in Mexico's election law mean Mexican expatriates can help choose a successor to President Vicente Fox, who, like all Mexican presidents, is limited to a six-year term.

Whether Mexicans abroad will be motivated enough to vote in numbers large enough to swing what could be a close three-way July 2006 presidential election remains to be seen. Tucsonans promoting the law say Mexicans here could be left in the dark because of a legal ban on campaigning in the United States imposed by the Mexican Congress to avoid tainting the election.

The Mexican government estimates that 11 million of its citizens live outside the country, 98 percent of them in the United States. About 4 million of them are registered to vote in Mexico.

By comparison, 6 million U.S. citizens are living abroad, including 2.7 million servicemen and servicewomen and their families. The U.S. Department of Defense's

Federal Voting Assistance Program, which promotes voting abroad, does not have a number of registered voters.

Florencio Zaragoza, who pushed efforts to grant voting rights to Mexican nationals in this country through his Fundacion Mexico organization, said voters will have to rely on the foreign news media to learn about the presidential race once candidacies become official.

Another point of uncertainty is the number of Mexican citizens living in the United States who want to but cannot vote. Only those who already hold a valid voting credential issued in Mexico will be allowed to cast a ballot.

Tucsonan Maria Laura Durán, 30, said the requirement will keep many from voting, including many people who live in this country illegally.

"Many of them don't have the economic means to go to Mexico for their credential," said the Mexico-born Durán, who plans to vote.

Tucsonan Juan Reyes, 52, who along with his wife, Blanca, also plans to vote, said granting Mexicans the right to vote abroad was long overdue.

Reyes, an asbestos remover, left his hometown of Obregón, Sonora, for the United States 20 years ago.

"The migrant vote can influence the outcome, definitely," he said. "Most of our families are there. For their sake, many of us want to help bring about change in Mexico."

As a top official from Mexico's federal elections tribunal visited Tucson recently to promote the new law, a newly formed local committee kicked off plans to get the word out ahead of the election. As of this Saturday, Mexican voters will be able to register to receive a ballot by mail.

In June, after years of lobbying from Mexican migrants, the Mexican Congress gave citizens abroad the right to vote. The prospect of voting in Mexican elections has broad appeal among Mexicans in the United States, according to a Pew Hispanic Center survey of 5,000 people released in March.

As Mexico's government debated whether to grant its absent citizens the right to vote, nearly nine out of 10 people who were surveyed at Mexican consulates in major U.S. cities said they would vote if they could.

Mexican nationals north of the border - whether recent or longtime immigrants - have high hopes that their votes not only will help choose the right president for Mexico, but also that they will translate into added clout for migrants.

"The pressure that can come from millions of new voters - it can mean that a lot more can be accomplished in Mexico," said Diana Montaña, a University of Arizona graduate student. She coordinates the nonpartisan Tucson committee pushing for a strong voter turnout.

The Mexico-born Montaña, 23, and other Tucsonans are among the first to join a fledgling U.S. campaign to encourage Mexican nationals to vote.

Montaña, who has dual citizenship, has voted in U.S. elections but never in a Mexican election. She and Tucson friend Lucía Ornelas, a 25-year-old permanent legal resident, traveled to Nogales, Sonora, on Friday to apply for Mexican voting credentials. They will return to pick them up in a month so that they can vote next year.

Montaña said being able to make a difference in their homeland has deep meaning for Mexican expatriates.

"It doesn't matter if migrants are already established in this country or if they come and go," Montañó said. "We have the right to elect people who will work to improve communities and create jobs so people don't have to migrate to the United States."

On this side of the border, Montañó said, a strong migrant vote could prove critical in the debate over illegal-immigration policy. The U.S. government finally could start taking seriously Mexico's efforts to put the long-dormant matter on the front burner, she said.

Until Fox carved his own place in history by breaking the 71-year rule of the Institutional Revolution Party in 2000, migrants rarely merited public mention on the part of the Mexican government. Fox, a National Action Party member, has instituted various programs for migrants, has called them heroes, and has lauded their contributions to Mexico's economy in the form of the more than \$13 billion a year they send to family members in Mexico.

Primitivo Rodríguez, legal counsel for Mexico's Federal Electoral Institute, said during his Tucson visit that Mexicans in this country already have gained stature in Mexico because of their dogged persistence in securing the vote abroad.

"This victory was achieved thanks to the movement generated in the United States," Rodríguez told a crowd at a recent Mexican Independence Day celebration. The migrant vote can be powerful enough to change the political spectrum in Mexico, he said

Source: Arizona Daily Star

Morocco

Relevant topics

Remittances are very important; economic power has not led to political rights at home; expats are seen as second-class citizens; mobilisation for absentee voting is especially strong on France.

Documents

http://www.maroc-hebdo.press.ma/MHinternet/Archives_523/html_523/nous.html

Après le manifeste adressé à SM le Roi, le Collectif des Marocains de Paris assigne le Premier ministre en justice

“Nous voulons voter”

Les Marocains vivant à l'étranger sont aux yeux de nos politiques et gouvernants des “pourvoyeurs de devises”. Le Collectif des Marocains, regroupant plus de soixante associations marocaines réparties dans la région Ile de France, en est conscient. Un

sentiment qui occupe une place de choix dans le manifeste qu'il a adressé à SM le Roi, le 27 juin 2002.

Bachir Thiam



• **Alain Baghdadi.**

Nous assignons le Premier ministre Abderrahmane Youssoufi devant le tribunal administratif de Rabat pour avoir rejeté du code électoral des millions de Marocains résidents à l'étranger". L'introduction de cette requête a été assurée par Me Choufani.

C'est peu dire que le manifeste adressé à SM Mohammed VI, intitulé Appel de l'Ile de France, par le Collectif des Marocains de cette région, présidé par Alain Baghdadi, revendique le droit à un traitement équitable de tous les citoyens marocains où qu'ils résident. Le sentiment populaire, voulant que les Marocains vivant à l'étranger sont aux yeux de nos politiques et gouvernants des "pourvoyeurs de devises", a pris date.

Exclusion

Le Collectif des Marocains, regroupant plus de soixante associations marocaines réparties dans la région Ile de France, en est conscient. Un sentiment qui occupe une place de choix dans le manifeste qu'il a adressé à SM le Roi, le 27 juin 2002. "Plus de 800.000 âmes se sentent marginalisées, exclues, considérées comme des parias ou des incapables à pouvoir participer aux prochaines élections législatives" prévues le 27 septembre 2002. Les termes de ce manifeste en disent plus long quant à la déception de ses auteurs. Preuve.

Dans son interview accordée à Radio Orient à Paris, propriété de Rafik Hariri, Premier ministre du Liban, le chef de file du Collectif des Marocains d'Ile de France, le Franco-Marocain Alain Baghdadi, parle d'une exclusion de près de 10 % de la population marocaine du processus démocratique, ce qui engendre chez eux un grand sentiment de frustration. Son commentaire sur les ondes de Radio Orient, celui aussi contenu dans le manifeste en question déclame, même si c'est sur un ton volontairement dramatisant, mais sans détours: "Ce Marocain résident à l'étranger, renié dans sa citoyenneté même, ne peut prendre part à toutes les décisions nationales car il n'aura ni représentant au niveau gouvernemental ni au niveau parlementaire".

Habilitation

Alain Baghdadi, par ailleurs professeur de sciences et techniques économiques, fondateur de la très renommée Ecole commerciale Fayol, créée en 1969 à Epinay, région parisienne, qui compte aujourd'hui deux autres unités à Pontoise et Bezons, réaffirme à qui veut l'entendre que leur action est désintéressée. Du moins le

concernant. Se suffit-il de l'habilitation accordée à son Groupe par les instances ministérielles de l'Education nationale française, lui donnant le rare privilège que peut espérer un binational en France de préparer des examens d'État et d'assurer des stages de formation professionnelle continue. Un blanc seing qui aboutit à un partenariat avec plus de 250 entreprises implantées en France. Rien n'est moins sûr. C'est dire si le manifeste, et avant lui toutes les autres démarches visant à sensibiliser les autorités gouvernementales quant à l'implication des ressortissants marocains à l'étranger dans la gestion de leurs intérêts, par la voix du président du Collectif de Marocains de l'Ile de France, ne traduit pas que des ambitions individuelles. Si l'on en croit ses auteurs, il est l'expression d'une approche collective visant à normaliser les rapports politiques entre les ténors locaux et les citoyens marocains de la diaspora. C'est une lapalissade de dire que l'immigration a profondément changé sans que change ce rapport. C'est à ce niveau-là que réside la pertinence du manifeste qui, sur un ton beaucoup plus posé, résume sa volonté: "Sire, nous voulons seulement et humblement nous impliquer davantage en nous associant démocratiquement à la vie politique, économique, sociale, professionnelle et solidaire, et financière de notre pays et être considérés comme des Marocains à part entière et non comme des Marocains de seconde zone, dépourvus de leurs droits politiques les plus élémentaires".

Pour cette fois, c'est raté, sauf report de dernière minute des élections législatives.

Palestine

Relevant topics

No absentee voting in the OPT; PA is establishing a civil register to replace Israeli lists; East Jerusalem voters are officially consider to be absentee from the West Bank and Gaza; 1948 and 1967 diaspora can not vote at all; diaspora model elections planned for the upcoming PA elections.

Documents

<http://www.badil.org/>

Palestinian exile participation in elections

Dear Eugene,

I have been wanting to respond, but was abroad and came back and found too many emails. Today's message gave me a push and here is something in short:

a) I was not completely sure who you refer to when you speak about Palestinian absentee voting, simply because we have so many types of "absentees":

b) The case of 1967 OPT residents: West Bank and Gaza residents are entitled to vote under the Palestinian election law based on the Oslo agreements in elections to the Palestinian Legislative Council (PLC) and in municipal elections, which are all institutions of the Palestinian Authority. I am not really up to date about whether there is a procedure for casting absentee ballots via the Palestinian representations abroad for persons who are not present at the time of elections, but I assume that there is none.

In the West Bank (excluding occupied Jerusalem) and the Gaza Strip, entitlement to vote is determined by registration on the Israeli "civil register" (population register of the military government) and the newly compiled Palestinian voter register which is gradually replacing the former. People vote in voting stations as in any place of the world.

In occupied Jerusalem, the Oslo agreement-based election law requires Palestinian residents to cast "absentee ballots", i.e. people vote via specially designated post offices on special forms. This based on a political compromise between the PLO and Israel according to which Palestinian people in Jerusalem are a constituency of the Palestinian Authority for the purpose of the elections, but not the land/territory of Jerusalem. Therefore, Palestinian voters are as-if-voting-from-abroad.

c) The case of the Palestinian exile: There was an effort by the PLO during the 1991 Madrid negotiations with Israel to obtain approval for the participation in the elections to the PLC by at least part of the Palestinian exile, i.e. 1967 refugees who originate from the 1967 OPT which were to become the Palestinian state and were supposed to return there. This effort, however, failed. Therefore, the Palestinian election law which was passed pursuant to the Oslo Agreements excludes both 1948 and 1967 displaced Palestinians. They are not entitled to vote (and you may call them absentees, if you wish).

So, you see, we have at least 3 categories of "absentees": entitled 1967 OPT residents who are abroad, Palestinian Jerusalemites, and the excluded exile.

Just to let you know: The Palestine Right of Return Coalition composed of

right of return initiatives in Palestine and in exile has just decided, in its 2006 annual meeting in November) to raise awareness of and protest the exclusion of the Palestinian exile from elections and Palestinian political decision making by organizing symbolic elections in front of Palestinian representations and other central locations abroad parallel to the upcoming PLC elections. In these symbolic/mute elections, exiled Palestinians will vote for the Palestinian National Council (PNC) which is an institution of the PLO (and not the PA), because the PLO is the political body representing the entire Palestinian people and not the PA which represents only those living in the 1967 OPT.

This is all quite complicated - the reason why it took some time for me to write. If you would like to know more about the planned symbolic participation by the Palestinian exile in the upcoming elections, you may contact directly in Lebanon:

Rita Hamdan, NGO Forum-Lebanon and PARD: pard_b@cyberia.net.lb

Jaber Suleiman, Aidun Group-Lebanon: jsleiman@inco.com.lb

With best wishes from Palestine,

Administration

info@badil.org

Director: Ingrid Jaradat Gassner

Philippines

Relevant topics

Expats must declare that they will return within 3 years if they want to vote abroad; dual nationals may not vote abroad; 10% of total population lives abroad; comprehensive lists of all voters abroad are maintained by the government; CFMV: NGO umbrella organisation fighting for absentee voting, along with PMRW and ICOFVR; registration for voting can be done at embassies or consulates.

Documents

<http://www.philsol.nl/of/99/Bagasao-april99.htm>

A Position Paper on the Proposed Bills to Allow Absentee Voting for Overseas Filipinos

Introduction

Article V, Sections 1 and 2 of the 1987 Philippine Constitution among others, provide for the qualifications for voting, as well as as made it mandatory (by the use of the term " shall "), for Congress to provide a system for securing the secrecy and sanctity of the ballot as well as a system for absentee voting for qualified Filipinos abroad. There have been several attempts in both lower and upper house of the legislature, to pass an overseas voting bill but have since failed to muster enough support to pass into law. According to a report of the Commission on Filipinos Overseas, bills on absentee voting were separately filed by Senators Teopisto Guingona, Blas Ople and Raul Roco before the 11th Congress. These senate bills Nos. 463, 469 and 653, seek to enable qualified Filipinos abroad to vote in Filipino elections, the next of which is scheduled in May, 2001.

Senator Raul S. Roco was recently in Geneva and on 28 February took time out from his work at the InterParliamentary Union committee meetings in order to consult with and discuss his views on the overseas voting bills with an enthusiastic cross section of the Geneva Filipino community. He also briefly discussed other issues not related to the bill, such as dual citizenship, taxation, and other topics brought up during the open forum that followed. Senator Roco also encouraged his audience to make known their comments, opinions and views to him either by mail or email to help him in the sponsorship of the bill.

The author is a member and co-Chair of Geneva Forum for Philippine Concerns, and was present during Roco's talk. Geneva Forum for Philippine Concerns is a small non governmental organisation that is primarily into migrants rights advocacy and protection, and is registered with the Canton of Geneve. It is part of a bigger network of about 70 PHilippine NGOs based in 14 European countries, and in the Philippines, and coordinates its efforts mainly with the Commission on Filipino Migrant Workers(CFMW), whose migrant initiatives are centered around a Filipino Migrant Agenda that seek to protect migrants rights in the PHilippines as well as in Europe. Part of this migrant agenda is the advocacy for the early passage of the law on absentee voting. In August last year, CFMW sent a delegation to Manila which met with President Estrada, the Labor Secretary, heads of migrant regulatory offices, and leaders of Congress, to lobby for more migrants rights protection. Most of the observations and views here were previously sent by email to Senator Roco in letter form, in response to his invitation for overseas Filipinos to make known their views to help him in his sponsorship of the bill. The letter to Senator Roco had been revised into this paper's present format, and which now includes additional recommendations in preserving the sanctity of the ballot, observations on potential problem areas, and listing of existing resources which may be utilised to cut on expenses. Hopefully it

will generate a healthy and vigorous discussion on the issue, assist our legislators in crafting a bill that will not unduly exclude otherwise qualified voters, and finally to heighten awareness among overseas Filipinos of the importance of exercising their voting rights, and its relation to choosing their future leaders who will genuinely look after their interests.

The Role of NGOs in the Absentee Voting Process

Senator Roco underscored the critical role of non governmental organisations in the absentee voting process. We cannot agree more. NGOs will not only supplement the resources of our PHilippine embassies and missions, they are eminently qualified in ensuring the integrity of the voter registration, campaign , and the actual voting and counting processes, as the prospect of cheating seems to be the general concern of those who are not enthusiastic about this bill. NGOs are in touch with, and enjoy the confidence of overseas Filipinos, particularly the undocumented . They look for their own funds, do not rely on the Philippine government for financial support, and workers services are usually donated. Hence, they have the independence, commitment, and a vast experience in mobilising and organising information campaigns concerning an orderly and clean electoral process abroad.

The role of NGOs or people's organisations is enshrined no less than in Article II, Sec. 23, and Sections 15 and 16 of ARTicle XIII of our Constitution. Whether the PHilippine government will admit it or not, NGOs and other support groups abroad have contributed a lot to the amelioration of the welfare of overseas Filipinos, particularly those in distress, as well as in exposing inadequacies in government services abroad which have led to the passage of new laws that give migrants more protection. It must be mentioned that even some foreign governments like France, Italy , Spain, Greece, and others that have administered amnesty programs for undocumented workers within the last few years, have relied upon our own Filipino NGOs to assist them in identifying and screening Filipinos qualified for the amnesty program. As mentioned, NGOs will be able to assist our embassies and missions in screening and going over documents of voter registrants. Since they work directly with migrants, they might be able to identify effectively, or have knowledge of, any legal impediment suffered by a potential registrant.

The Overseas Filipino as a Voter and the Prospect of Cheating

As the good senator himself said, although election cheating can happen anywhere, Filipinos abroad would have a tendency to be more law abiding . I believe this is because given the huge financial and emotional investment at stake, Filipinos have to be resourceful, disciplined, and obedient to duly constituted authority, in an effort to enhance their competitiveness, and would hesitate to do anything that will jeopardise their jobs. Many overseas Filipinos, particularly those in developed countries, have long been immersed in systems that demand strict adherence to laws and regulations, but which systems give back to its adherents, most of the perks of good citizenship. Of course bad habits resurface every now and then, but I believe there is general preference for abiding with law and promoting the common good. For the same reason, I would also say that overseas Filipinos might have the tendency to focus on issues than on personalities, and can easily distinguish between sincerity and showmanship. I must add too that overseas Filipinos will be far distant from patronage politics, the real bane of our electoral processes. Vote buying should never happen abroad because almost everybody earns here, and one will most probably be as self sufficient as the other. Since voting centers will be the embassies, and are therefore thousands of miles apart, flying voters should not be considered a threat. If

ever there will be cheating, it would not come from the voters, but from the government itself, and in the counting process.

Provisions of Draft Bill that may Disenfranchise Overseas Voters

Lack of voting registration , residence requirement or for being foreign permanent residents.

One of our primary concerns prior to hearing Senator Roco were that some sections of a draft Absentee Voting Bill that we received on the internet, threaten to disenfranchise a significant portion of overseas Filipinos. As of December 1996, the Commission on Overseas Filipinos, an arm of the Department of Foreign Affairs, estimated that there were approximately 6.49 million Filipinos in 139 countries. These include migrant workers, estimated at 2.71 million, immigrants, estimated at 1.92 million, and the undocumented overseas Filipinos estimated at 1.86 million. Under Section 2, coverage is inclusive only to "All Filipinos abroad who are registered voters in the PHilippines xxxxxxxx". while Sec. 3 disqualifies from absentee voting, "An immigrant who is recognised as such in the host country."

