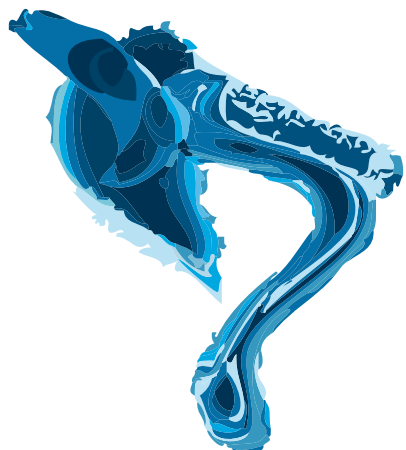


ELECTORAL STUDIES IN COMPARED INTERNATIONAL PERSPECTIVE



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Voting from Abroad in 18 Latin American Countries

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VOTING FROM ABROAD IN

18 LATIN AMERICAN COUNTRIES

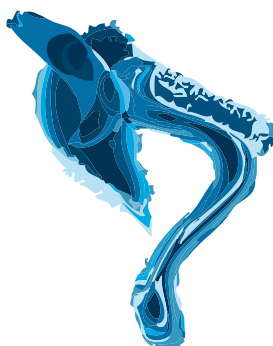
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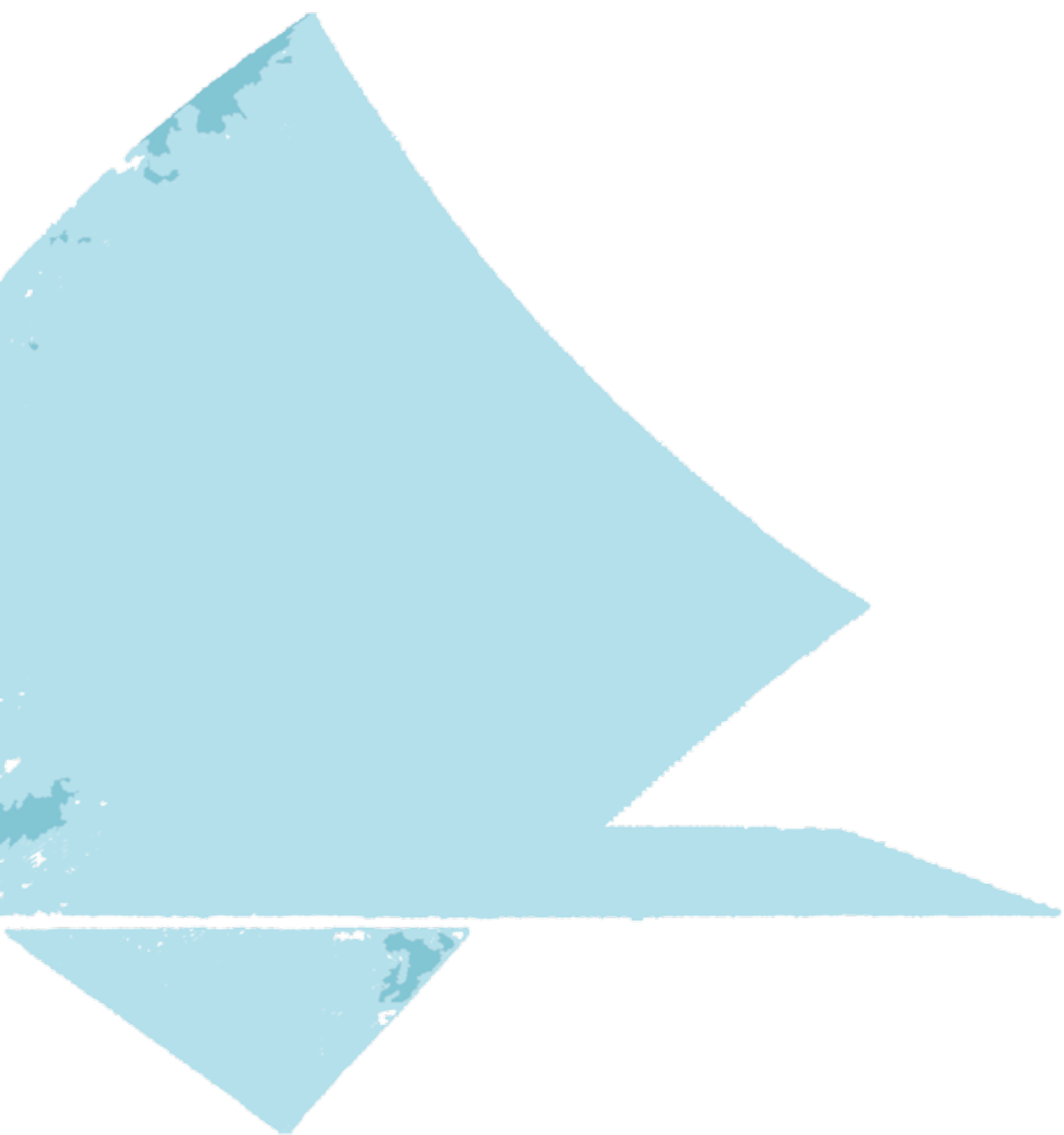