Section 1, Article V(Suffrage) of the Constitution states that the right of suffrage may be exercised by all Filipinos not disqualified by law, who are at least 18 years of age, and who shall have resided in the Philippines for at least one year(immediately prior to election) and six months in the place wherein they propose to vote(also immediately prior to election). It is submitted that this refers only to the general exercise of suffrage. The residence requirement clearly refers to those voting in the Philippines, because to hold otherwise would render nugatory the mandate in Section 2 making it mandatory for Congress to provide a system for so that Filipinos residing abroad can vote in absentia. It must be mentioned that under the same Section 1, Congress cannot impose a substantive requirement on the exercise of suffrage, and for it to impose a residence requirement in the Philippines prior to the election or some other requirement that is a physical impossibility, is substantive and is therefore unconstitutional.

Almost all, if not a big majority of overseas Filipinos would have forfeited by now ,any previous voter registration due to prolonged absence from the Philippines. Thus, the draft threatens to arbitrarily deny Filipino immigrants or permanent residents, their political right to vote. This would be unconstitutional and is also unrealistic. When the framers put these absentee voting provisions into our constitution, they must have been conscious of the reality that the absentee Filipinos would be resident abroad and not in the Philippines. To require some form of prolonged Philippine residence or voter registration prior to an election would nullify the constitutional provisions and result in an absurdity. We are relieved then, that in his talk, Senator Roco categorically stated that he was also of the same view, and also considered a strict residence requirement as unrealistic and abhorrent to the very idea of absentee voting.

Voting will be limited only to countries with huge concentration of Filipinos or only where there are diplomatic posts.

The draft bill contained transitory provisions which proposed that voting be only limited to certain places abroad, probably picked on a basis of a heavy concentration of Filipinos. This means those who are not resident of these places will not be able to vote. We submit that there is no valid justification for disenfranchising a Filipino citizen just because there are not enough Filipinos or there is no diplomatic post in a given locality. Given the advanced state of telecommunications at present, even Filipinos working and residing in places where there are no diplomatic posts or where these are inaccessible, should be able to vote by fax, email or any other means similar

to current global banking or commercial practice that allow confirmation of identity anywhere in the world. There are PHilippine posts in most of the 139 countries where there are Filipinos, and I believe that it is better that the privilege to vote in the next elections are already established by law, rather than restrict voting only to certain posts. Sec. 1, ARticle V of the Constitution already established who are qualified to vote, and if implementing legislation for absentee voting effectively bars certain Filipinos from voting in absentia on account of some physical inconvenience or the absence of diplomatic posts, it would be tantamount to amending the aforementioned constitutional provisions, much in the same way that disenfranchisement would result if Filipino residents overseas are disqualified from voting just because they are residents abroad or could not present a previous voter registration.

Potential Problem Areas/Technicalities

The taxation issue.

Overseas Filipinos, whether documented or undocumented, rarely report to their embassy unless they have to renew their passports, have a document authenticated or secure some other consular service. It is the practice of diplomatic posts to require an overseas Filipino worker to declare and pay income taxes before a passport is issued or renewed. While it is true that the Comprehensive Tax Reform Act had exempted income of overseas workers from tax, this is effective only for income made beginning 1998 onwards, but not previous years income, which up to now, are levied prior to rendering a consular service. We have an estimated 1.86 million undocumented workers many of whom are exploited by employers by reason of their status, and who receive substandard salaries (some receive 100US dollars/month), are overworked, abused, and receive no social security or health insurance at all. But because they still have to remit the bulk of it to their folks back home, every centime counts.

Hence, matters like the Nationality Principle, and the patriotic duty of overseas Filipinos to pay taxes to their government, are principles that are difficult to explain and justify to migrants particularly when their meager salaries are reduced even further by the government, especially too when there is a yawning communication gap between migrants and their respective consular officials. If we are to attract our overseas voters to come forward to the missions and exercise their right of suffrage, there should be a moratorium on tax collection, at least for the duration of the election period. I believe that the campaign for voter registration and registration of overseas Filipinos with their embassies or consulates may be done simultaneously, but it should be made clear that these are done without any strings attached or hidden agenda.

Problems of Documentation.

There are many Filipinos overseas who have traveled abroad using another name, or passports belonging to other persons. Many of them still use these passports, although others have corrected this irregularity by obtaining a passport in their true names. But it is believed the majority who still carry spurious documentation will continue to do so until they no longer have a choice. It will be difficult to get them to come forward and apply for registration, for fear their status will expose them to prosecution not only in the Philippines but in the host country as well. The only way that this problem may be addressed would be for NGOs and consular officials to get together and plan out an unobtrusive campaign for the regularisation of documents. This of course needs careful study and involves not only the issue of voter qualification but also the issue of legal status, but I would surmise this would require no less than assurances of

immunity from prosecution, and a more sympathetic attitude from our consular officials.

Role of former Filipinos in the process.

Another interesting point brought up is the possible role in absentee voting electoral process, of Overseas Filipinos who are Naturalised citizens of the host countries, who while perhaps not being able to vote, might be called upon to perform roles that do not in any direct way, interfere with the election result. There are many overseas Filipinos now naturalised, who still passionately love and keep close ties with the motherland, and participate in activities abroad that they believe will be for the good of our people and country. Even now, there are NGOs that we know, at least in Europe and the Philippines, which are actively working for the passage of the overseas voting bill. These groups not only work for the bill's passage, but they also organise various symposia and discussions, as well as publish newsletters that aim to inform overseas Filipinos on various important issues that affect our country and our people, particularly overseas Filipinos. And not a few of these foreign based NGOs have volunteers and staff who are already of foreign citizenship usually due to marriage to foreigners, and who, technically, as far as I remember our election law, are not allowed to engage in any partisan electoral activity.

The key word is partisan, and I believe that an absentee voting bill should allow and even encourage them to engage in certain aspects of the political exercise that will not directly or indirectly influence the election of any particular candidate or party, such as dissemination of information , generating more awareness on the respective platforms of candidates and their political records and professional achievements, assisting our diplomatic posts in screening registrants, and assisting the registrants themselves in assembling documents of identification and informing them about the importance of the electoral exercise . Allowing these activities would provide them an important outlet for expressing their patriotic sentiments in place of actually voting in the elections. Thus the potential of voters coming from the ranks of dual nationals could also be effectively minimised.

Dual citizenship/a unique case of dual citizenship

Dual citizenship is another issue important to overseas Filipinos. As articulated by several Filipinos during the open forum, Filipinos have taken to another nationality basically in order to survive and be competitive in the foreign countries where they reside. But deep inside, they are still Filipinos. As we commented during the open forum, it is dual allegiance, and not dual citizenship, that our constitution finds anathema.

While it is obvious that Filipino citizens who have acquired foreign citizenship by choice or by swearing allegiance to another country may not yet be allowed to vote, there is a situation where Filipinas married to foreigners who acquired the citizenship of their husbands not by choice or swearing allegiance to another country, but by operation of law. Since our constitution provides that marriage by a Filipina does not operate to deprive her of Philippine citizenship, these Filipinas are technically dual citizens, but do not necessarily owe simultaneous allegiance to the PHilippines and to the country of their husbands.

As we said, citizens who acquired foreign nationality by swearing allegiance to a foreign country may not be allowed to vote because they are deemed to have lost PHilippine citizenship, but those who acquired it by operation of law without swearing allegiance to a foreign government, should not be disqualified from voting. We know that our foreign office will have a difficulty accepting this distinction, but

we believe this should be made clear while deliberating the overseas voting bill. It appears that this case does not need to go through a constitutional amendment. Some Recommendations for a Simple Process of Voter Registration and Voting Last August, when our Europe delegation requested President Estrada to certify an overseas voting bill to Congress, he was not very enthusiastic because of the government's lack of money. However, Senator Roco advised that the President had included the subject in his State of the Nation Address, and hopefully he will certify the bill as urgent to Congress. If this happens, then theoretically, a bill would have smooth sailing in congress, and theoretically, could pass within a few days. This only proves that "kung talagang gusto natin, puede." Anyway if we are concerned about the lack of resources, we believe it would be advisable to take an inventory of what we really need to do and what resources we already have that can be utilised in setting up the mechanisms necessary to ensure orderly and foolproof procedures of absentee voting.

I. Preparing the voters list.

a. For documented Migrants.

Official estimates of POEA place the stock of OCWs(migrant workers, not including immigrants) at 4.2 million in 1995. Of these, 2.4 million are documented, with the bulk going to Middle East Countries, mainly to Saudia Arabia. The POEA processed the documentation of these 2.4 million documented OCWs,all of whom had to prove that they are Filipinos, are over 18, have no criminal records, and are physically and mentally fit- basically the same qualifications for the exercise of suffrage. Having gone through a travel documentation process which is perhaps a hundred times more rigorous than a simple voters registration process, we do not see why overseas Filipinos who wish to vote have to go through yet another registration process which demand the same requirements.

Why not let the official list of migrants on file with the POEA be considered as a voters list of qualified absentee voters who will be automatically allowed to vote. The Comelec/POEA can simply just notify the migrant through their official foreign work addresses that they are eligible to vote, and which they can exercise either by proceeding to the embassy or other voting center and vote, after identifying himself with his passport or POEA ID, or send his ballot by mail to the voting centers designated. This simple system will save the government the expense of having to process 2.4 million applications, and will merely entail confirming the overseas voter's eligibility to vote and informing him/her of his voter's security code or number, sending ballots to those who wish to vote by mail, and confirming the authenticity of the ballot cast or mailed by the voter, and then counting the votes. Sec. 20 of RA 8042 or the Migrant Workers and Overseas Filipinos Act of 1995, provides for the establishment of a Shared government information system for migration:

"An interagency committee composed of the Department of Foreign Affairs and its attached agency, the Commission on Filipinos Overseas, the Department of Labor and Employment, the Philippine Overseas Employment Administration, the Overseas Workers Welfare Administration, the Department of Tourism, the Department of Justice, the Bureau of Immigration, the National Bureau of Investigation, and the National Statistics Office shall be established to implement a shared government information system for migration. The inter-agency committee shall initially make available to itself the information contained in existing data bases/files. The second phase shall involve linkaging of computer facilities in order to allow free-flow data exchanges and sharing among concerned agencies.

The inter-agency committee shall convene to identify existing data bases which shall be declassified and shared among member agencies. These shared data bases shall initially include, but not be limited to, the following information:

Masterlists of Filipino migrant workers/overseas Filipinos classified according to occupation/job category, civil status, by country/statge of destination including visa classification;

Inventory of pending legal cases involving Filipinomigrant workers and other Filipino nationals, including those serving prison terms;

Masterlists of departing/arriving Filipinos;

Statistical profile on Filipino migrant workers/overseas Filipinos/tourists; "

Incidentally, Section 77 of the Omnibus Rules and Regulations implementing RA 8042, mentions an allocation of the amount of P10,000,000 from the PCSO to carry out this shared government information system for migration, and thereafter, the actual budget of the Inter-Agency Committee shall be drawn from the General Appropriations Act in accordance with Section 38 of RA 8042. Further, these master lists are to be reported by the Department of Foreign Affairs and Department of Labor and Employment to Congress under Sec. 33 of the same law, with penalties for failure to submit such reports. Theoretically therefore, our government should already have the official master lists of documented overseas contract workers, seafarers, and others who have gone through the passporting process of the Department of Foreign Affairs. Further, there are supposed to be already computer linkages between these agencies who have these records. So we have the basic tools as suggested above, for utilising existing resources for the absentee voting process, by just linking the Comelec to the system.

To preserve the ballot's sanctity, Comelec/POEA can assign security codes or numbers and which will be sent to the migrant's official foreign address(through his employer or recruiter sometime prior to the election. This security number or code will be known only to the migrant, so that when the official ballot is received, either from the embassy, if voting in person, or by mail, she or he will be required to fill out such code or number in a space provided in the ballot. Perhaps the official ballot can also already print the names of all the candidates, and all the voter has to do would be to check or blacken a space corresponding to the choice- thus, the computer can easily validate the ballots by reading the security codes, and then proceed to count the votes.

Through this method, spurious ballots could not be fed to the computer because the machine is programmed only to read ballots with security codes. If ever some people or groups wish to subvert the ballot, they would have to connive with those in possession of the master list of migrant voters and their security codes or those operating the computer which counts the votes. Knowing that it is only the POEA, the Comelec and perhaps the consular personnel who have access to the whole voting process, that in itself is a built-in deterrent to those who may wish to cooperate in destabilising the electoral process. Banks and credit card companies are businesses which rely on their computers in order to process , authenticate and confirm millions of banking transactions or credit card purchases done daily and globally. Airline companies in modern airports likewise confirm boarding passes of passengers by feeding them to a machine that is connected to a computer. We are quite confident our technical and computer experts would be able to adapt such systems to work for our absentee voting system, perhaps even for the regular voters in the Philippines.

b. Seafarers

In the same manner, the NSO can generate the same list of seafarers, and

automatically allow them to vote by mail, if at sea, or appearing personally at the nearest diplomatic post.

c. Immigrants and Permanent Residents.

The Commission on Overseas Filipinos-DFA which, as of December 1996, have processed immigrants estimated at 1.92 million should be allowed to generate the same voters list from those they have processed, and we would have saved the government again, millions in time, money, and manpower.

d. List of registered Filipinos in diplomatic posts.

Diplomatic posts also do have a list of Filipinos whose Philippine citizenship could be confirmed because they have been issued Philippine passports or travel documents or an ID card, through the authentication of documents by consular officials, or paid taxes to the Philippine government for income earned abroad. These Filipinos should be automatically allowed to vote without further application on the same rationale as above.

Dissemination of information will be done by diplomatic posts, NGOs and service organisations abroad and through a media campaign, advising such overseas Filipinos through their employers, recruitment or shipping agents, of their eligibility to vote. The POEA has records of their foreign work addresses through their employers or recruiters. Those wishing to vote may just go to their embassies on election day, while those far from posts, may request for official ballots which may then be returned by mail even before election day.

2. Mechanisms for implementing overseas voting.

Sec. 19 of RA 8042 , and Sec. 41 of the DFA Implementing Rules, calls for the establishment of Filipinos Resource Centers in countries where there are at least 20,000 migrant workers, and which would provide counseling, legal assistance , information programs, and registration of undocumented workers, and other services, and staffed by foreign service personnel, and if available, individual volunteers and bonafide nongovernment organisations from the host countries. This existing structure can be utilised for the registration and voting process. If the DFA intends to improve its registration of Filipinos abroad, maybe this can now be done simultaneously with voter registration. Sec. 41of the Implementing Rules may be modified, by making mandatory the membership of a local NGO representative in the Filipino Resource Center, instead of just leaving it to the embassy or mission officials to call on NGOs whenever they feel like it. To be accredited to the PHilippine mission, NGOs should be also accredited or recognised by the host country government , must not receive Philippine government funding, and have a good track record for assisting overseas Filipinos.

As we previously suggested, voter registration can also be utilised as an effective means of improving the registration and statistics on overseas Filipinos. When Filipinos are notified of their eligibility to vote on the basis of the migrants master list, the POEA/Comelec can attach a registration form that must be filled out and submitted , if the vote is cast personally, or mailed together with the ballot to the diplomatic posts nearest their residence abroad. It will not only serve as another confirmation of identity for voting purposes, it will also constitute registration as an overseas Filipino.

3. Observers

To ensure further the integrity of the voting process in the field, observers from international organisations and foreign media should be invited to witness the voting process. In fact, international agencies which have advanced and sophisticated

computers might be able to be called upon to assist or improve our management information systems.

4. Actual voting/Voting Centers/Counting of votes

Voting in Person. Any person in the migrant list above, or anyone with a valid passport, POEA ID or some other identification, may cast his or her vote personally in the diplomatic posts or voting center near his residence, and the votes counted in the presence of consular officials, NGO representatives, volunteer watchers and possibly international observers.

Ballots sent by mail. I believe that ballots sent by mail should not be sent to the Comelec, but to the diplomatic posts nearest the voter. We have nothing against the Comelec, but our postal authorities cannot still prevent or even minimise pilferage of letters. On the other hand, the postal system abroad is generally safe, and besides, which foreign postal authority would care about our voting process?

Voting Period. Migrants normally have different days off while working abroad, and most of these off days or hours occur on weekends or past office hours. Some unlucky ones do not even have days off. It is suggested that voters, whether voting personally or by mail, be given perhaps two weeks prior to the election, within which to cast their vote. This would address the time problem, as well as compensate for possible delays in the postal system in some countries.

Counting of votes. Ballots cast in person or by mail, will all be received by the diplomatic posts or field voting centers, and must be counted thereat, and therefore should be considered the primary results of the election results from overseas voting. Counting may be done manually in case the voting centers do not have the special computer equipment designed for validating and counting of votes, in which case, votes counted can be sent right away to Comelec by email . Votes counted by special computer equipment should simultaneously register with Comelec if there is an online link that it should have.

5. Procedure for those not in the POEA, NSO or CFO -DFA lists/undocumented workers.

Applicants for voter registration not appearing in the above lists, should be made to undergo a fairly simple procedure. If there is doubt or a need to confirm the authenticity of an application, resort should be made to the network of government agencies mentioned above, that would normally have extant records of a persons Philippine citizenship and other voter qualifications. These agencies would be the DFA itself, the Bureau of Immigration and National Computer Center, which have passenger records, the SSS or GSIS, and the NBI, among others. Now that our government has or is supposed to have a shared migrant information system, all we have to do it to consult computer experts to write programs linking the various computer systems of these offices to the diplomatic posts or the Comelec where applications for voting are going to be received. As we said, the idea is to utilise existing resources, and not to require hosts of documents or bureaucratic procedures.

6. Reference should be made to the POEA' and CFO lists of places where land based Filipinos are deployed.

In this way, the government will be able to apportion and properly farm out where and how much resources should be concentrated on a given place. 64% of our OCWs are in the middle east, 30% in East Asia and the Asean, while the rest go to North America and Europe. Knowledge of where overseas workers are will also give an idea of what sort of communication facilities are available on site and what type of resources will still be needed to augment where there is inadequacy.

It is hoped that our legislators will be open minded, creative, and less bureaucratic or restrictive, in the deliberations of the absentee voting bill. We also hope that our executive agencies like the POEA have done their homework by completing the master lists of migrants and submitting them to Congress, and have implemented the computer linkaging as envisioned in RA 8042.

The Senate had tried in the past at least 6 times to pass an overseas voting bill, the lower house 8 times. During President Ramos' term, so many bills of a more complicated nature were passed. It is indeed a wonder that despite the vast repository of talent we have in both houses of Congress, a simple law allowing suffrage to overseas Filipinos has always fallen by the wayside. Is it a question of lack of funds, or lack of priorities? Only our legislators can answer that.

To be fair, the efforts of past administrations and legislatures were concentrated in reconstructing our economy and restoring democratic processes left in shambles by 20 years of martial rule. There ought to be no more excuse now for our legislature and executive branch to get their acts together and pass an enabling law allowing absentee voting. However, there might still be some quarters who do not favor overseas voting. I would surmise objections would come from traditional politicians who fear the political clout of seven million potentially independent, less corruptible, and discriminating overseas voters. Others say that allowing overseas voting will only increase the number of voters who will choose candidates on the basis of physical attributes or popularity rather than solid achievements. Actually a number of overseas Filipinos themselves feel that they are abroad to work, and should not involve themselves with political exercises. Of course this is not the point, and we hope that the debate has gone beyond whether it is wise to give overseas voters a chance to vote. The constitutional mandate is there and we cannot continue denying overseas Filipinos the right to choose their leaders.

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See also: [Materials on Overseas Voting](#)

Portugal

Relevant topics

Special constituencies for diaspora voters.

Documents

<http://users.skynet.be/suffrage-universel/ptdi.htm>

La Voix du Nord, Dimanche 14 Janvier 2001

Actualité / **Roubaix** / Page 2 / Article 1

Aux urnes !

Un bureau de vote à Lille pour les élections présidentielles portugaises Des ressortissants fiers d'élire leur président

Pour la première fois, vendredi et samedi, les ressortissants portugais pouvaient élire leur président de la République, en se rendant au consulat, square Rameau à Lille. Ils étaient alors invités à choisir entre cinq candidats, dont le président sortant, Jorge Fernando Branco de Sampaio.

En fait, si les Portugais du Nord-Pas-de-Calais étaient ravis de pouvoir participer à ce scrutin, l'élection présidentielle est qualifiée de " sans surprise " par les observateurs, le sortant étant crédité - pour cet éventuel second et dernier mandat de cinq ans - de 62% des intentions de vote. Mais qu'importe.

A Lille, on y croit : " *Maintenant que la démocratie existe, il faut la maintenir*, explique Manuel Fernandes, installé en France depuis 36 ans, *puisque j'en ai le droit, je vote ! Et puis on ne peut pas faire fi de ses racines, des liens qui nous attachent encore au pays.* "

" *Nous, nous sommes dans la métropole depuis 37 ans, à Tourcoing, Roubaix et maintenant à Hem*, indiquent M. et Mme Martins, *nous sommes très fiers de pouvoir voter pour notre président. Grâce à la parabole, on peut regarder les chaînes de télé portugaises, ce qui nous permet de suivre la politique et d'être au courant...* "

Pour ce scrutin présidentiel, les 1 500 inscrits sur les listes électorales du consulat de Lille (sur environ 30 000 ressortissants dans la région), ont également reçu la documentation officielle. De même qu'ils ont pu suivre les débats dans leurs journaux associatifs.

Au consulat, samedi, on était ravi des premiers chiffres de la participation : " *pour une première fois, c'est bien*, note Isabelle Da Silva, présidente de l'assemblée de vote. *Avant, avec le vote par correspondance, les gens ne voyaient pas l'intérêt mais maintenant, ils vont s'inscrire.* "

Laurent VILLETTE

Portugal - élections présidentielles de dimanche

LISBONNE, 14 jan (AFP)

Les chiffres de l'abstention pourraient être d'autant plus élevés qu'une enquête de l'hebdomadaire Visao a révélé que quelque 500.000 personnes décédées et 200.000 à 300.000 émigrés restent indûment inscrits sur les listes électorales.

A l'étranger, où 187.000 Portugais sont autorisés à voter pour la première fois pour des présidentielles, la participation semblait très réduite à l'issue des trois jours d'un scrutin qui s'était ouvert dès vendredi matin.

From: "Albano Cordeiro" <cordei@ccr.jussieu.fr>

Sent: Tuesday, January 16, 2001 11:19 PM

Subject: Présidentielles Ptgaises /Résultats à Paris

Les résultats des élections présidentielles portugaises à Paris (résultats du premier

comptage, après la clôture des bureaux de vote, confirmé par le comptage définitif de la responsabilité de la circonscription consulaire électorale de Paris, présidé par le Consul Général) :

Inscrits : 13679 *

votants : 1039, soit 7,54% des inscrits

dont votes blancs et nuls : 15

taux d'abstention : 92,45 %

suffrages exprimés : 1024

pour

J. Sampaio (PS) : 647

J. Ferreira do Amaral (CDS+PSD) : 242

A. S. Abreu (PCP) : 100

F. Rosas (Bloc de Gauche) : 27

Garcia Pereira (MRPP, connotation maoïste) : 8

* Ce chiffre représente moins de 10% des électeurs potentiels

Sur les trois consulats de la région parisienne (Paris, Versailles, Nogent s/ Marne), 7,75 % des 28132 inscrits se sont déplacés pour voter.

Au Consulat de Paris, plus de 80 personnes ont été présentes durant trois jours (72 personnes tenaient les DOUZE bureaux de vote installés). A quelques rares exceptions près, ces personnes ont voté sur place. En fait, donc, seulement 950 personnes sont venues au Consulat, en trois jours, pour voter.

From: Albano Cordeiro

Sent: Wednesday, January 17, 2001 1:06 PM

Subject: Resultados Presidencial 2001

Nous avons donc les résultats de la participation des Portugais résidents en France à l'élection présidentielle portugaise du 12-13 et 14 janvier derniers.

Romania

Relevant topics

Romania is preparing itself for the EU.

Documents

<http://aceproject.dd.ifes.org/main/english/me/mey19.htm>

An Internet Election - Romania

The 2000 Romanian presidential elections gave a taste of the role that the Internet might play in an election - even when its use is not very widely developed. About 600,000 of the country's 23 million inhabitants are estimated to be Internet users, about half of them regularly. But this small number was reckoned to be significant, given low voter turnout

combined with the fact that the mainly young, professional Internet users were among the most likely voters. So the Internet audience was seen as strategically significant.

Most online information on the election came not from the Web editions of the Romanian newspapers - these had very little Internet-specific information on their sites - but from Internet Service Providers, portals and dedicated sites launched by Romanian entrepreneurs. One such site was <http://www.politics.ro>, launched by Romania Online. This provided information on the seven main parties and their candidates - including a resume for each presidential candidate and his or her programme. The site also contained updated political news, opinion poll findings and online polls. On election day it provided data on voter turnout and exit poll results. (See [Exit Polls](#).)

Another source of online information was the political parties' own Web sites. Here, the election got particularly dirty, with hackers from the rival parties sabotaging their opponents' sites. At one stage, surfers who tried to log into the site of one candidate were redirected to a pornographic site and later to the FBI's "most wanted" list. Then they were redirected to a hostile political biography of the candidate. Similar dirty tricks are hardly unknown in the "real" world, but a virtual election campaign seems to lend itself to such tactics.¹²³

Filename: mey19

Author: Richard Carver

Last modified by: Jim Carrico

Date modified: 2001/01/31

Switzerland

Relevant topics

Registration from abroad; Absentee voting by mail.

Documents

http://www.eda.admin.ch/eda/f/home/traliv/living/infor.ContentPar.0006.UpFile.tmp/dc_021612_votinginfo_f.pdf

Notice d'information

Droit de vote par correspondance pour

les Suissesses et les Suisses de l'étranger

A partir du 1er juillet 1992, vous pouvez, depuis l'étranger, participer à la vie politique en Suisse, c'est-à-dire aux votations fédérales ainsi qu'aux élections du Conseil national, sans avoir besoin de venir en Suisse pour autant.

Participation

Comme Suissesse ou Suisse de l'étranger, vous pouvez exercer vos droits politiques par

correspondance depuis, l'étranger si

| vous avez transféré votre domicile à l'étranger

| vous êtes âgé(e) de 18 ans au moins et

| vous êtes enregistré(e) auprès d'une représentation suisse (ambassade ou consulat).

1. Inscription

Si vous remplissez les conditions susmentionnées, veuillez vous inscrire auprès de votre représentation,

soit par écrit, soit en vous y rendant personnellement. Vous pouvez également vous inscrire au moyen de la formule "Demande d'un(e) Suisse(sse) de l'étranger ayant le

droit de vote" prévue à cet effet. Lors de votre inscription, veuillez indiquer:

| vos données personnelles

| la commune dans laquelle vous désirez exercer le droit de vote. Comme

commune de

vote vous pouvez indiquer à votre choix l'une de vos communes d'origine ou l'une de vos

anciennes communes de domicile.

Les cantons ont la possibilité de créer pour les Suisse(sse) de l'étranger un registre électoral central.

Si tel devait

être le cas dans votre canton, votre voix ne serait pas comptée dans la commune de vote que vous avez choisie,

mais dans la commune dans laquelle se trouve le registre électoral central. Votre représentation pourra

vous indiquer quels sont les cantons qui ont institué un tel registre central.

Confirmation de l'enregistrement

La commune de vote de votre choix vous confirmera par écrit votre enregistrement au registre.

Une fois que vous aurez choisi votre commune de vote, vous ne pourrez plus modifier ce

choix tant que vous serez enregistré(e) auprès de la même représentation.

2. Confirmation de l'inscription

Avant l'expiration d'un délai de quatre ans depuis votre première inscription, vous devez confirmer

vos inscription. Vous pouvez le faire de la manière suivante:

| par écrit ou en vous rendant personnellement auprès de votre commune de vote ou

| le cas échéant en annonçant suffisamment tôt à la représentation suisse votre changement

d'adresse à l'intérieur du même arrondissement consulaire ou

| en signant valablement une initiative fédérale ou une demande de référendum.

Après chaque renouvellement, vous devrez reconfirmer votre inscription **avant** l'expiration du

délai de quatre ans.

A compter du 1er août 2002, votre commune de vote doit vous remettre au moins une fois par année, en même temps que les documents de vote, une déclaration de renouvellement de votre inscription au registre électoral pour signature. Si vous désirez renouveler votre inscription, vous pouvez compléter le formulaire et le retourner daté et signé. Libre à vous de renvoyer le formulaire à votre commune de vote en même temps que le matériel de vote ou sous pli séparé. Même si vous recevez un formulaire de ce type chaque année, vous ne devez renouveler votre inscription qu'une fois tous les quatre ans. A vous donc de choisir si vous souhaitez ou non compléter le formulaire chaque année. Comme par le passé, la commune de vote vous confirme directement le renouvellement de votre inscription. Si vous omettez de renouveler votre inscription avant l'expiration du délai de quatre ans, vous serez radié(e) du registre électoral. Mais vous aurez en tout temps la possibilité de vous inscrire à nouveau.

3. Envoi du matériel de vote

Avant chaque votation ou élection fédérale, votre commune de vote vous enverra par poste le matériel de vote officiel ainsi que les explications du Conseil fédéral. Vous avez le droit de recevoir votre matériel électoral dans l'une des trois langues officielles (allemand, français, italien), même si celle-ci n'est pas la langue officielle de la commune politique. Veuillez faire part de vos souhaits à ce sujet lors de votre inscription. La commune politique est tenue d'organiser l'envoi de manière à ne pas compromettre le renvoi à temps du bulletin de vote.

4. Information

Outre les explications officielles du Conseil fédéral, la "Revue Suisse", resp. la "Gazzetta Svizzera", ainsi que Radio Suisse Internationale vous donneront des informations détaillées sur les élections et les projets soumis au vote.

5. Participation aux votations et élections

a) Depuis l'étranger

Après avoir rempli votre bulletin de vote ou d'élection, mettez-le dans l'enveloppe de vote prévue à cet effet. Celle-ci doit être fermée et glissée à son tour, le cas échéant avec la carte d'électeur, dans l'enveloppe de transmission. Celle-ci doit être **affranchie par vos soins** et envoyée par poste à votre commune de vote. Les prescriptions de vote peuvent différer d'un canton à l'autre. Il vous faut donc lire attentivement les instructions de votre commune de vote à cet effet.

Il faut relever que la Confédération ne peut pas garantir le bon fonctionnement des postes étrangères. Vous devez par conséquent supporter le risque que le matériel de vote arrive tardivement à votre adresse à l'étranger ou que votre bulletin de vote ne parvienne pas à temps à la commune de vote.

b) En Suisse

Si vous vous trouvez en Suisse lors d'une votation ou lors d'élections, vous pouvez aussi déposer personnellement votre bulletin de vote dans l'urne ou voter par correspondance. Au cas où vous auriez l'intention de déposer personnellement votre bulletin de vote dans l'urne, l'annonce de votre séjour en Suisse doit parvenir à votre commune de vote au moins six semaines avant la votation ou l'élection afin que la commune puisse préparer à votre intention le matériel de vote. Ce dernier peut être retiré pendant les heures d'ouverture du bureau communal.

6. Signature d'initiatives et de demandes de référendum

Si vous souhaitez, en tant que Suisse de l'étranger, signer également des initiatives ainsi

que des demandes de référendum en matière fédérale, vous pouvez demander le matériel

directement au **comité d'initiative ou au comité référendaire**, et apposer votre signature à

l'étranger. C'est encore plus simple par Internet. L'adresse correspondante est la suivante:

<http://www.admin.ch/ch/f/pore/vi/vis10.html>. Sur la liste de signatures vous devez indiquer, outre

vos données personnelles, la commune de vote et le canton dans lequel celle-ci se trouve;

est considérée comme domicile votre adresse à l'étranger. Lors d'un séjour en Suisse, vous

pouvez également signer les listes dans votre commune de vote: La "Revue Suisse", resp. la

"Gazetta Svizzera", publie régulièrement les adresses des divers comités d'initiatives.

7. Etes-vous domicilié(e) dans le Principauté du Liechtenstein?

Dans ce pays, le vote a lieu d'une manière différente dans la mesure où la représentation

suisse est remplacée par le **Bureau des passeports, Oberer Graben 32, CH-9000 St. Gallen**.

Cela ne modifie toutefois pas le principe du vote par correspondance et la procédure elle-même.

Remarque importante

Dans certains pays, la participation à la vie politique d'un autre pays est passible de sanctions

et peut entraîner pour les doubles nationaux la perte de la nationalité du pays de domicile.

Vous pouvez obtenir des renseignements complémentaires auprès de votre représentation diplomatique ou consulaire. Cependant, seuls font foi les renseignements donnés par les autorités de votre pays de domicile.

Avez-vous encore d'autres questions?

Nos ambassades et consulats, ainsi que le Service des Suisses de l'étranger/DFAE, Bundesgasse 32, CH-3003 Berne, pa6-auslandch@eda.admin.ch, se feront un plaisir de vous renseigner.

DEPARTEMENT FEDERAL DES AFFAIRES ETRANGERES

Service des Suisses de l'étranger
www.eda.admin.ch/asd

Thailand

Relevant topics

Absentee voting based on a constitutional clause; voting via embassy of postal.

Documents

http://thailand.prd.go.th/the_inside_view.php?id=574

Overseas Voters in the February 6 General Election (26/01/2005)

The 2005 general election, to be held on February 6, will be the third time for Thai people living overseas to have a chance to cast their ballots.

Thai expatriates got the first chance to exercise their voting rights in an election in their motherland for the 4 March 2000 senatorial election. The overseas voting is in accordance with Section 105 of the present Constitution, which states that a voter whose residence is outside the Kingdom of Thailand shall have the right to cast a ballot in an election of members of the House of Representatives or an election of senators. In the senatorial election, only about 10,000 Thai expatriates, out of about 26,000 registered overseas voters, cast their ballots.

Thailand's second overseas election was for the 6 January 2001 general election. In this election, more than 40,000 Thai expatriates registered to vote, and almost 15,000 overseas voters cast their ballots.

As for the third overseas election, the Ministry of Foreign Affairs revealed that a total of 103,962 eligible Thai voters abroad registered to exercise their voting rights at the end of the registration period on 7 January 2005. This number accounts for 12.3 percent of the Thai expatriates worldwide. These expatriates live in 75 countries, and they registered at Thai embassies or consulates. Out of this number, 45.5 percent live in Asia, 19.3 percent in Africa and the Middle East, 18.4 percent in Europe, 13.9 percent in America, and 2.9 percent in Australia and New Zealand.

Taiwan has the most registered voters with about 18,000. The second largest Thai overseas constituency is the United States, with more than 13,700 registered voters. Germany comes third with almost 7,500 eligible voters. The fourth largest overseas constituency is Singapore, with 7,184 eligible voters. China comes fifth with almost 7,000 eligible voters, followed by Saudi Arabia, with more than 6,000 registered eligible voters, Israel with more than 5,300, Brunei Darussalam, with almost 3,700, South Korea, with almost 2,500, and Australia, with more than 2,400.

Eligible voters in the Kingdom will go to the polls on February 6. Those unable to vote on the official election date may cast ballots at a central polling station of a constituency or a province on January 29 and 30. But the period for Thais living overseas to cast their ballots is from January 20 to 30. In some areas, they started to cast ballots on 17 or 18. The advance voting is meant to provide enough time for Thai embassies and consulates to collect the ballots and send them in diplomatic pouches to Thailand. The ballots will arrive in Thailand by February 2 and will be counted with ballots cast in the country.

According to the Ministry of Foreign Affairs, voting by post is the only way for Thai expatriates in 18 countries to exercise their right to vote. Thai overseas voters in 42 countries are allowed to vote by mailing ballots to the embassies or consulates or by casting ballots in over 160 polling stations set up in various places.

Tonga

Relevant topics

Diaspora is just beginning to mobilise.

Documents

<http://headheeb.blogmosis.com/archives/029315.html>

Awakening of a diaspora

[Ed. note: This is my contribution to J. Otto Pohl's *Carnival of the Diasporas*.]

The recent success of the Tongan civil service strike is a key step in the emergence of grass-roots democratic politics. The strike and its accompanying public demonstrations, however, are also evidence of a trend that may prove critical in *continuing* Tonga's democratization: the increasing involvement of the Tongan diaspora in domestic affairs.

Tonga has a diaspora several times the size of the population of the home islands, located mostly in Australia, New Zealand and the United States. Until recently, however, that diaspora has been politically quiescent. Although overseas Tongans maintain close emotional and family ties to their ancestral kingdom, their main relationship to the islands consisted until recently of financial remittances.

This is not to say that overseas Tongans were completely absent from the country's politics. Clive Edwards, for instance, was born and educated in New Zealand and served as legal counsel to the Pacific Island minorities in Auckland, but subsequently returned to Tonga where he became a royalist enforcer and then a pro-democracy MP. The pro-democracy newspaper *Taimi o Tonga*, which was the subject of successful human rights litigation last year, is published in New Zealand by expatriate editor Kalafi Moala. These were isolated cases, however, the government actively discouraged other overseas Tongans from involvement in political affairs.

This has begun to change during the past year, and especially the past two months. The shift began when the king stated that he would appoint two ministers from among the nine elected members of parliament, making the popular vote somewhat more meaningful. This sparked a renewed interest in electoral politics among Tongan expatriates, some of whom began demanding a more formal voice.