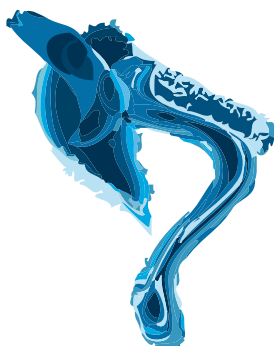
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FOREWORD

Migration is one of the international phenomena that worries both authorities and scholars of the immense majority of our nations the most. The inequality that characterises modern societies, the lack of opportunities and even insecurity are some of the factors that have greatly contributed to migration flows being analysed from different perspectives and for its repercussions to reach multiple spheres of the public life. One of such spheres where migration has consequences is democratic life.

Even when the content of the International Bill of Human Rights clearly established that political rights are part of the set of inalienable rights enjoyed by all the people in the world, the truth is that their exercise has been conditioned to the evolution of the democratic system of each country. In fact, if we review the conceptualisation of the transition processes into democracy, which were at their height in the last two decades of the past century, it is evident that the regulations to guarantee the exercise of political rights (to vote and to stand for public office) have been modelled according to each nation's concerns and priorities.

I will illustrate the aforesaid with the Mexican case.

At the end of the 80s, in the context of our country, it was essential to guarantee, at first, the universalisation of the suffrage within the national territory, the credibility of the electoral authorities and the authenticity of the contests. Otherwise said, the electoral machinery had to provide juridical certainty to the electoral contest, without arbitrariness and with strict abidance to the law, through verifiable procedures. New rules were designed for the democratic competition, robust procedures were legislated for each one of the stages of the electoral processes, and the electoral authorities, administrative and jurisdictional, were transformed. That is, priority was given to the contest for political power on unequivocal bases before opening the spaces for the suffrage of our fellow citizens residing abroad.



The last decade of the 20th century ended with these concerns, and elections became a natural part of Mexico's political life, as, in general, of Latin America's. It could be said that during the 90s, voting strengthened itself as an efficient tool to affect public life and to reorient the political regimes through electoral means around the world. Throughout that decade, the Latin American region was being transformed by unceasing and profound social and economic changes generated by informatics and globalisation.

Mexico was no stranger to the societal and political transformations experienced during this time span of just a decade. The increased competitiveness of the electoral processes inaugurated an era of divided governments, laid the foundations of a new electoral reform and made political pluralism a distinctive feature of the Mexican Congress. It is within this context that conditions were created to open the debate on overseas voting, and in 1999 a committee of experts was put together to study the possibility of Mexicans residing in other countries casting their vote from abroad. The legislators based their analysis on their recommendations, and in 2005, political consensus was achieved for a constitutional amendment to allow Mexicans living outside the country to exercise their basic political rights.

The 2005 reform was of great relevance for the universalisation of the suffrage in the Mexican democracy, since the Mexican State acknowledged that the place of residence cannot be a factor that prevents the exercise of the fundamental rights of people. Postal vote was established in that reform, solely for the election of the President of the Republic, as the most suitable model for voting from abroad in accordance with the Mexican reality of the time. The presidential elections of 2006 and 2012 showed some complications with the postal voting model: there were low levels of registration in the list of residents abroad, insistent demands of migrants and scholars on electoral-political phenomena, and reports and proposals of the electoral authorities and the organizations supporting the causes of Mexican migrants. Everyone agreed on one thing, however: the characteristics involving this model of voting were impractical for the reality of Mexican migration.

These experiences and reflections prompted three pivotal policy changes concerning voting from abroad. These were included in the constitutional and legal reform of 2014: 1) the National Electoral Institute was to determine the necessary arrangements to implement the issuing of voting cards abroad (in collaboration with the Ministry of Foreign Affairs); 2) federal office posts for which migrants could vote were increased, and now they can vote to elect Senators, in addition to the President of the Republic (and at subnational contests voting would be in accordance with local laws); and, 3) the possibility was opened for INE to set another form of voting, provided that "full certainty and security" is guaranteed for voters.



Clearly, the 2014 reform that maximizes the exercise of the fundamental rights of the Mexicans was possible because of the advances made by the Mexican legislation in other electoral management areas. The doubts on the impartiality of the authorities, the equity in the competitions and the transparency of the results were overcome. Currently, some of the concerns are to ensure gender equality, to deepen the audits on income and expenses of those competing for political power and to standardise the technical quality of the federal and local contests.