The key catalyst for the Tongan diaspora's awakening, however, was the civil service strike, which struck a chord not only among Tongan workers but with their families and friends abroad. The Tongan community of New Zealand was instrumental in persuading local labor unions to support their striking compatriots, and for the first time, overseas Tongans staged a public demonstration in front of the New Zealand house where the king was staying. The presence of demonstrators outside their front door may well have played a part in bringing the urgency of the situation home to the king and crown prince.

If this trend continues, it could have a major impact on the future of Tongan politics. Tonga is a poor country that depends heavily on remittances from abroad, and if the diaspora begins to support the domestic pro-democracy movement, its demands will be hard to ignore. This makes it all the more critical for the grass-roots organizers in Tonga to engage the diaspora and include it in their campaign for democratic self-rule.

**Posted by jonathan at
September 16, 2005 03:41
PM in [Error! Hyperlink reference not valid.](#) | [TrackBack](#)**

Comments

Thanks for this post. The link you left on my blog does not work, unfortunately. I have no idea why. Later today, I am going to do another follow up post and get a working link to this. I will also include the Namibian website link.

Posted by: [Otto Pohl](#) at September 16, 2005 04:08 PM

Jonathan, the diaspora often inspires the people of their homeland to action. The role of the Irish & Jewish diasporas in the US in securing Irish & Israeli independence are the best examples, but there are plenty of others. My favorite is the gathering of

Czech exiles in Pittsburgh in Oct. 1918, which wrote the first constitution of an independent Czechoslovakia and elected Tomas Marzek as Provisional President!
 Question: Are the King & Crown Prince still hiding out in New Zealand? If they are and do not return soon, the Princess, (I forget her name) who showed some understanding of the situation and struck a deal with the strikers, should take over as at least de facto PM, if the Tongan Monarchy is to have a future.

Posted by: [David All](#) at September 20, 2005 05:27 PM

Turkey

Relevant topics

Voting on the border; EU is pressuring for the introduction of absentee ballots; Diaspora, which is especially strong in Germany, is actively supporting the demand; fear of Islamists and Kurdish nationalist in the Diaspora, especially in Europe, leads to opposition at home.

Documents

Subject: Re: [e-nass] absentee voting questionnaire

- 1) Is absentee voting possible in your country and if yes, as of which date?
 Not really... Voting is possible only within the country and on the border passes and airports during election times.
- 2) Do initiatives exist in your country to either introduce absentee voting or expand on the areas (e.g. referendums/recalls, regional and local elections, passive voting rights) in which it is now possible?

Thanks to our endless quest to get into EU, and their adamant push for democratic reforms in Turkey, the Turkish Parliament amended the Constitution to grant voting rights to Turkish citizens living abroad (1995, Article 67) but how to do this was not specified. It was left to further legal arrangements.

The change that took place after this amendment was the voting booths at the international terminals of the airports and on the border gates. Citizens could vote in these entry points when general elections are being held, and the actual date of election start a bit early in these spots than in the rest of the country.

- 3) Is e-voting being used to facilitate absentee voting? No. Not that I know of.
 Turkey has almost a border-line paranoia in making sure the identity of the voter is accurate. Voting practice is based on seeing the voter in person, matching their face with the picture on national ID or passport, and marking their index finger with a potent purple ink after they vote. This "voting culture" as you might call, makes is very difficult for impersonal or "virtual" means of voting to be credible in the eyes of authorities and even in the eyes of general public.
- 4) Which position do the political parties, pro-democracy movements and diaspora organisations take on key issues related to absentee voting (e.g. embassy vs. postal voting, restrictions based on duration of absence, etc.)?

As far as I know, the only vocal advocates of absentee voting came from Turkish citizens living in Germany. -probably since there is more than 2 million of them! And those living in Germany and Europe who feel strongly about the elections, do travel to Turkey close to the general election date and cast their votes at the airports.

Domestic political parties do not place this issue very high on their agenda. In some cases, they are even against it, since they associate Turkish citizens in Germany with either more tradition/Islamic parties, or in some cases with militant Kurdish groups. So the attitude is, 'better keep them out of the voter pool' than take extra efforts to incorporate their democratic rights.

Again, this is all my humble opinion.

5) Can non-nationals (e.g. guest workers, immigrants based on EU reciprocity, Common Wealth citizens, etc.) vote in your country? If yes, can they also participate in absentee voting schemes when abroad on election day?

Nope. Voting is the privilege and duty of Turkish citizens. You get fined if you don't vote in general elections. On average, there is more than 95% voter turn-out.

6) Can you supply use with declarations, photos, pamphlets, etc. illustrating the absentee voting activities in your country. N.A.

7) Are there any other issues you consider relevant? Please supply additional information!

Voting in Turkey is very much attached to your residency. It is almost impossible to vote if you move around during the election day, and are far from your registered township/county. When I lived in Istanbul, I was registered in Bebek, along the Bosphorous. I could vote only in Bebek, and

my vote determined the mayor of Sariyer (where Bebek and many other small neighborhoods to the north of Bosphorous are connected) and the parliamentarians for the 3rd region of Istanbul.

In the case of absentee voting, part of the problem, I think, is this very geographically based system of representative democracy. If a Turkish worker lives in Germany for 11 and a half months of a year for more than 15 years, and visits Turkey for 2 weeks every summer, should he have the right to determine the political outcomes in Turkey? If yes, in which county/city? Or should there be seats allocated in the parliament for diaspora voters?

Sorry for the long message. I got carried by the questions..:)

I hope this might be of little help.

All the best luck in your research,

Evren CELIK-WILTSE
Instructor
Shippensburg University
Political Science Department,
Pennsylvania

Venezuela

Relevant topics

Referendums and recalls include absentee voting, but not initial petitions.

Documents

www.venezuelanalysis.com/articles.php?artno=1061

LEGAL WATCH

The Standard of Absentee Voting: Venezuelans Residing Abroad Still Retain Their Right to Vote

Monday, Nov 24, 2003

By: Eva Golinger-Moncada

On November 14, 2003, the National Elections Council (“NEC”) in Venezuela ruled in a 3-2 vote that Venezuelans residing abroad would not participate in the upcoming signature drive soliciting a referendum to recall President Chávez’s mandate. Despite claims by members of groups opposing President Chávez that 400,000 Venezuelans will be denied electoral rights because they are currently overseas, the NEC has confirmed that there are only 26,500 Venezuelans living abroad who are registered to vote. These voters comprise 0.2% of Venezuela’s 12 million registered voters.[i] Yet no matter how small the amount, every vote counts and every voter has the right to vote. However, signing petitions and voting on referenda is generally not a right retained by absentee voters residing outside their national territory. The Uniformed and Overseas Citizens Absentees Voting Act (UOCAVA) passed by the United States Congress in 1986, guarantees U.S. citizens living abroad and in the military overseas the right to vote in federal elections. Section 102 (a)(1) of the UOCAVA specifies that U.S. citizens qualifying as overseas voters are eligible to submit absentee ballots only for elections involving federal offices, such as the President or Vice President. Furthermore, the UOCAVA clearly states that absentee ballots must be submitted no less than 30 days before the election to the appropriate State election official. The UOCAVA does not grant the right to overseas voters to vote on any matters other than elections of a federal nature.

An “election” is the act of selecting an individual by vote to office.[ii] A “referendum” is the practice of referring measures to the vote of the electoral for approval or rejection.[iii] In the United States, the right to participate in a referendum, or take part in a signature drive leading up to a referendum, is not a right guaranteed under the U.S. Constitution or the Voting Rights Act.[iv] U.S. laws ensure the right to vote in elections for public officials as fundamental to the democratic process. International standards are similar. Article 23 of the American Convention on Human Rights states that every citizen shall enjoy the right “to take part in the conduct of public affairs, directly or through freely chosen representatives” and “to vote and to be elected in genuine periodic elections.”[v] Section 2 of Article 23 further clarifies that “the law may regulate the exercise of the rights and opportunities referred to... on the basis of age, nationality, *residence*...”[vi] In Venezuela, the NEC is the body that regulates the exercise of electoral rights and possesses the authority to determine how these rights are best effectuated.

The 1999 Constitution of the Bolivarian Republic of Venezuela grants more rights to Venezuelan citizens than those conferred by the U.S. Constitution to its citizens. U.S. citizens do not enjoy the right to solicit recall referenda on federal public offices.[vii] Because of the new and progressive nature of this right, there are few standards and rules already set forth that could provide guidance under the circumstances. Yet it is clear that the fundamental political right expressed in U.S. and international law applies to the right to vote in elections, and not necessarily in referenda or petitions. The recent ruling by the NEC applies only to the upcoming signature drive to request a referendum on President Chávez's mandate. It is not even the actual referendum that will be affected. In fact, considering that the NEC cited issues of time constraints and capacity to prevent fraud as the reasons for not allowing overseas voters to participate in the upcoming signature drive, it seems as though they will permit all voters to take part in an actual recall referendum, should the sufficient number of signatures be obtained.[viii]

It is within the NEC's authority to determine whether or not overseas voters can participate in non-election political processes. In this case, they decided that it would best serve the public interest to not permit registered voters outside the domain of the NEC to participate. As a result of the widespread fraud discovered in the signature drive spearheaded by the Venezuelan opposition in February 2003, the NEC was forced to implement strict rules and regulations to prevent any electoral sabotage or fraud in future elections or referenda processes.[ix] These types of safeguards would not be available internationally at this time and therefore the legitimacy of the process could become endangered.

Venezuelans residing abroad have reacted by filing a petition with the Inter-American Commission on Human Rights ("IACHR") claiming their political rights are being denied. They have also planned to hold an "alternative" signature drive, which they will attempt to incorporate into the real petition process in Venezuela. Due to the reasons outlined above, the petition to the IACHR will most likely hold little validity. The NEC is acting within its capacity to regulate the electoral process and to date no Venezuelans have been denied their actual right to vote. The "alternative" signature drive is clearly outside the rights protected in the Venezuelan Constitution and again evidences the opposition's disrespect for the democratic process.[x] Just because you don't like the rules doesn't mean you can ignore them and attempt to erode them. For less than the cost of these legal battles, spontaneous unauthorized signature drives and political propaganda campaigns, many of the 26,500 registered voters living abroad could by a ticket home and sign their name legitimately. Democratic participation requires respect for the law.

[i]See <http://www.venezuelanalysis.com/news.php?newsno=1101>

[ii]Random House Webster's Dictionary, Third Edition, pp. 226.

[iii]*Id* at 603.

[iv]*Voting Rights Act of 1965* as amended in 1970, 1975 and 1982.

[v]*American Convention on Human Rights*, Article 23, "Right to Participate in Government", Concluded at San José, November 22, 1969, Entered into force, July 18, 1978.

[vi]*Id*, Article 23, Section 2.

[vii]For an explanation of how this recall referendum works, see <http://www.venezuelanalysis.com/articles.php?artno=1010>.

[viii]Article 72 of Venezuela’s Constitution requires that 20% of registered voters must first sign a petition to request a referendum on an official’s mandate. Only once this amount is reached, can an actual referendum be held. Then, 25% of voters must participate, and the same number or greater than the number of voters who elected the public official must vote to revoke the official’s mandate.

[ix]In February 2003, the opposition attempted to collect 2.4 million signatures to solicit a “consultative referendum” on President Chávez’s mandate, despite no legal structure nor basis for this request. The Constitution does not permit consultative referenda on public official’s terms, only on measures of public concern. It was later determined that a significant percentage of signatures claimed to have been legitimately obtained, were actually acquired fraudulently, by copying signatures off bank records, credit card statements and other documents. On a personal note, two of my dead relatives appeared signing this petition.

[x]These alternative signature drives are being held at restaurants, stores, public parks and street corners in major U.S. cities and in Paris and Madrid. They will not be approved or observed by any authorized Venezuelan officials and therefore will have no legal credibility.

Yemen

Relevant topics

Registration in embassies is possible.

Documents

<http://www.scer.org.ye/arabic/dalelmoghtarben.htm>

دليل ممارسة المغتربين لحقهم في التصويت في الانتخابات الرئاسية والاستفتاء :

قرار رئيس اللجنة العليا للانتخابات والاستفتاء رقم (38) لسنة 2002م
بإصدار ((دليل تنظيم ممارسة المغتربين اليمنيين لحقهم في التصويت في الانتخابات الرئاسية والاستفتاء))
رئيس اللجنة العليا للانتخابات والاستفتاء،
بعد الإطلاع على القانون رقم (13) لسنة 2001م بشأن الانتخابات العامة والاستفتاء.
وعلى قرار رئيس الجمهورية رقم (52) لسنة 2001م بتشكيل اللجنة العليا للانتخابات والاستفتاء .
وعلى قرار رئيس الجمهورية رقم (11) لسنة 2002م بإصدار اللائحة التنفيذية لقانون الانتخابات العامة والاستفتاء
وعلى عرض رئيس قطاع الشئون القانونية والإفتاء.
ويعد موافقة اللجنة العليا في محضر اجتماعها رقم (36) بتاريخ: 29 / 5 / 2002م.

// قرر //

الباب الأول

التسمية والتعاريف والأهداف وحق التسجيل

الفصل الأول

التسمية والتعاريف والأهداف

الفرع الأول : التسمية والتعاريف

مادة (1) : يسمى هذا الدليل بـ ((دليل تنظيم ممارسة المغتربين اليمنيين لحقهم في التصويت في الانتخابات الرئاسية و
الاستفتاء))

مادة (2) : يكون للمعاني والألفاظ الواردة أدناه المعاني المبينة قرين كل منها ما لم يقتض سياق النص معنى آخر .

- الناخب المغترب : كل مواطن يمني مقيم في دولة خارجية بصفه مستمرة، أو صادف وجوده فيها لأي سبب من الأسباب في الفترة المحددة للتسجيل والإقتراع، وبشرط أن يكون حاملاً للبطاقة الانتخابية ومسجلاً اسمه في كشوفات الناخبين المغتربين التي تعدها السفارة أو القنصلية أو الجالية اليمنية لمن يحملون البطائق الانتخابية ، وفي كل الأحوال يشترط أن يكون المغترب مستوفياً للشروط القانونية الواردة في المادتين (4-5) من هذا الدليل.
 - تسجيل المغتربين : هو حصر أسماء المغتربين اليمنيين الحاملين للبطائق الانتخابية وبيان أعدادهم ، ويتم ذلك بواسطة لجان تسجيل الناخبين .
 - المواطن الانتخابي للمغترب : هو المركز الذي سجل المغترب اسمه فيه سواء كان المركز سفارة أو قنصلية أو مقر معتمد للجالية .
 - لجان تسجيل الناخبين المغتربين : هي اللجان التي تشكل من أبناء الجاليات اليمنية في الخارج لحصر المغتربين اليمنيين الحاملين للبطائق الانتخابية ويصدر بتشكيل هذه اللجان قرار من رئيس اللجنة العليا للانتخابات والاستفتاء بناء على عرض السفارات أو القنصليات اليمنية .
 - الانتخابات الرئاسية : ممارسة الشعب حقه في انتخاب رئيس الجمهورية على النحو المبين في قانون الانتخابات ولائحته التنفيذية والدليل الخاص بالانتخابات الرئاسية .
 - الاستفتاء العام: استطلاع رأي المواطنين ومنهم المغتربين الذين يتمتعون بالحقوق الانتخابية لمعرفة مدى موافقتهم أو رفضهم لأي موضوع يطرح للاستفتاء .
 - كشوفات حصر الناخبين المغتربين النهائية : هي الكشوفات الخاصة بحصر أسماء وبيانات الناخبين المغتربين الحاملين للبطائق الانتخابية والتي تعتمد من اللجنة العليا للانتخابات والاستفتاء بعد إعدادها من قبل مراكز تسجيل المغتربين في الخارج.
 - لجان إدارة الانتخابات والاستفتاء للمغتربين : هي اللجان التي تشكل من أبناء الجالية اليمنية في الخارج لإدارة الإقتراع والفرز في الانتخابات الرئاسية و الاستفتاء ويصدر بتشكيلها قرار من رئيس اللجنة العليا للانتخابات والاستفتاء بناء على عرض السفارات والقنصليات اليمنية .
 - البطاقة الانتخابية : هي البطاقة الصادرة عن اللجنة العليا التي تعطي لكل ناخب مقيداً اسمه في جداول الناخبين النهائية ولا يجوز للمغترب ممارسة حقه في الانتخابات الرئاسية والاستفتاء إلا إذا كان يحمل هذه البطاقة.
- الفرع الثاني
الأهداف
- مادة (3) : يهدف هذا الدليل إلى ما يأتي :-
وضع الضوابط والقواعد لممارسة المغتربين حقهم في التصويت بطريقة سهلة وبسيطة .
بيان من يحق لهم من المغتربين اليمنيين بالخارج تسجيل أسمائهم لدى السفارات والقنصليات والجاليات اليمنية من أجل ممارسة حقهم في التصويت في الانتخابات الرئاسية والاستفتاء.
بيان دور السفارات والقنصليات اليمنية في الخارج في تمكين المغتربين اليمنيين من ممارسة حقهم في التصويت في الانتخابات الرئاسية وإبداء الرأي في الاستفتاء .
بيان الإجراءات التي ينبغي إتباعها أثناء عملية الإقتراع والفرز للانتخابات الرئاسية والاستفتاء التي تجرى في الخارج .
- الفصل الثاني
حق التسجيل لدى السفارات والقنصليات والجاليات اليمنية في الخارج
- مادة (4) : لا يجوز تسجيل اسم أي مغترب يمني مقيم في الخارج في كشوفات الناخبين المغتربين ما لم يكن حاملاً للبطاقة الانتخابية ومقيداً اسمه في جداول الناخبين بإحدى دوائر الجمهورية.
- مادة (5) : يحق لأي مغترب مقيم في الخارج الإدلاء بصوته في الانتخابات الرئاسية والاستفتاء على أن تتوفر فيه الشروط القانونية وهي:
- 1- أن يكون اسمه مسجلاً في جداول الناخبين بإحدى دوائر الجمهورية ويحمل البطاقة الانتخابية .
 - 2- أن يسجل اسمه لدى السفارة أو القنصلية أو الجالية اليمنية في الدولة التي يقيم فيها وذلك خلال الموعد المحدد من قبل اللجنة العليا للانتخابات والاستفتاء.
- مادة (6) : مدة تسجيل المغتربين لدى الجهات المبينة في المادة السابقة هي (15) يوماً من اليوم التالي لإعلان السفارة للمغتربين بتسجيل أسمائهم .
- مادة (7) : يجب أن لا يقل عدد المغتربين اليمنيين المسجلين في كشوفات الناخبين لدى السفارة أو القنصلية أو الجالية اليمنية عن خمسمائة ناخب في كل دولة خارجية يراد إجراء عملية الإقتراع فيها.
- مادة (8) : يمارس كل مغترب يمني متمتعاً بحق التسجيل حقوقه الانتخابية بنفسه في المركز الذي سجل اسمه فيه وبعد مقر هذا المركز بمثابة المواطن الانتخابي الذي يحق له الإدلاء بصوته فيه وفي كل الأحوال يجوز للناخب المغترب الإدلاء بصوته في أي مركز من مراكز الإقتراع باعتبار مقر السفارات والقنصليات والجاليات اليمنية دائرة واحدة.
- مادة (9) : لا يجوز لأي مغترب يمني تسجيل أي شخص آخر مهما كانت الأسباب ولا يجوز للجان أن تقبل ذلك ولا يجوز لها أن تسجل إلا صاحب الشأن نفسه .
- مادة (10) : لا يجوز بأي حال من الأحوال أن يسجل المغترب اليمني اسمه في أكثر من لجنة.
- مادة (11) : يعتبر كشف حصر أسماء الناخبين المغتربين المعتمد من اللجنة العليا للانتخابات والاستفتاء حجة قاطعة وقت الانتخاب ، ويعد بمثابة جدول قيد الناخبين النهائي ولا يجوز لأي مغترب يمني أن يمارس حقه في التصويت في الانتخابات الرئاسية أو الاستفتاء ما لم يكن اسمه مقيداً في هذا الكشف وان كان حاملاً للبطاقة الانتخابية .
- الباب الثاني
مهام واختصاصات السفارات والقنصليات والجاليات اليمنية في الخارج وتشكيل لجان تسجيل أسماء الناخبين ومهامها
- الفصل الأول
مهام واختصاصات السفارات والقنصليات والجاليات اليمنية في الخارج في تنظيم ممارسة المغتربين اليمنيين لحقهم في الإقتراع في الانتخابات الرئاسية والاستفتاء

مادة (12) : تقوم اللجنة العليا للانتخابات بالتنسيق مع وزارة الخارجية بتحديد الدول التي لليمن فيها تمثيل دبلوماسي ومستوى هذا التمثيل وعدد أفراد الجاليات اليمنية في هذه الدول تمهيدا لترتيب إجراءات تسجيل الناخبين المغتربين المسجلين في جداول الناخبين النهائية في إحدى دوائر الجمهورية والحاملين للبطاقات الانتخابية.

مادة (13) : تقوم السفارات والقنصليات اليمنية في الدول التي تم تحديدها وفقاً للمادة السابقة بالإعلان عبر وسائل الإعلام الخاصة بالدولة الخارجية بأن على المغتربين اليمنيين الذين يحملون البطائق الانتخابية والمسجلين في إحدى دوائر الجمهورية أن يسجلوا أنفسهم لدى هذه السفارات والقنصليات والجاليات عن طريق المراكز المقررة من اللجنة العليا للانتخابات والاستفتاء وذلك قبل يوم الاقتراع بخمسين يوماً وأن تبلغهم بالحضور إلى مقرات هذه المراكز في الموعد المحدد من قبل اللجنة العليا للانتخابات والاستفتاء، وينبغي أن يتضمن هذا الإعلان البرنامج الزمني لعمليتي التسجيل والاقتراع .

مادة (14) : بعد الانتهاء من عملية تسجيل الناخبين المغتربين لدى السفارات والقنصليات والجاليات اليمنية في الخارج تقوم اللجنة العليا للانتخابات والاستفتاء بالتنسيق مع وزارة الخارجية ووزارة المغتربين بتحديد الدول التي يتواجد فيها ناخبون مغتربون لا يقل عددها عن خمسمائة ناخب لضمان ممارسة المغتربين فيها لحقهم في التصويت في الانتخابات الرئاسية والاستفتاء

مادة(15) : تقوم السفارات والقنصليات والجاليات بالأشراف على أعمال مراكز التسجيل ولجان الاقتراع وتذليل كافة الصعوبات التي قد تواجهها ولا يجوز لها التدخل في أعمال اللجان أو إعاقته عن أعمالها.

مادة(16) : تقوم السفارات والقنصليات بمتابعة مراكز التسجيل ولجان الاقتراع في إنجاز أعمالها في الأوقات المحددة في هذا الدليل والرد على الاستفسارات المقدمة إليها في ضوء قانون الانتخابات ولائحته التنفيذية وهذا الدليل وغيره من الأدلة الانتخابية .

مادة(17) : تقوم السفارات بإبلاغ اللجنة العليا عبر الخارجية بأعمال مراكز التسجيل ولجان الاقتراع وإجراءات سير العملية الانتخابية أولاً بأول .

مادة (18) : تقوم السفارات باستلام كل الوثائق والمطبوعات والمستلزمات والمخصصات المالية الخاصة بالانتخابات والاستفتاء المرسله من اللجنة العليا عبر وزارة الخارجية وإيصالها إلى اللجان الانتخابية.

مادة(19) : بعد انتهاء موعد تسجيل المغتربين المبينة في المادة (6) تقوم السفارات أو القنصليات اليمنية باستقبال كشوفات الناخبين المغتربين ومراجعتها وختمها بختم السفارة وإرسالها إلى اللجنة العليا للانتخابات والاستفتاء عبر وزارة الخارجية في اليوم الثالث التالي لتاريخ انتهاء تسجيل أسماء الناخبين لتقوم اللجنة العليا بدورها بمراجعة أسماء الناخبين للتأكد من مطابقتها للسجل العام النهائي الموجود لديها ، وبعد ذلك تقوم اللجنة العليا بطباعة ثلاث نسخ لهذه الكشوفات وختمها بختم اللجنة وإرسالها إلى السفارات والقنصليات والجاليات اليمنية عبر وزارة الخارجية في موعد أقصاه اليوم الخامس عشر قبل يوم الاقتراع .

مادة(20) : تقوم السفارات باستلام كشوفات الناخبين المععدة من قبل اللجنة العليا للانتخابات والاستفتاء ونشر نسخة منها على واجهات مقرات مراكز الاقتراع والاستفتاء وذلك في موعد أقصاه اليوم العاشر قبل يوم الاقتراع أو الاستفتاء .

الفصل الثاني

تشكيل وتعيين لجان مراكز تسجيل أسماء الناخبين ومهامها

الفرع الأول : مقر المراكز وتشكيلها

مادة(21) : تقوم اللجنة العليا للانتخابات والاستفتاء بناء على عرض السفارات أو القنصليات اليمنية بتحديد مراكز تسجيل أسماء الناخبين المغتربين الذين يتمتعون بالحقوق الانتخابية و يرغبون في الإدلاء بأصواتهم على النحو الآتي:

- 1- المركز الأول : مقر السفارة اليمنية في الخارج
 - 2- المركز الثاني : مقر القنصلية اليمنية إن وجدت في غير مقر السفارة .
 - 3- المركز الثالث : مقر الجالية اليمنية في حالة وجود عدد كبير من المغتربين .
- على أن تشكل لجان هذه المراكز من أبناء الجالية اليمنية في الخارج ويصدر بتعيينهم قرار من رئيس اللجنة العليا للانتخابات بناء على عرض السفارات أو القنصليات اليمنية .
- على أن تتوفر فيهم الشروط القانونية الآتية :

- 1- أن يكون يمنياً .
- 2- أن لا يقل سنه عن 21 عاما بالنسبة للعضو و25 عاما بالنسبة لرئيس اللجنة .
- 3- أن يكون من حملة الشهادة الثانوية على الأقل .
- 4- أن يكون مستقيم السلوك والخلق وأن لا يكون قد صدر ضده حكم قضائي بات في أي جريمة من الجرائم الانتخابية أو في أي جريمة مخلة بالشرف والأمانة ما لم يكن قد رد إليه اعتباره ، وفي كل الأحوال لا يجوز أن يعين في لجان إدارة الانتخاب من يكون بينه وبين أحد المرشحين قرابة حتى الدرجة الرابعة .

مادة(22) : يجوز للجنة العليا للانتخابات إن ارتأت ذلك أن تعين أحد موظفيها رئيساً للمركز الأول في مقر السفارة اليمنية وذلك من أجل تسيير عمل اللجان والتأكد من سلامة تطبيق الإجراءات الخاصة بعملية التسجيل والاقتراع بالإضافة إلى التأكد من صلاحية مقرات اللجان وسلامتها من الناحية القانونية ويعد هذا المركز بمثابة اللجنة الأساسية التي ترجع إليها بقية اللجان في مهامها .

مادة(23) : في كل الأحوال يقوم رئيس المركز الأول بالمهام الآتية :-

- 1- التوجه إلى مقر السفارة اليمنية في الدولة التي عين فيها لاستلام جميع الوثائق والمستلزمات الخاصة بعملية تسجيل الناخبين المغتربين المرسله من اللجنة العليا للانتخابات والاستفتاء .
- 2- استقبال اللجان وقطع بطائق المشاركة لهم واستبدال الغياب وفقاً للبرنامج الزمني المعد من اللجنة العليا للانتخابات والاستفتاء .
- 3- تدريب اللجان على أعمال تسجيل الناخبين وتوضيح المهمة الموكلة إليهم .
- 4- تنفيذ توجيهات اللجنة العليا وموافاتها بالتقارير اللازمة وكل ما يلزم من المعلومات والإحصاءات عن سير عمل اللجان وذلك عبر السفارة اليمنية وبمعرفة .

5- استقبال كشوفات الناخبين من مراكز التسجيل ومراجعتها مع السفارة اليمنية وتزيفها وتشميعها .

الفرع الثاني

اختصاصات لجان مراكز تسجيل أسماء الناخبين المغتربين

مادة (24) : تتولى لجان المراكز الخاصة بتسجيل أسماء الناخبين المغتربين الذين يتمتعون بحق التسجيل القيام بالمهام والاختصاصات الآتية :

- 1- حضور الدورة التدريبية واستيعاب كافة التعليمات والمهام الموكلة إليها واستلام الوثائق والمستلزمات الخاصة بها والتوجه الى مقرات أعمالها والعمل على تهيئتها وفقاً للبرنامج الزمني المعد لذلك .
- 2- تباشير مراكز التسجيل عملها ابتداء من اليوم التالي لإعلان اليمنيين المغتربين بتسجيل أسمائهم ولمدة خمسة عشر يوماً وفقاً لبرنامج زمني تعده اللجنة العليا للانتخابات والاستفتاء .
- 3- تسجيل الناخبين في الكشوفات المعدة لذلك بعد التأكد من تحقق الشروط الواردة في المادة (5) من هذا الدليل .
- 4- في حال تعدد مراكز التسجيل يقوم رئيس كل مركز بموافاة رئيس المركز الأول بالسفارة بالتقارير اليومية والإحصائيات اللازمة بحيث يكون المركز الأول على دراية كاملة بكل ما يجري في مقر كل لجنة وإبلاغ السفارة بذلك .
- 5- تلتزم لجان المراكز الخاصة بالتسجيل بالمواعيد الخاصة بعملية التسجيل وتنفيذ كل المهام المنصوص عليها فيما يخص هذه العملية وعدم المخالفة لذلك .
- 6- المحافظة على جميع الكشوفات والمستلزمات والجداول المسلمة إليها من أي تلف أو ضياع وتحاشي حدوث أي خدش أو شطب في السجلات .
- 7- القيام بمراجعة الكشوفات الخاصة بتسجيل الناخبين وذلك في اليوم التالي لانتهاج عملية تسجيل الناخبين المغتربين ونظريتها وتشميعها بالشمع الأحمر وتسليمها إلى المركز الأول في السفارة .
- الباب الثالث
- ضوابط الدعاية والتوعية الانتخابية في إطار السفارات والقنصليات والجاليات اليمنية في الخارج
- مادة (25) : في الانتخابات الرئاسية تقوم اللجنة العليا للانتخابات بإعلان جميع السفارات والقنصليات اليمنية في الدول التي تقرر إجراء عملية التصويت فيها بأسماء المرشحين لمنصب رئيس الجمهورية عبر وزارة الخارجية بعد وصول أسماء المرشحين من مجلس النواب .
- مادة (26) : الدعاية الانتخابية حق مكفول قانوناً لجميع المرشحين في الانتخابات التنافسية لمنصب رئيس الجمهورية وتمارس وفقاً لأحكام قانون الانتخابات العامة والاستفتاء وأحكام دليل الدعاية الانتخابية للانتخابات الرئاسية وهذا الدليل.
- مادة (27) : تبدأ ممارسة حق الدعاية الانتخابية في الانتخابات الرئاسية ابتداء من اليوم الرابع عشر قبل يوم الاقتراع وتستمر حتى نهاية اليوم السابق ليوم الاقتراع ولا يجوز مطلقاً بعد نهاية هذا اليوم لأي مرشح أو غيره أن يمارس أي عمل من أعمال الدعاية الانتخابية
- مادة (28) : في الانتخابات الرئاسية تقوم السفارات والقنصليات اليمنية بتكليف المركز الأول الموجود في مقر السفارة بتقسيم مساحات متساوية في مقر السفارة والقنصلية ومقر الجالية اليمنية لمرشحي الرئاسة ويتم توزيعها إلى مربعات مرقمه بحسب ترتيب إيداع طلبات الترشيح والمرسلة من اللجنة العليا .
- مادة(29) : لا يجوز استخدام الأماكن والمساحات العامة للدول الأجنبية وكذا مقرات أعمال المغتربين اليمنيين في تلك الدول للدعاية الانتخابية .
- مادة(30) : لا تمارس الدعاية الانتخابية في الدولة التي تقرر إجراء الانتخاب أو الاستفتاء فيها في غير مقر السفارة والقنصلية ومقر الجالية اليمنية.
- مادة(31) : تتولى السفارات والقنصليات اليمنية الإشراف والرقابة على ممارسة الدعاية الانتخابية وفقاً للأحكام القانونية والتعليمات والضوابط المقررة في هذا الدليل وتلقي البلاغات والمعلومات بشأن وجود المخالفات كما تقوم برصد المخالفات القانونية التي تحدث من المرشحين أو أنصارهم أو أحزابهم أثناء ممارسة الدعاية الانتخابية وإبلاغ اللجنة العليا بها .
- مادة (32) : يرجع في كل ما لم يرد به نص في هذا الباب إلى الأحكام المقررة في قانون الانتخابات العامة والاستفتاء ولائحته التنفيذية والأحكام المقررة في دليل الدعاية الانتخابية للانتخابات الرئاسية.
- مادة (33) : لا يجوز توزيع أي منشورات دعائية يوم الاقتراع .
- الباب الرابع
- الأحكام المتعلقة بالاستفتاء
- مادة(34) : تجري عملية الاستفتاء العام بناء على قرار رئيس الجمهورية بالدعوة للاستفتاء وفقاً للمدد والمواعيد المحددة في الدستور .
- مادة(35) : يعد مقر اللجنة التي سجل المغترب اليمني اسمه فيها لجان للاستفتاء كما تعد كشوفات أسماء الناخبين المغتربين المعتمدة من اللجنة العليا جداول للاستفتاء كذلك تعد البطاقة الانتخابية بطاقة استفتاء .
- مادة(36) : تسرى الأحكام الخاصة بحقوق الناخبين واجباتهم المتعلقة بالانتخابات في أي استفتاء عام .
- مادة(37) : تطبيق بشأن الاستفتاء العام الأحكام والإجراءات المتعلقة بالانتخابات الواردة في القانون ولائحته التنفيذية .
- مادة(38) : تقوم اللجنة العليا للانتخابات والاستفتاء باتخاذ الإجراءات الكفيلة بمشاركة المغتربين اليمنيين لحقهم في الاستفتاء بالتنسيق مع وزارة الخارجية وتحديد الدول التي سيجري فيها الاستفتاء .
- الباب الخامس
- الأحكام المتعلقة بالاقتراع والفرز
- الفصل الأول: تشكيل لجان الاقتراع ومهامها واختصاصاتها
- الفرع الأول: تشكيل لجان الاقتراع
- مادة (39) : بعد الإعلان عبر وسائل الإعلام عن الدول التي تقرر إجراء الانتخاب أو الاستفتاء فيها نظراً لتوافر النصاب القانوني تقوم اللجنة العليا للانتخابات والاستفتاء بموافاة السفارات والقنصليات والجاليات اليمنية بكشوفات تبين عدد الناخبين وعدد لجان الاقتراع في كل مركز من المراكز المحددة في المادة (21) من هذا الدليل وفقاً للتقسيم الآتي:
- 1- لجنة اقتراع لكل خمسمائة ناخب.
- 2- لجنتي اقتراع إذا زاد عدد الناخبين عن ستمائة ناخب.
- 3- تضاف لجنة واحدة عن كل مائة ناخب زيادة في اللجنة الواحدة.
- مادة (40) : تشكل لجان الاقتراع من أبناء الجاليات اليمنية في الدول المراد إجراء الانتخاب أو الاستفتاء فيها على أن تتوفر فيهم الشروط القانونية الواردة في المادة (21) من هذا الدليل ويصدر بتعيينهم قرار من رئيس اللجنة العليا بناء على عرض السفارات أو القنصليات اليمنية وذلك في موعد أقصاه اليوم الخامس عشر قبل يوم الاقتراع .

مادة (41) : تعتبر اللجنة الأولى في المركز الأول الذي يكون مقره السفارة اليمنية بمثابة اللجنة الأصلية ويرأس هذه اللجنة رئيس المركز الأول في مقر السفارة.

مادة(42) : تقوم اللجنة العليا للانتخابات والاستفتاء بإرسال أوراق الاقتراع وجميع المستلزمات والوثائق الخاصة بعملية الاقتراع والفرز إلى مقر السفارات اليمنية في الموعد المحدد في البرنامج الزمني المعد من اللجنة العليا لهذا الغرض .
الفرع الثاني

مهام واختصاصات لجان الاقتراع

مادة (43) : تقوم اللجنة الأولى في المركز الأول الذي يكون مقره في مبنى السفارة اليمنية في الدولة المراد إجراء الانتخابات الرئاسية أو الاستفتاء فيها بالمهام والاختصاصات الآتية:

1- التواجد في مقر السفارة في الموعد المحدد واستلام كافة الوثائق والمطبوعات والمستلزمات الخاصة باللجان الأخرى من السفارة والتأكد من استيفائها كاملة وبحسب الكميات المحددة من اللجنة العليا.
2- تحديد الأماكن المخصصة للدعاية الانتخابية والإشراف على تنفيذها وتحديد المساحات الخاصة بكل مرشح على النحو المبين في المادة (28) من هذا الدليل .

3- استقبال اللجان (لجان الاقتراع) وصرف بطائق المشاركة لها وتسليمها ملفات التدريب

4- استبدال الغياب وفقاً لتعليمات اللجنة العليا بهذا الخصوص .

5- تهيئة مكان تدريب اللجان وعقد الدورة التدريبية للجان الاقتراع وفقاً للبرنامج الزمني .