I will not dwell on the Mexican experience any longer. I only wanted to sketch it in order to show a symptomatic fact of the experiences analysed in this study. A crosscutting premise of the international technical cooperation conducted by INE (formerly IFE) along with its strategic allies, such as the United Nations Development Program (UNDP) is the fact that each nation's context determines the institutional design of its electoral system and democratic coexistence.

Hence, INE is particularly pleased to publish this comparative bilingual (Spanish-English) study, jointly with UNDP. It allows for a comparison of the progress made in Mexico and Latin America in terms of voting from abroad.

I am convinced that knowing about other institutional solutions to similar electoral challenges is a way to enrich and provide feedback to make decisions. Therefore, this document examines, in a comparative key, some of the main regulatory and instrumental features of the models and experiences of transnational vote.

This is an exercise of information systematization and reflection that puts into perspective the factors explaining the relevance and topicality, as well as some of the main challenges and dilemmas, entailed in its discussion and regulation.

While it can be said that we are in an international context of strong demand for the adoption of mechanisms to allow voting from abroad, it is also true that the nature and magnitude of the challenges to be considered in debates and decision-making processes often differ, at times significantly, from one nation to another. At the end of the day —it is inevitable to insist on this—, it is the context of each country that determines the kind of debate; the obstacles and dilemmas of legal, conceptual and political nature, as well as the technical and institutional aspects inherent to any innovation on casting votes beyond the national borders. Hence, the present study includes a concise catalogue of some of the basic alternatives that can be considered in the process for the design or implementation of a mechanism for overseas voting.



INE and UNDP trust that people interested in the subject, especially those with responsibilities related to the design, implementation or promotion of institutional arrangements that affect the exercise of suffrage beyond frontiers, will find this study useful for practical purposes. We also hope that it can serve as reference for those who study or reflect with greater scope and depth on the complex problems associated with voting from abroad.

Lorenzo Córdova Vianello
President Councillor,
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Mexico



PREFACE

Democratic elections are considered to be key milestones towards civil, democratic and accountable governance. For sustainable peace to take hold, the legitimacy of the electoral process and the acceptance of results are crucial. The notion of inclusivity is therefore a key issue to be addressed in assuring a legitimate and credible electoral process, consequently lying at the core of the electoral assistance programming delivered by the United Nations Development Programme (UNDP).

Article 25 of the International Covenant on Civil and Political Rights (ICCPR) bestows upon citizens of ICCPR-ratified states the right “to vote and be elected at genuine period elections...without unreasonable restrictions.” Many UN Member States that have ratified the ICCPR have continued to restrict the right to vote to citizens’ resident overseas on a number of grounds, however, and it has generally been considered, over the decades since the ICCPR was adopted, that denying voting rights due to foreign residency was a “reasonable restriction.” Much of the discourse has focused on whether a citizen resident in one country should have influence over the choice of government in another country (albeit a country of which the person is a citizen), particularly in the context where that foreign resident citizen may not contribute to the exchequer of his or her “home” country.

It is clear that politics has thus had a large role to play in the decision to facilitate certain groups of overseas-based citizens (e.g. refugees) to vote in some elections, and restrict voting rights to other groups of overseas-based citizens (e.g. ‘generational diaspora’ that may never have lived in the country of their citizenship) in other elections. Complex issues of citizenship law and dual citizenship, voter eligibility, type of election and matters of in which constituencies to count the votes of overseas resident citizens all interplay in this very complex issue of political rights and electoral administration.

As the publication indicates, the number of countries in Latin American region that allow for citizens to vote outside of the national territory has increased from three to fifteen from 1990 to 2014. This publication presents experiences and challenges in the actual implementation of out of country voting in the region. However, Latin America is not alone in facing these challenges. Examples of electoral legislation and innovative solutions documented in this text are useful to many other countries.