6- اعتماد أسماء مندوبي المرشحين للاقتراع والفرز قبل موعد يوم الاقتراع بـ48 ساعة وإعطائهم البطاقة التي بموجبها يسمح لهم بالدخول إلى قاعة الاقتراع للمراقبة .

7- تسليم اللجان الفرعية(لجان الاقتراع) مستلزمات عملها من الوثائق والمطبوعات والمستلزمات والزام اللجان الفرعية بممارسه أعمالها وفقاً للبرنامج الزمني ومتابعة تواجدها في مقرات أعمالها .

8- الرد على أية استفسارات ترد من اللجان .

9- ترتيب مكان مناسب في مقر السفارة لاستقبال اللجان الفرعية والصناديق بعد انتهاء عملية الاقتراع والفرز واستلام الوثائق والتقارير والمستلزمات من اللجان وإخلاء عهدها.

10- تحريز الصناديق وتشميعها بعد فرزها ورفع النتائج وإبصال الوثائق إلى السفارة طبقاً للتعليمات الخاصة بذلك

11- إعداد المحاضر النهائية والتقرير الختامي بالنتائج وتسليم الأصل للسفارة لتتولى إرسالها عبر وزارة الخارجية إلى اللجنة العليا ويجب على اللجنة الأولى أن ترسل فوراً بالفاكس صورة من المحاضر النهائية والتقرير الختامي المتضمن النتائج إلى اللجنة العليا ليتسنى لها إعلان النتيجة العامة في الميعاد المحدد .

مادة(44) : تتولى لجان الاقتراع القيام بالمهام الآتية :-

1- التوجه إلى مقر المركز الأول حسب الموعد المحدد لحضور الدورة التدريبية وفقاً للبرنامج الزمني بعد استلام بطائق المشاركة والحرص على استيعاب كافة تفاصيل الخطوات التنفيذية للمهام الموكلة إليها واستلام الوثائق والقرطاسية والمستلزمات الخاصة بعملية الاقتراع من اللجنة الأولى في المركز الأول والتأكد من استيفائها كاملة حسب الكمية المحددة من اللجنة العليا .

2- الانتقال إلى مقر أعمالها وتهيئتها استعداداً ليوم الاقتراع .

3- استقبال مندوبي المرشحين المعتمدين من اللجنة الأولى .

4- استقبال الناخبين يوم الاقتراع بعد استكمال كافة الترتيبات .

5- إدارة عملية الاقتراع بحسب الخطوات الإجرائية التي سيأتي بيانها لاحقاً في الفصل الثاني من هذا الباب.

6- استكمال الترتيبات الخاصة بختام عملية الاقتراع وتعبئة البيانات في النماذج الخاصة بالمعلومات المختصرة ليوم الاقتراع وتسليمه للجنة الأولى في المركز الانتخابي لاستكمال البيانات التي تخصها .

7- تسليم الصناديق وكافة الوثائق والمستلزمات إلى اللجنة الأولى في المركز الانتخابي وإخلاء ما بعهدتها و الانتقال إلى مقر المركز الأول في السفارة وتسليمها كافة الوثائق والتقارير وصناديق الاقتراع لإخلاء عهدها .

8- حضور عملية الفرز والتوقيع على المحضر الخاص بذلك والكشوفات التجميعية والتقارير الخاصة بعملية الاقتراع .
الفصل الثاني

إجراءات الاقتراع

الفرع الأول :

الإجراءات التحضيرية قبل مباشرة عملية الاقتراع

مادة(45) : يجب أن تتواجد اللجان الفرعية (لجان الاقتراع) في مقر أعمالها في تمام الساعة السادسة صباحاً للقيام بما يأتي :-

1- التأكد من جاهزية مكان الاقتراع وترتيب مكان جلوس اللجنة والمرشحين أو مندوبيهم .

2- وضع صندوق الاقتراع في مكان يتيح للجميع رؤيته ومراقبته بسهولة من قبل أعضاء اللجنة والمرشحين أو مندوبيهم .

3- وضع كباين التصويت في مكان يقلل من إمكانية سماع الآخرين تعليمات الناخب المعاق لمساعدته أو إمكانية رؤية تأشير الناخب في ورقة الاقتراع .

4- تعيين أحد أعضاء اللجنة كاتب سر لتحرير محاضر الانتخابات على أن يكون خطه واضحاً .

5- حصر المستلزمات وأوراق الاقتراع والنماذج الخاصة بعملية الاقتراع وترتيبها على طاولة اللجنة بما يسهل عملية الاقتراع ومرور الناخب بخطوات سهلة وسريعة .

مادة (46) : تستمر عملية الاقتراع عشر ساعات متواصلة تبدأ من الساعة الأولى من بداية الدوام الرسمي للدولة التي تقرر إجراء الانتخاب أو الاستفتاء فيها حتى ساعة الغروب من نفس اليوم .

مادة (47) : تستمر عملية الاقتراع بعد مضي عشر ساعات إذا تبين وجود ناخبين في مكان الانتخاب حتى ينتهي الموجودين من الإدلاء بأصواتهم ثم يعلن رئيس اللجنة ختام عملية الاقتراع .

مادة (48) : لا يجوز الاستمرار في الاقتراع بعد مضي 12 ساعة من بداية يوم الاقتراع .

مادة(49) : إذا حضر جميع الناخبين المسجلين في الكشف المعتمد من قبل اللجنة العليا للانتخابات وأدلووا بأصواتهم ولم يبق أحد منهم تعلن اللجنة اختتام عملية الاقتراع ولو قبل مضي العشر ساعات المحددة لإجراء عملية الاقتراع .

مادة (50) : قبل بدء عملية الاقتراع بـ 60 دقيقة يجب على اللجنة التأكد من تواجدها مندوبي المرشحين والقيام بالإجراءات التالية بحضورهم جميعاً:

- 1- التأكد من خلو قاعة الاقتراع من الأشخاص الذين لا يجوز لهم الدخول إليها.
 - 2- معاينة صندوق الاقتراع وفتحه أمام المرشحين أو مندوبيهم والناخبين والتأكد من خلوه من أي شيء وإغلاقه وقلعه بالقفل الشمعي المعد لهذا الغرض.
 - 3- عد الأوراق الخاصة بعملية الاقتراع وتحضير محضر مباشرة العملية وفق النموذج المعد لذلك والتوقيع عليه من اللجنة ومندوبي المرشحين .
- الفرع الثاني
الإجراءات التنفيذية للاقتراع
- مادة(51) : يقوم رئيس اللجنة الفرعية (لجنة الاقتراع) وبحضور مندوبي المرشحين بالإعلان عن بدء عملية الاقتراع بدخول أول ناخب إلى قاعة الاقتراع وعلى اللجنة تسيير عملية الاقتراع على النحو الآتي:
- 1- التأكد من أهلية الناخب للتصويت من خلال إبراز بطاقته الانتخابية ما لم فإنه يحرم من الإدلاء بصوته في الانتخابات الرئاسية أو الاستفتاء .
 - 2- التأكد من وجود اسم الناخب في الكشف المعد من قبل اللجنة العليا للانتخابات وفي حالة عدم وجود اسمه في الكشف لا يسمح له بالاقتراع وإن كان حاملاً للبطاقة الانتخابية .
 - 3-التأكد من خلو إبهام اليد اليسرى للناخب من الحبر فإذا تبين للجنة وجود حبر في يد الناخب بما يدل على أنه قد مارس حقه في الانتخاب أو الاستفتاء يحرم من التصويت بذلك تثبت فيه المخالفة ولا يحق له ممارسة الاقتراع مرة أخرى .
 - 4-بعد التأكد من سلامة الإجراءات السابق ذكرها يتم التأشير أمام اسم الناخب في كشوفات الناخبين بإشارة (/) ويمنح بطاقة الاقتراع بعد ختمها من الخلف بختم اللجنة ليثبت رأيه عليها خلف الكيبنة المخصصة لذلك ثم يضعها بالصندوق أمام مندوبي المرشحين .
 - 5- بعد ذلك يبصم الناخب أمام اسمه في كشوفات الناخبين وتضع اللجنة الحبر على إبهام يده اليسرى للدلالة على ممارسة حقه في التصويت .
 - 6- يقوم رئيس اللجنة الفرعية بالتوقيع على بطاقة الناخب بما يفيد مشاركته في الاقتراع ويعيدها إليه.

الفرع الثالث

- إجراءات اختتام عملية الاقتراع والانتقال إلى مقر الفرز
- مادة (52) : يجب على اللجان الفرعية عقب انتهاء عملية الاقتراع إغلاق الصناديق وتشميعها وتدوين محضر ختام عملية الاقتراع وتدوين جميع البيانات اللازمة في المحضر والتوقيع عليه من قبل اللجنة ومندوبي المرشحين .
- مادة(53) : على اللجان تجميع كل أوراق الاقتراع غير المستخدمة وتغليفها ووضعها في المظاريف وتختم بالشمع الأحمر وعمل محضر بها .

- مادة (54) : يجب على اللجان الفرعية نقل صناديق الاقتراع وجميع الوثائق والمستلزمات إلى المكان المحدد للفرز في المركز بمرافقة مندوبي المرشحين وتسليم كل ذلك إلى اللجنة الأولى في المركز الانتخابي واستلام ما يفيد إخلاء عهدها بعد الانتهاء من عملية الفرز والتوقيع على المحاضر الخاصة بعملية الفرز .

الفصل الثالث

إجراءات الفرز

- مادة(55) : تبدأ عملية الفرز فور وصول جميع الصناديق إلى المكان المحدد للفرز في المركز .
- مادة(56) : تشكل لجنة الفرز برئاسة رئيس اللجنة الأولى في المركز وعضوية كل من عضوي اللجنة الأولى ورئيس وعضوي لجنة الصندوق الذي يتم فرزها ولا يجوز فتح الصناديق وفرزها إلا بحضورهم جميعاً وحضور مندوبي المرشحين وبعد التأكد من سلامة ختم فتحه الصندوق والقفل الشمعي وتحضير محضر يتضمن أسماء الحاضرين وصفاتهم والوقت والمكان الذي يتم فيه الفتح والفرز والتوقيع على ذلك من المرشحين أو مندوبيهم .
- مادة(57) : يتم فرز كل صندوق على حده وتوضيح عدد الناخبين فيه وتفريغ أصواتهم إلى كشف يسجل فيه الأصوات الصحيحة والأصوات الباطلة لمن أدلو بأصواتهم في الاستفتاء على التعديلات الدستورية وفي الانتخابات الرئاسية يتم تسجيل أسماء المرشحين لمنصب رئاسة الجمهورية وتدوين عدد الأصوات الصحيحة التي حصل عليها كل مرشح وعدد الأصوات الباطلة والتأشير في ورقة كل ناخب عند تفريغها إلى الكشف المذكور من رئيس اللجنة بما يدل على ذلك حسب النماذج المعدة لذلك .
- مادة(58) : يجب أن تتواصل عملية الفرز دون توقف ولا يجوز لمندوب المرشح الخروج من قاعة الفرز إلا بعد استئذان لجنة الفرز وتوكيل من يحل محله أثناء خروجه كتابه فإذا لم يستأنذ ولم يوكل من يحل محله نصبت لجنة الفرز منصوباً عنه ويحرر محضراً بذلك توقع عليه اللجنة وتستمر عملية الفرز أمام المنصوب ويوقع المنصوب في المحاضر نيابة عنه ، ولا يؤثر امتناع أحد مندوبي المرشحين أو المنصوب عنه عن التوقيع في محاضر الفرز ونتائجها على النتائج التي تعلنها لجنة الفرز .
- مادة(59) : على لجنة الفرز تفريغ الأصوات الصحيحة لمن أدلو بأصواتهم في الاستفتاء وما حصل عليه كل مرشح في انتخابات رئيس الجمهورية من أصوات صحيحة من مجموع صناديق الاقتراع في المركز وذلك إلى كشف تجميعي مع عدد الأصوات الباطلة والتأكد من مطابقة إجمالي عدد الأصوات في كل صندوق مع المحاضر التي دونتها لجان الاقتراع في المحاضر الخاصة بها .
- مادة(60) : على لجنة الفرز تفريغ الكشوفات الخاصة بكل صندوق إلى كشف تجميعي بجملته الأصوات التي حصل عليها كل مرشح مع الإشارة إلى الأصوات الباطلة التي تقرر لدى لجنة الفرز بطلانها طبقاً للأحكام المنصوص عليها في هذا الدليل والتوقيع على الكشوفات المذكورة من جميع اللجان و مندوبي المرشحين مع مراعاة ما ورد في عجز المادة (58) من هذا الدليل .
- مادة(61) : تفصل لجنة الفرز في جميع المسائل المتعلقة بصحة إعطاء كل ناخب رأيه أو بطلانه مع عدم الإخلال بالأحكام الواردة في قانون الانتخابات الخاصة بالطعون وتعتبر باطلة الآراء الآتية .

- 1- الآراء المعلقة على شرط .
- 2- الآراء التي تعطى لأكثر من مرشح .
- 3- الآراء التي تثبت على غير الورقة المخصصة للاقتراع ،والمسلمة من رئيس اللجنة وفي كل الأحوال يعد صحيحاً كل رأي دل على إرادة الناخب .

مادة (62) : تقوم لجنة الفرز بعد الانتهاء من عملية الفرز بالإجراءات الآتية:

- 1- تجميع البيانات في الكشف التجميعي على مستوى كل صندوق على حدة ثم الكشف التجميعي الخاص بنتائج الفرز على مستوى جميع اللجان في المركز وتحضير محضر نهائي من أصل وصورتين حول النتائج التي أسفرت عنها عملية فرز الأصوات

لجميع الصناديق على أن يتضمن بيان عدد الأصوات الصحيحة لمن أدلوا بأصواتهم في الانتخابات الرئاسية أو الاستفتاء وعدد الأصوات التي حصل عليها كل مرشح وعدد الأصوات الباطلة والتوقيع عليه من رئيس وأعضاء لجنة الفرز وختمه بختم المركز وتسليم الأصل إلى اللجنة الأولى في المركز الأول في السفارة اليمنية في مظهر خاص محرز ومشتم بالشمع الأحمر لإيصاله عن طريق السفارة إلى اللجنة العليا للانتخابات والاستفتاء عبر وزارة الخارجية بصورة تبقى في مقر السفارة بصورة تبقى لدى رئيس المركز الأول المنتدب من اللجنة العليا إلى حين وصوله وينبغي إرسال صورته إلى اللجنة العليا فور التوقيع على الكشف ليستنى للجنة العليا إعلان النتيجة العامة في الميعاد المحدد .

2- إعداد التقرير الختامي من أصل وصورتين يرسل الأصل إلى اللجنة العليا بصورة تبقى لدى السفارة بصورة تبقى لدى رئيس المركز الأول المنتدب من اللجنة العليا إلى حين وصوله إليها وتبلغ اللجنة العليا بصورة من هذا التقرير بالفاكس بصورة عاجلة كي يستنى لها إعلان النتيجة العامة في الميعاد المحدد .

3- جمع أوراق الاقتراع الخاصة بكل مرشح بعد ترتيبها بشكل رزم وكذا الكشوفات والمحاضر الخاصة بعملية فرز الأصوات والمحاضر المحررة من قبل لجان الاقتراع في يوم الاقتراع وبقية الوثائق .

الخاصة بعملية الانتخابات والاستفتاء وذلك في صندوق أو أكثر وسد فتحاتها وفتحها وأقفالها وإحرازها بالشمع الأحمر والتوقيع عليها من قبل رئيس وأعضاء اللجنة وتسليمها إلى السفارة اليمنية وتبقى لديها إلى حين انتهاء الفترة القانونية للطعون.

مادة (63) : تقوم السفارات أو القنصليات اليمنية بإعلان نتيجة الاقتراع للانتخابات الرئاسية أو الاستفتاء وعدد الأصوات التي حصل عليها كل مرشح ووضعها في لوحة إعلانات السفارة والقنصلية اليمنية وإرسال صورة من النتيجة إلى اللجنة العليا عبر الفاكس بصورة مبدئية .

مادة (64) : تقوم السفارات والقنصليات بإرسال الوثائق والتقارير وكذا المحضر النهائي والتقرير الختامي إلى اللجنة العليا للانتخابات والاستفتاء عبر وزارة الخارجية وذلك في اليوم التالي لانتهاج عملية الفرز.

الباب السادس

أحكام عامة

مادة (65) : يجب على اللجنة العليا للانتخابات والاستفتاء مخاطبة وزارتي الخارجية والمغتربين بضرورة موافاة اللجنة العليا بكشوفات إحصائية عن عدد اليمنيين المقيمين في كل دولة خارجية على حده وبيان المدن التي يتركز فيها المغتربون اليمنيون وأعدادهم وذلك بوقت كاف .

مادة (66) : يحق للناخب المغترب الطعن في نتائج عملية الاقتراع والفرز في الانتخابات الرئاسية أو الاستفتاء ، وله في سبيل ذلك توكيل من يراه لتقديم عريضة الطعن أمام المحاكم اليمنية المختصة وذلك على النحو المبين في دليل الطعون الانتخابية .

مادة (67) : فيما لم يرد به نص في هذا الدليل يرجع بشأنه إلى الأحكام والإجراءات العامة الواردة في القانون رقم (13) لسنة 2001م بشأن الانتخابات العامة والاستفتاء ولائحته التنفيذية ودليل الانتخابات الرئاسية والأدلة الانتخابية الأخرى.

مادة (68) : تعد اللجنة العليا للانتخابات والاستفتاء الأنظمة والقرارات والبرامج الزمنية لتنفيذ مواد ونصوص هذا الدليل .

مادة (69) : يعمل بهذا القرار من تاريخ صدوره وعلى الجهات المعنية تنفيذه.

صدر بديوان عام اللجنة العليا للانتخابات والاستفتاء

بتاريخ: 2 / 4 / 1423هـ

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خالد عبد الوهاب الشريف

رئيس اللجنة العليا للانتخابات والاستفتاء

USA

Relevant topics

Voting on all levels, registration by mail; two major political parties (Democrats Abroad and Republicans Abroad – DA & RA – mobilise every two years; RA, but especially DA support absentee voting in host countries, e.g. partnership project in MENA region.

Documents

<http://www.globalpolicy.org/nations/citizen/0715citi.htm>

As Rules Ease, More Citizens Choose to Fly 2 Flags

By Amy Cortese

New York Times

July 15, 2001

Orazio Gigli was a teenager in 1972, when he and his family left behind the orange-scented hills of his native Capaci, outside Palermo, Sicily, in search of greater economic opportunity in the United States. When he became an American citizen five years later, he had to renounce his Italian citizenship, but he never let go of his memories of playing street soccer with a ball made of rags or of the close-knit community of family and neighbors that shared his life.

"In my heart, I will always be an Italian," said Mr. Gigli, 45, a labor union executive who now lives in White Plains with his wife, Marina, 48, and his grown daughters, Michelle and Felicia. And now, because of a change in the laws in Italy, he will always be an Italian. In 1992, the government there began allowing dual citizenship, enabling Mr. Gigli to reclaim his Italian nationality.

The United States has long been a beacon of welcome for immigrants. In the last five years alone, nearly four million foreigners became American citizens, but an inverse trend is taking hold. A growing number of Americans, either born in this country or naturalized citizens like Mr. Gigli, are taking advantage of more liberal policies in other countries and in the United States to become dual citizens.

The reasons for doing so are as diverse as the people seeking the dual status. But several factors are fueling the trend, including a growing interest in genealogy and a desire to connect with family roots, the changing meaning of national boundaries, as in the European Union and the former Soviet Union, and the forging of trade alliances like the North American Free Trade Agreement. (Of course, it can also be a status symbol for the upwardly mobile businessman or businesswoman.) "E.U. citizenship is a big deal," said Matthew Shultz, an immigration lawyer at the law firm Baker & McKenzie. Someone who is a citizen of one European Union country, he added, can live or work in any of the others.

Many foreign countries are putting out the welcome mat for various reasons -- to stem a talent brain drain, for example, or to attract the tax revenue of cash-flush retirees looking for places to spend their golden years. Under its Economic Citizenship Program, intended to reward individuals who contribute to its economy, the tiny Caribbean nation of Belize allows anyone willing to pay \$50,000 in fees to become a citizen. The new Belizeans are allowed to retain their native citizenship and may take advantage of Belize's lenient tax laws, which include no capital gains or estate taxes and no tax on income earned outside Belize.

Dozens of countries have smoothed the way for people, with or without ancestral ties, to have their feet firmly planted in two or more lands. And in many of those countries, citizenship can be passed on to children. The United States has also steadily relaxed its policies over the last two decades, thanks in part to the end of the cold war and a 1967 Supreme Court ruling that the United States could not strip away American citizenship because of a person's attachments to another nation.

T. Alexander Aleinikoff, a law professor at Georgetown University and director of the Comparative Citizenship Project at the Carnegie Endowment for International Peace, sees the dual-citizenship trend continuing because of the more liberal laws and policies and the fact that 10 percent of the American population is foreign-born.

While some critics call dual citizenship "political polygamy," contending that multiple allegiances cheapen the notion of citizenship, others see many benefits in an emerging global economy. For starters, dual citizenship allows someone to live and work more freely in another country or, in the case of the European Union, any of the 15 member nations. In some countries, like Mexico, dual citizens living abroad can even vote in elections. Citizenship can also make it easier to own property and businesses.

Many dual citizens born in the United States also cite the benefits of traveling without a United States passport, which can mean shorter lines at overseas customs and avoiding anti-American sentiment in some parts of the world.

There can be pitfalls, too. Unless they research the rules in advance, dual citizens may be surprised to learn that they may have to serve in the second country's military, or be subject to its taxes. Foreign consulates in the United States can answer most questions about citizenship requirements and eligibility. Although the rules and procedures vary by country, getting dual citizenship can be a long, complicated process. And the processing fees can total \$200 or so.

Generally, Americans become eligible for citizenship in another country in one of two ways: by a direct bloodline (called *ius sanguinis* in Latin, or right of blood), for those with a parent or grandparent who was born in the second country, or through naturalization for others, including those who marry nationals.

Many American citizens whose parents or grandparents were immigrants are finding that they may be eligible for citizenship in their ancestral homelands. In some countries, like Ireland, simply having a parent or grandparent who was born in the country may be enough. But elsewhere the rules are often much more complicated: In Italy, for example, you may be eligible if at least one of your parents was an Italian citizen at the time of your birth, even if he or she lived in the United States. But that applies only if you were born after 1948, and if neither you nor, in certain cases, your parent renounced Italian citizenship.

In most cases, you will have to produce some proof -- birth, death, marriage and immigration documents of family and ancestors -- and fill out plenty of paperwork. Finding those documents may require a visit to the ancestral homeland. Many dual citizens say they were helped in their searches by their friends or family overseas. The Internet can ease the process, too. Ellislandrecords.org, for example, can help track down information on the more than 22 million immigrants who passed through New York's Ellis Island from 1892 to 1924. Once all the paperwork is in, the wait for citizenship can be anywhere from a year to up to 10 years -- as in more restrictive countries like Japan and Germany.

Daniel Kealy, 33, a furniture maker in New York, figures that he spent 15 to 20 hours to apply for Irish citizenship, which was granted within a year. Mr. Kealy was eligible because his maternal grandfather, Daniel O'Keefe, was born in Ireland. Growing up, he was part of the Irish-American community in New York City, where that grandfather was a police officer and his paternal grandfather, William Kealy, a second-generation Irish immigrant, was a firefighter. Mr. Kealy and his mother, Ellen Mary Kealy, 58, both applied for Irish citizenship in 1995 after Mr. Kealy's aunt, Nancy O'Keefe, had successfully done so. Mr. Kealy said he did not have the same identification with his Irish heritage as his grandparents did, but that he and his wife, Alexandra, 35, a pet-store owner, might someday like to live in Ireland or elsewhere in the European Union. Mr. Kealy also figures that it may become harder to get an Irish passport as the country's economic situation improves.

Mr. Gigli, meanwhile, has done his best to keep Italian traditions alive in his family. For the younger generation, he said, the Italian way of life "is slipping away." So Mr. Gigli sings in an Italian-American dinner band and serves as vice president of the local Italian-American soccer league. And he has taken his daughters to Italy several times over the last few years. The next time they visit, they, too, will go as Italian citizens, because Mr. Gigli's dual citizenship extended to his children.

V) Lebanese Context

Debate in Lebanon on absentee voting runs parallel to the discussions and controversy common in many of the other countries mentioned above. Along with the technical issues, e.g. registering voters and deciding whether to use polling stations abroad or in the home districts, political issues are also important, e.g. the financial and political clout of the diaspora communities or the lack of understanding for domestic political developments, especially among those immigrants who have been abroad for an extended period of time.

In following, the basic elements of election reform discourse will be divided into three topics areas, i.e. the political as related to the functions of the state, the role and positions of the relevant NGOs active in this field and finally, a brief overview of the discussion in the media.

A) Politics

Two international treaties lay the groundwork for the introduction of absentee voting on the national level, i.e.

- The "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: Adopted by General Assembly resolution 45/158 of 18 December 1990," which states the following in Article 41:
 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. (<http://www.ohchr.org/english/law/cmw.htm>).
 Lebanon neither signed nor ratified this convention.

- The "International Covenant on Civil and Political Rights of 16 December 1966," which was mentioned above under III. "Voting Issues: International Obligations." It states that "all individuals within its territory and subject to its jurisdiction (are

protected by) the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other persuasion, national or social origin, property, birth or other status." Lebanon acceded to this covenant on 03 November 1972.

Both the Lebanese constitution and the Election Law of 2000 respect the concept of non-discrimination, as set forth in the International Covenant on Civil and Political Rights. According to Article 7 of the constitution: "All Lebanese are equal before the law. They enjoy civil and political rights and equally are bound by public obligations and duties without any distinction." Article 24, Paragraph 1 introduces the temporary principle of confessional voting rights, but does not restrict suffrage to those physically present in the country. As called for in Article 24 of the constitution, the "Elections Law 2000" in the translation found in the "Arab Election Law Compendium" provided by IFES states in Article 9 that "Every Lebanese person, having 21 years of age is entitled to be a voter if he enjoys his civil and political rights, and if he doesn't have one of the ineligibility case stated in the law." The "ineligibility cases" listed in Articles 10, 28 and 48 include mental illness, active service in the military, bankruptcy and a serious criminal record.

http://www.arabelectionlaw.net/eleclaw_eng.php?country=5

Article Ten

Are deprived from practicing their voting rights:

1. The persons deprived from their civil rights.
2. The persons convicted to be deprived for good from all the grades, and the public jobs. The persons deprived from practicing their jobs temporary, can be registered on the voting list only after the end of the deprivation period.
3. The persons convicted for a felony. Are considered abominable, the following crimes: burglary, fraud, withdrawal of an unbalanced check, breach of trust, speculation, graft, perjury, rape, intimidation, falsification, using the falsified, immoral crimes stated in the fifth chapter of the penal code, and the crimes related to the agriculture, the industry and the trade of drugs.
4. The judicially interdicts, through all the interdiction period.

5. Persons whose bankruptcy is declared.
6. Persons convicted with the sanctions stated in articles 329 to 334 of the penal code. The persons above mentioned can not recuperate their voting rights except after their rehabilitation.

Article Twenty Eight

Militaries and their fellows of any grade, whether they are in the army, the state security, the internal security forces, the public security or in the customs police, with the exceptions of the military service draftees, don't vote and are crossed out from the electoral lists.

- Militaries and their fellows of any grade, whether they are in the army, the state security, the internal security forces, the public security or in the customs police cannot be elected deputies even if they are transferred to provisional retirement or to the reserve; however they can be elected if they are retired or if their demission has been accepted six months before the elections date.

Article Forty Eight

No one is allowed to participate in the voting process unless his/her name is registered in the electoral list or if s/he has a permission from the committee to register his/her name. The right to vote is suspended for the persons under arrest and the persons who are in the sanctuary of mental diseases even if they are not in the legal interdiction and whose names are registered in the electoral lists.

Although neither the constitution nor the election law state directly and explicitly that voters must be physically present in order to vote, this is implicitly assumed in Articles 12, 13 and 49, which deal with the electoral lists and voting procedures respectively.

Article Twelve

The directorate general of the personal status gives, for each electoral district, mechanized electoral lists of the voters' names according to the personal status records. These lists include names of all the voters who have been actually living in the electoral district, six months at least since the date of the reoccurrence of the electoral lists that is the 15th of December of each year.

Article Thirteen

The voters lists include the family registration number of each voter in the personal status records, his family name, his name, his sex, his father's name, his date of birth and his confession.

Article Forty Nine

The ballot ticket is free of charge. The voter doesn't have the right to vote if he doesn't present his ticket.

The delivery of the ballot tickets continues until the 7th day that precedes any voting operation.

The ballot ticket includes: The family name, the name and the surname, the father's name, the date of birth, the confession and the photo.

When the vote enters to the polling station, he should present his ticket to be allowed to vote in the polling station, after the necessary verification.

The polling station president, the writer and one of the president's assistants mentioned in article 42 should sign in front of the voter, the voting envelopes, and give them to the voter according to the determined voting operations.

The voter should enter the retreat prepared to block the view, and in each envelop he should put one paper containing the names of the candidates that he wants to elect, or the municipality members or the mayor or the optional council. The paper should not contain more than the determined number, when the voter is called by his name, he approaches and shows the polling station president that he's not holding anything other than the envelope or envelopes designated for the voting, the president verifies that without touching him/her, then he allows the voter to put each envelop in the ballot boxes, then the polling station president pierces the ballot ticket in the specified place and give it back to its owner.

The voter doesn't have the right to delegate anyone to drop the envelope in the ballot box. However, the handicapped voter who cannot put his paper in the envelope and drop it in the ballot box, is allowed to have the assistance of another voter that he chooses.

The polling station president should make sure that the voter has entirely complied with the statement mentioned in this article and that the voter has been alone in the

retreat at the risk of preventing him from voting. The voter certifies his voting by signing or by putting his fingerprint and the signature of one of the polling station members next to his name on the cross list related to every electoral operation.

According to the logic of Latin law, which lays the foundation for the French, and thus the Lebanese, legal system, the introduction of a procedure must be provided for by law. The fact that absentee voting – i.e. the virtual presence of a voter in a polling station – is not foreseen in the election law means that it is currently not permitted.

This is reflected in the EPIC Research Results for Lebanon (www.epicproject.org/ace) which clearly states in section "VO04. Who can vote from outside the country? Outside the country voting is not permitted."

This position is shared by the conservative German political NGO, Konrad Adenauer Stiftung, which is closely allied to the Christian Democratic Union of Chancellor Angela Merkel.

Guide to reforming Lebanon's Elections - May 28, 2005
<http://www.kas.org/jo/details/?cid=2&sid=25&artid=164>

Absentee Voting

No absentee voting is allowed. People outside of Lebanon do not count. Many organizations tried hard to change the law, but unfortunately they could not succeed, since old guard politicians in Lebanon are scared that this could tilt the balance, since there are as many Lebanese outside as inside Lebanon.

Franchise

In Lebanon, there are over half million people living there that cannot vote, because they were never able to attain citizenship. Similarly, there are millions of Lebanese living abroad that cannot vote because absentee voting is not allowed.

In the political arena, two initiatives are of particular interest with respect to the introduction of absentee voting.

- Draft Bill: In respect of the addition to the current number of seats at the Parliament, of twelve Members of Parliament are to be elected by and among the Lebanese

residing abroad. Naamatallah Abi Nasr, Member of Parliament, registered at the parliament, No. 1230/2003, date: 10/11/2003 (see appendix for English translation).

- Opinion of Former Prime Minister Salim Hoss, who has called to restricting absentee voting to those expatriates who pay taxes in Lebanon on a regular basis (see appendix for Arabic original).

B) NGOs

Various Lebanese NGOs are actively propagating absentee voting.

The Lebanese Association for Democratic Elections had supported absentee voting in abstract terms for over five years.

Electoral Reform



<http://www.ladeleb.org/english/?q=node/84>

Fifth, Lebanon is among the few countries where the voting age is still at 21 years. The ruling class still does not favour lowering the voting age to 18 years, turning it down in several instances. This leaves out a motivated and independent group of voters who subject to their legal duty by that age without being allowed to practice their rights to public participation and decision-making. Similarly, immigrants, who constitute large numbers, are deprived from voting in Lebanese embassies abroad. Finally, soldiers are exempted from voting while their names are kept on voting lists. They are used to forge elections where some of them are invited to vote illicitly by powerful candidates.

In its appraisal of the 2005 parliamentary elections, the Foundation for Human and Humanitarian Rights Lebanon also championed absentee voting in general terms.

FOUNDATION FOR HUMAN AND HUMANITARIAN RIGHTS (LEBANON)

Corresponding member: **International Federation of Human Rights (Paris)**

Member: **Euro-Mediterranean Human Rights Network (Copenhagen)**

Partner: **M.A. Program on Human Rights & Democratization (University of Malta)**

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THE 2005 LEBANESE PARLIAMENTARY ELECTIONS
APPRAISAL

Significant Flaws:

The Foundation has highlighted the following significant flaws

1. The inexistence of a detailed census providing an estimation of the Lebanese population. The last census, having taken place in 1932, fails to provide the demographic reality within Lebanon. The census is a solid base for healthy elections and the lack of a clear census interferes with an equal representation of the population.
2. The Denial of the right to vote to a significant proportion of voters (that being both immigrants and those in the Armed Forces). Furthermore the inadequate provision of such rights by refusing the right of nomination.

In order to both improve awareness for absentee voting rights and facilitate voting in the spring 2005 elections, Fly2Lebanon (see below) organised flights from various parts of the world to Beirut.

Tuesday, June 21, 2005

Lebanese expatriates: voices in the wilderness: Citizens abroad are unable to vote from where they live but that hasn't stopped them from finding ways to be heard

By Jim Quilty / Daily Star staff

http://www.dailystar.com.lb/article.asp?article_ID=16088&categ_ID=1&edition_id=1

Editor's note: This is the first of a two-part series looking at the Lebanese Diaspora and the efforts many are under-taking to make their voices heard. Following the assassination of former Premier Rafik Hariri, the March 14 "million-man march" and as elections come to an end, Lebanese people abroad have become more involved in their country's future and the efforts being taken to consolidate national unity.



BEIRUT: Even if you avert your eyes from its sectarianism, Lebanon's democracy has a number of eccentricities. For instance, this country, renowned for having more citizens living overseas than within, does not allow expatriates to vote from abroad. Other countries with more sedentary populations - Canada, for example - do.

Some emigre Lebanese, fascinated by the political ferment that shook Beirut after mid-February's assassination of the billionaire former Premier Rafik

Hariri, organized themselves to make the expat voice heard. Management consultant Geraldine El-Meouchy represents one such organization.

A French citizen, Meouchy is one of a team of Lebanese - expat and otherwise - trying to facilitate expatriate participation in the electoral process.

The principal vehicle for their effort is the Web site www.fly.2lebanon.com, launched April 25. Through it, Lebanese abroad registered and - with knowledge of market demand in hand - Meouchy and colleagues negotiated with airlines and travel agents to secure better rates for them to return home to vote. The service is free.

"The rates are very expensive," she says. "Someone wanting to go [to Lebanon] for the weekend [to vote] would have to pay hundreds of euros. We couldn't see a student, a retiree, a poor person doing this. We didn't accept that democracy is a question of money.

"There are different reasons for people to go vote," she continues. "Two barriers would be money and motivation. We identified two barriers to work on: information and money.

"We recruited many people outside Europe as country coordinators. They network with Lebanese expats in their countries to raise awareness about the need to be involved in Lebanon's future, about their civic duties and rights, and to negotiate ticket prices.

"It turned out many people don't understand how to vote in Lebanon. What's a voting card? What's ikhrajat? At the very beginning of the project we uploaded that information onto the Web site.

"Now people have all the information and the offers in hand. Now it's their decision to come vote or not.

"As of now the Web site's had 22,000 visitors and 1,000 people registered to travel to vote [in all four rounds] ... As the process is still underway, we don't have all the numbers, but for the first two rounds of the election very few people came [through us] because in Beirut and the South there was no [electoral] contest."

Some expats returned home to vote. Others, like former army commander and Free Patriotic Movement leader Michel Aoun, came back to run for office, and had a profound impact upon the third round of elections.

Although Lebanon's confessions all have members abroad, the move to mobilize expats is perceived as a mainly Christian affair. A potent ideology of exile has congealed in the Christian community, and some members feel they haven't properly participated in Lebanese politics since the end of the Civil War.

Meouchy says none of her colleagues take confession into consideration and so are unable to say whether fly.2lebanon was particularly useful to Christians.

Lebanese registering on the Web site needed to provide a full name, voting region, age, date of departure and return, and budget. This data would be a treasure trove for an informed sociologist of Lebanon - where knowledge of family name and village can fix anyone within the confessional matrix. But not Meouchy.

"We in Fly2Lebanon are from 19 countries on five continents - Belgium, France, [U.K.], Canada, the U.S., Mexico, Brazil, Ivory Coast, Australia, Kuwait, Emirates, Saudi Arabia and Qatar - 30 people from all walks of life. Most [clients] come from Europe, especially France, and from the Gulf ...

"[But] we have no clue who [our clients] are or their politics. We don't want to know. We just want to defend democracy. Nobody tried to go through names or understand who they are and for whom they're going to vote."

Meouchy views expatriate Lebanese as generally above the neo-feudal unpleasantness of sectarian politics. "Maybe there's a gap [between self-identification inside Lebanon and outside] but I'm not so sure. I have good friends here of mixed religions and nationalities, some of whom left and came back."

Expatriates have tried to have a hand in Lebanon before, of course. Early in the Hariri period many emigres - flush with optimism after the end of the long Civil War - returned, some intending to rebuild the country.

By the end of the 1990s many had left again. Repatriated businessmen said they'd grown used to relative transparency in the Americas and Australia and fixed rates of corruption in West Africa and were unable to work in the Lebanese system.

Meouchy sees the expatriate experience of her generation to be different from that of earlier generations. "These people, in their 30s and younger, are capable of dealing with multi-confessionalism and of thinking about skills rather than religion.

"Our parents are of different views, maybe because they faced this war and are completely within this mentality. This younger generation, even inside Lebanon, is capable of changing things.

"We're in a completely different context today. Our team [is made up of] 25-35-year-old people. At our age we're more able to understand what happened in Lebanon and what can become in the future and what we can give."

Meouchy says that she herself wanted to repatriate but found it practically impossible. "I want to come back with value-added. I'm at an age where I've learned a lot and I want to give. I didn't want to come and learn. Most of us feel the same.

"What we did in less than a month outside Lebanon was huge. As soon as we arrived here we were lost. I needed to coordinate the whole international team but we had no high-speed internet connection, and telephone difficulties. After three days I was feeling really down, then, [our Lebanon team members] said, 'Look, this is Lebanon. Deal with it.'

"I've met people here, young professionals, who said, 'Even if you only bring 10 people to vote, you're starting something good.' Lebanon needs the diaspora. We're all well educated; we're all skilled. We all have expertise."

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“LebaneseAbroad” has organised a petition campaign to put pressure on the government (see hyperlink below).

<http://www.lebanese-abroad.com/>

WE DEMAND THE RIGHT TO VOTE AS CITIZENS OF LEBANON

The Lebanese living abroad hereby request their legitimate right to VOTE, much as citizens of all democratic states are allowed to vote even when they reside outside their countries'

borders.

Lebanese expatriates from all communities have always brought a steadfast support in all matters to their motherland.

They have been relentless in safeguarding, from abroad, a bond of national solidarity and unity without which Lebanon would not be what it is today.

The Lebanese of the Diaspora send an urgent call to put an end to the governing authorities' disregard and indifference towards them.

They demand to be involved in major decisions concerning Lebanon, especially those affecting the sovereignty, the unity and the very existence of their country.

They call for establishing, in Lebanese embassies and consulates across the globe, a structure allowing them to exert fully their legitimate voting rights.

Presidential candidate Chibli Mallat, in cooperation with Lebanese Abroad, is supporting an initiative to reform the electoral laws.

Organization of the right to vote for Lebanese abroad <www.mallat.com/billeng>

Article 1: Every Lebanese Embassy – as well as every Consulate that is assigned by the Ministry of Foreign Affairs, and is considered under the present law as Embassy – shall be considered a Polling Station. Five days prior to the election date, the Ambassador, or the Consul as assigned by the Ministry, shall form an Election Committee with him or her as President, a Secretary, and two assistants. The Committee will convene henceforth and be present and available throughout the Election.

Article 2: Voters outside Lebanese territory at the time of election shall participate in the elections at the Polling Station located at the Embassy which is closest to them, as per article 1 above, provided that:

- a) Their names appear on the electoral rolls available at the Lebanese Embassy which the Ministry of Interior will provide to the Embassy on CDs two weeks prior to the election date as decided by the Ministry of Interior.
- b) They register to vote at the Embassy one week prior to the election date.
- c) They produce their valid Voting Card or Passport on the day of elections.

Article 3: Immediately following the period assigned for voters to register their wish to vote abroad, the President of the Polling Station shall organize a list of their names, signed by members of the Committee and sent to the Ministry of Interior prior to election day.

Article 4: Voting shall take place in envelopes provided by the Ministry of Interior. Candidates have the right to assign representatives to the Polling Stations at the Embassy. The Election Committee shall adhere to national election rules throughout the election.

Article 5: Immediately following the counting of the votes and the announcement of provisional results, the President of the Committee shall organize a report to that effect in triplicate, signed on every page by the members of the Committee. A copy shall be kept at the Embassy, and the two other copies, together with election results as appear on the election rolls and all the election documents, shall be placed in an envelope sealed with red wax, and transported by diplomatic pouch to the Ministry of Interior.

Article 6: Once all sealed envelopes are received from the various Lebanese Embassies, they shall be handed over to the National Election Committee assigned by the Ministry of Interior, and they shall be opened publicly in the presence of the representatives of the candidates.

The Lebanese Dream Project is also submitting a draft proposal (see below).

Wednesday, October 12, 2005

Group presents diaspora voting project to electoral committee

http://www.dailystar.com.lb/article.asp?edition_id=1&categ_id=1&article_id=19249

BEIRUT: The president of the Lebanese Dream Project, Nicholas Chikhani, briefed chairman of the National Committee for Drafting an Electoral Law, Fouad Butros on the association's electoral project during a meeting at the Grand Serail on Tuesday. The association has developed the project to demand those in the diaspora be granted the right to vote from abroad.



The association is expected to hold a meeting in Beirut soon to announce the project, which was first submitted to the committee on September 19, 2004.

Speaking to An-Nahar daily, Chikhani said the project focuses on three fronts: logistic, to open an electoral bureau abroad and cooperate with the concerned embassies and consulates in regard to voter lists; financial, to assess the costs of opening such a bureau; and legal, to annex the project to the new electoral law in Lebanon.

Chikhani explained the project is based on the equality of all Lebanese citizens and on the fact that Parliament represents the entire nation (Lebanese in the country and abroad) as stipulated by the Constitution.

Chikhani said the association believes voting to be the democratic right of all Lebanese citizens and believes it is the government's duty to ensure that right, stressing the association's demand to include those who have been outside the country since 1950 and granted other nationalities, who constitute a sixth of the total Lebanese voters.

Chikhani highlighted the positive developments that led to the guarantee of this right, the most important being the acknowledgement of the Lebanese emigrants' sense of belonging to their nation, which promotes their desire to return to their homeland and participate in the economic, political and cultural development of the country.

The association organized the first experimental polls for Lebanese emigrants in France on July 3, 2005, to prove the elections are technically and financially possible.

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C) Media

Issues Related to Absentee Voting in the Media: Dr. Khalid El- Fakih

The role of the mass media in influencing public opinion on major policy issue has been established. The sins of omissions and commissions imply that the media can impact national policy not only in what they cover, but also in what they choose not to publish.

One of the essential public debate that is taking place now is the issue of absentee voting or the right of the Lebanese citizens who live abroad to participate in the political process in Lebanon via voting.

Chibli Hallat stresses that the right to vote is guaranteed by the Lebanese constitution in Article 7 and in its introduction.

Lebanese citizens who live abroad have been voicing their right to participate in the parliamentary election, which is a right that many other democratic countries provide to their citizens. Chibli Hallat told the Daily Star in May 12, 2005 that “facilitating the right to vote for Lebanese living abroad represents a major democratic advance.”

Foreign Affairs Ministry Secretary, Mr. Boutros Asaker, who received a petition from activists on the issue, said that “the ministry’s stance regarding this proposal is very

positive and once the Parliament approves it, the ministry will make the necessary arrangements to implement it.” (The Daily Star, May 12, 2005).

On the other hand, Fouad Boutros, Head of the National Electoral Commission on Parliamentary election said that we want to find out how absentee voting is practiced, and if we applied the concept, then how can we adapt it to Lebanon? Hence, the importance of this paper which is prepared by NDU’s LERC as a step toward addressing the absentee voting right without neglecting some obstacles or problems that might be inherited in the Lebanese social and political fabric.

First, the debate in the media reflects the sensitivity of the issue of providing the Lebanese citizenship to ancestors of the Lebanese diaspora.

Moustafa el-Jouzou, (AnNahar 12-9-1997) traces the historical development of this issue and its relation to the religious factions. Also, Hiam AL-Kouseify in AnNahar(12-7-99) has a thorough discussion on the citizenship law as well.

The debate is delicate because it tackles the sectarian balance in Lebanon between Christians and Muslims (see attached clippings on this matter). This sectarianism explains why Lebanon has not had any national census since 1932.

Absentee voting should not be understood outside this context. However, there is a general agreement in the literature and the public discourse that Lebanese citizens who live abroad must have the right to vote. The question becomes who has the right to participate in the Lebanese elections?

Former Prime Minister, Salim Al-Hoss, in a letter addressed to Dr. Amin Rihani, NDU,

(2-11-2005), emphasizes the citizenship as a criterion to vote. But, he makes a distinction between those Lebanese who immigrated to work abroad from those who immigrated permanently with their families and thus they’re not subjected to Lebanese taxation and legislations. Dr. Hoss concludes that the rule is that the voter should abide by the laws that are enacted by those whom he elects including taxation and holding his representatives accountable to what they decide.

The logistics and conditions of organizing the election by the Lebanese citizens abroad is provided in a proposed law by Chibli Hallat (AnNahar, 28-5-2004). The Bill he proposed has articles that outlined the “who can vote” and the conditions of the process of voting.

It is essential to pinpoint to the fact that there is now serious opportunity to include absentee voting in the yet-to-be proposed law by the National Commission headed by Mr. Fouad Boutros.

The debate in the media is accelerating and some groups both in Lebanon and abroad are pressing to apply the Lebanese constitution, which does not specify anywhere to the best of my knowledge, that Lebanese citizens abroad cannot vote.

If there is a general policy to include this constitutional right, then relying on other democratic countries experiences can provide insights as to what is best for our country-Lebanon.

P.S. The attached media survey and clippings in the appendix are not by any means exhaustive due to a short deadline to study the content of the media on this subject.

I)

THE DAILY STAR

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Thursday, April 28, 2005

Give Lebanese living abroad the chance to vote

By Chibli Mallat
Commentary by

Lebanese citizens who find themselves abroad on election day cannot cast a ballot at home, even if their name is on the electoral rolls. They cannot vote even if they provide a power of attorney to someone, nor can they vote by correspondence, through the Internet, or at a Lebanese embassy or consulate. To return to Lebanon to vote, they must have time, health, ready means of transportation and money, so that only a tiny portion of overseas voters have the luxury of respecting their constitutional duty.

The continued disregard of the Lebanese authorities for this central issue is no longer acceptable, and stands in open violation to two clauses in the Constitution establishing a right for all Lebanese to vote, regardless of where they reside. In the preamble, Lebanon is declared "a democratic, parliamentary republic, founded on the respect of public freedoms, first and foremost the freedom of opinion and

conscience; on social justice; and on the equality in all rights and duties between the citizens without any discrimination or preference."

Article 7 of the Constitution states that "all Lebanese are equal before the law. They equally benefit from civil and political rights, and are equally bound to public charges and duties, without any discrimination whatsoever." Both clauses, in underlining that citizens must not be discriminated against and benefit from equality in all rights and duties, clearly indicate that voters must be provided with the means to avoid such discrimination, including being able to choose their representatives. How is it possible to now redress this unconstitutional state of things?

Methods differ according to countries. In France voting can be delegated, so that a voter abroad can give someone in his district the right to cast a ballot in his stead. While this method does not offer the same conditions as a direct vote, it is easy to implement and provides the easiest mechanism for people who are briefly abroad at voting time. Safeguards can be introduced to avoid abuse and reinforce the legitimacy of the process.

There are also other means of voting abroad. For example, in some states of the United States, voting can be done by correspondence, or even through the Internet.

It is also possible to open voting centers abroad, as was done in the case of the Iraqi elections last January. This solution is preferable to delegation when it comes to preserving democratic principles, because it ensures the material connection between voters and their ballot, with their physical presence providing further witness to their attachment to constitutional duty. However, setting up overseas voting centers is more difficult to organize than voting by delegation, because it requires the availability of electoral rolls in embassies and consulates, which necessitates their close cooperation with the civil status authorities and the Interior Ministry back home.

In the case of Lebanon, voters are attached by law to their district of origin, in accordance with the civil status registers, not to their place of residence. This peculiarity forces a Lebanese residing abroad to be listed on the electoral rolls of his district of origin. Such rolls are available, and have even been placed on CDs. This makes it possible to organize voting in embassies and consulates for all those who have a valid passport.

It is sufficient, therefore, that the government approve a short addendum to the electoral law, regardless of the size of the voting districts that will be adopted for the upcoming parliamentary elections in May, incorporating the right to vote abroad into the law under discussion. Earlier this week, we urged a number of Lebanese political leaders to adopt this idea. Under the proposal, Lebanese living abroad would have to register a week ahead of the elections in the nearest consulate or embassy where they would cast their vote. Before then, the relevant embassies will have received the electoral rolls on CD to properly account for the vote.

The right to vote is a fundamental right guaranteed by the Constitution. To facilitate its exercise for the many people living abroad represents a major democratic advance, one that is widely recognized throughout the world. More elaborate solutions could also be considered ahead of future elections, but the nonviolent revolution Lebanon recently engaged in demands an immediate enlargement of the democratic circle. This does not pose a problem beyond making the political will of the Lebanese leadership match the quality and demands of the democratic demonstrations.

More than 13,000 people have signed a petition spontaneously expressing their support for the right to vote overseas. Approving this measure would create a real link, at last, between Lebanese at home and abroad. Lebanon is proud of its diaspora, but has not provided those outside the country who are eligible to vote with the means to show their attachment to their homeland.

Nada Abouzeid is a lawyer and **Nasri Bejani** is a businessman, both living in Paris. **Gebzan Karam** is an engineer and teaches at the Lebanese-American University. **Chibli Mallat** is a lawyer and law professor at St. Joseph University. The proposed bill for the Lebanese vote abroad can be found at www.mallat.com. Two petitions on voting abroad that have received wide support can be consulted on www.lebanese-abroad.com and on www.ipetitions.com/campaigns/Lebanese_elections. Today, at 12:00 p.m., supporters of the initiative will hold a news conference at the Press Federation building. This commentary

was written for THE DAILY STAR.

II)

Thursday, May 12, 2005

Beirut demonstrators speak for Lebanese abroad
Activists urge leaders to include expatriate voting in electoral law

By Nada Bakri

Special to The Daily Star

BEIRUT: Dozens of professionals and activists demonstrated in front of the Foreign Affairs Ministry Wednesday in support of some 14,000 Lebanese living abroad who are demanding their right to vote while overseas.

The international committee of the Lebanese Living Abroad movement coordinated demonstrations in front of Lebanese consulates and embassies around the world, forming a "global day of solidarity." The activists held banners reading "support the right of the Lebanese living abroad to vote," and "just a box at the embassy."

Gebran Karam, co-founder and Lebanon's spokesperson for the movement said: "The Lebanese living abroad request their legitimate right to vote and to put an end to the disregard and indifference toward them."

He added: "They demand to be involved in major decisions concerning Lebanon by establishing in Lebanese embassies and consulates a structure allowing them to exert their legitimate voting rights."

Karam said the activists urged a number of Lebanese political leaders to adopt this idea, and that it was mainly the Free Patriotic Movement that had adopted the proposal, given that its leader, former General Michel Aoun, mentioned it in his political reform plan.

The movement - which launched an online petition from Paris two months ago signed by more than 14,000 people from 139 countries - is working closely with Chibli Mallat, a lawyer and democratic activist who has proposed a new addendum incorporating the right to vote abroad into the electoral law adopted for the upcoming parliamentary elections.

Under Mallat's proposal, Lebanese living abroad who have a valid passport would have to register a week ahead of the elections in the nearest consulate or embassy where they would later cast their vote. This would allow for the relevant embassies to receive the electoral rolls on CD beforehand and properly account for the vote.

Mallat said: "The right to vote is a fundamental right guaranteed by the Constitution. To facilitate its exercise for the many people living abroad represents a major democratic advance, one that is widely recognized throughout the world."

Mallat and Karam later handed Foreign Affairs Ministry secretary Butros Asaker a copy of the petition on behalf of the activists, insisting the decree "does not pose a problem beyond making the political will of the Lebanese leadership match the quality and demands of the democratic demonstrations that rocked Lebanon recently."

Asaker said: "The ministry's stance regarding this proposal is very positive and once the Parliament approves it, the ministry will make the necessary arrangements to implement it, from preparing ballot lists and ballot boxes to preparing statistics."

Jad Mokhbat, a physician taking part in the protest, said: "The Lebanese abroad are all very excited about the change that happened recently and are eager to participate in Lebanon's political life. It is their constitutional right and should not to be taken away from them."

Nayla Camilleri, another activist said: "Most of my relatives live abroad and they are demanding their right to vote so I came to support their request."

Raya Mzanar, another protester, said: "Most Lebanese are concerned with the current political events and are seeking to participate in Lebanon's reform process. Their right to vote is constitutional and all it requires is to put a box in the embassies."

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III)

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Tuesday, February 08, 2005

Lebanese abroad petition for right to vote in elections *Request urges embassies to host polling*

By Nada Raad
Daily Star staff

BEIRUT: Lebanese citizens abroad, displeased with their government for not allowing them to vote in this May's parliamentary elections, have found a voice for their frustrations.

Maya Hobeika, a Lebanese student living in France, took the initiative last month to post a petition on the matter on the Internet.

The petition asks the government to allow Lebanese citizens living abroad to elect their parliamentary representatives at Lebanese embassies or consulates in their current countries of residence.

"I am returning to Lebanon in four months when I finish my studies and I have the right to vote for the MPs who will represent me in Parliament for the coming four years," Jad Boustani, a Lebanese student living in France, said in a telephone interview with The Daily Star.

Hobeika's petition has gained the support of the Lebanese Association for Democratic Elections, whose president, Ziad Baroud, said Monday that the association would collect signatures over the coming weeks.

Baroud said that there is currently a draft law in Parliament calling for the right of expatriates, whose ancestors have the Lebanese nationality, to vote. However, he said the petition in question is different.

"We are not asking the government to study the case of expatriates and allow them the right to vote, but only Lebanese citizens already registered on the electoral lists and [who] are outside the country during the elections," he said.

Baroud added that even Iraqi citizens abroad were given the right to vote in 14 countries, despite the fact that the country had been under 50 years of dictatorship.

He said that, in fact, there is no need for a new law to allow Lebanese citizens to vote through their embassies abroad.

According to Baroud, "it is simply not implemented due to the government's carelessness."

The petition is one of several demands being made by voters ahead of the elections, including lowering the national voting age from 21 to 18 years of age.

To sign the petition visit:

www.ipetitions.com/campaigns/Lebanese_elections

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VI) Conclusion

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This white paper is an initial attempt to collect some of the relevant material related to absentee voting in order to put the discussion, and struggle in support of this demand, in perspective.

The Lebanese Emigration Research Center is preparing a published survey on this topic, which will be completed in the spring of 2006.

Please send all feedback, suggestions, links and criticism to the LERC office.

Zouk Mosbeh, Lebanon in December 2005

Guita Hourani

Eugene Sensenig-Dabbous

VI) Appendix