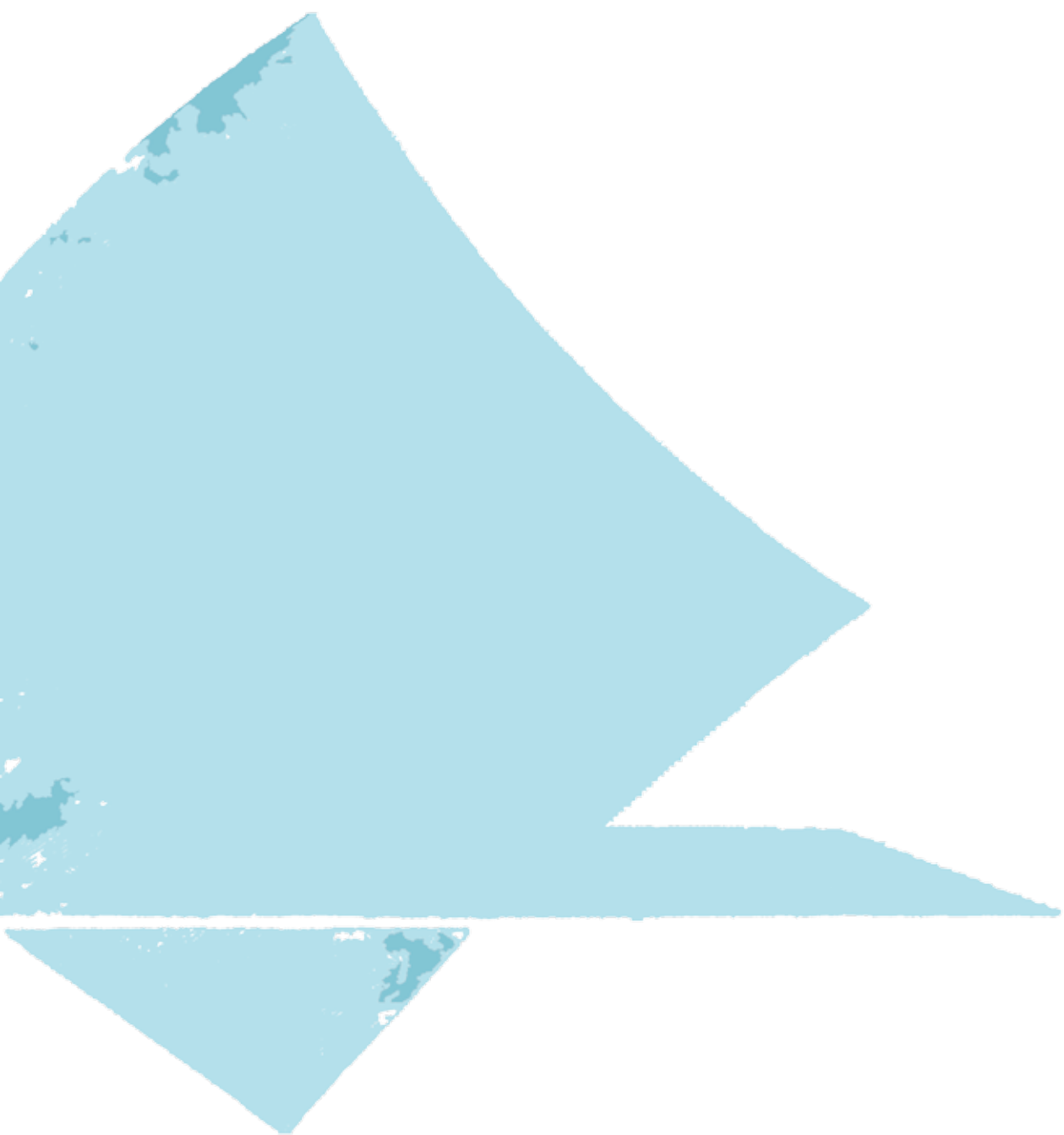
One group of citizens located outside of their country of citizenship that have been facilitated to vote in a number of large post-conflict electoral events assisted by the United Nations in recent years, however (such as in the series of elections post the recent Iraq wars, or the referendum on the status of southern Sudan in 2011), have been refugees. Indeed bestowing voting rights in the country of origin on conflict-affected refugees has often been a central feature of the electoral elements of a number of UN-assisted peace processes.

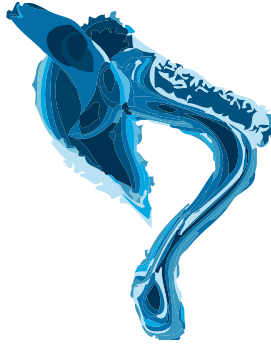


In this context, therefore, UNDP greatly welcomes the partnership with the National Electoral Institute of Mexico (INE) on the development of this publication on overseas voting practices of the countries in the Latin American region, and believes that it adds considerable weight to the growing literature on this topic, which can be of great assistance to other regions around the world. Looking to the future, further technological progress, via online registration and/or voting possibilities, is going to make the issue of voting for citizens resident overseas less a question of the “*how*” and more a question of the “*why*.” We thank INE for adding to this debate.

Niall McCann

Lead Electoral Advisor
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1. INTRODUCTION

From 1990 to 2014, the number of Latin American countries with regulations and resources allowing their citizens to cast votes outside their territories rose from 3 to 15 (see Table 1)¹.

One theory would suggest that the noticeable growth of this phenomenon in the region can be explained by a linear, simple and almost natural correlation to the processes of access to, or restoration of, democratic institutionalism, which have occurred in recent decades throughout the region and around the world.

If this rationale stands, voting from abroad might be considered, to a certain extent, as a legitimate political and institutional response to the discourse and demands for democratic and universal suffrage that have grown to unprecedented levels globally.

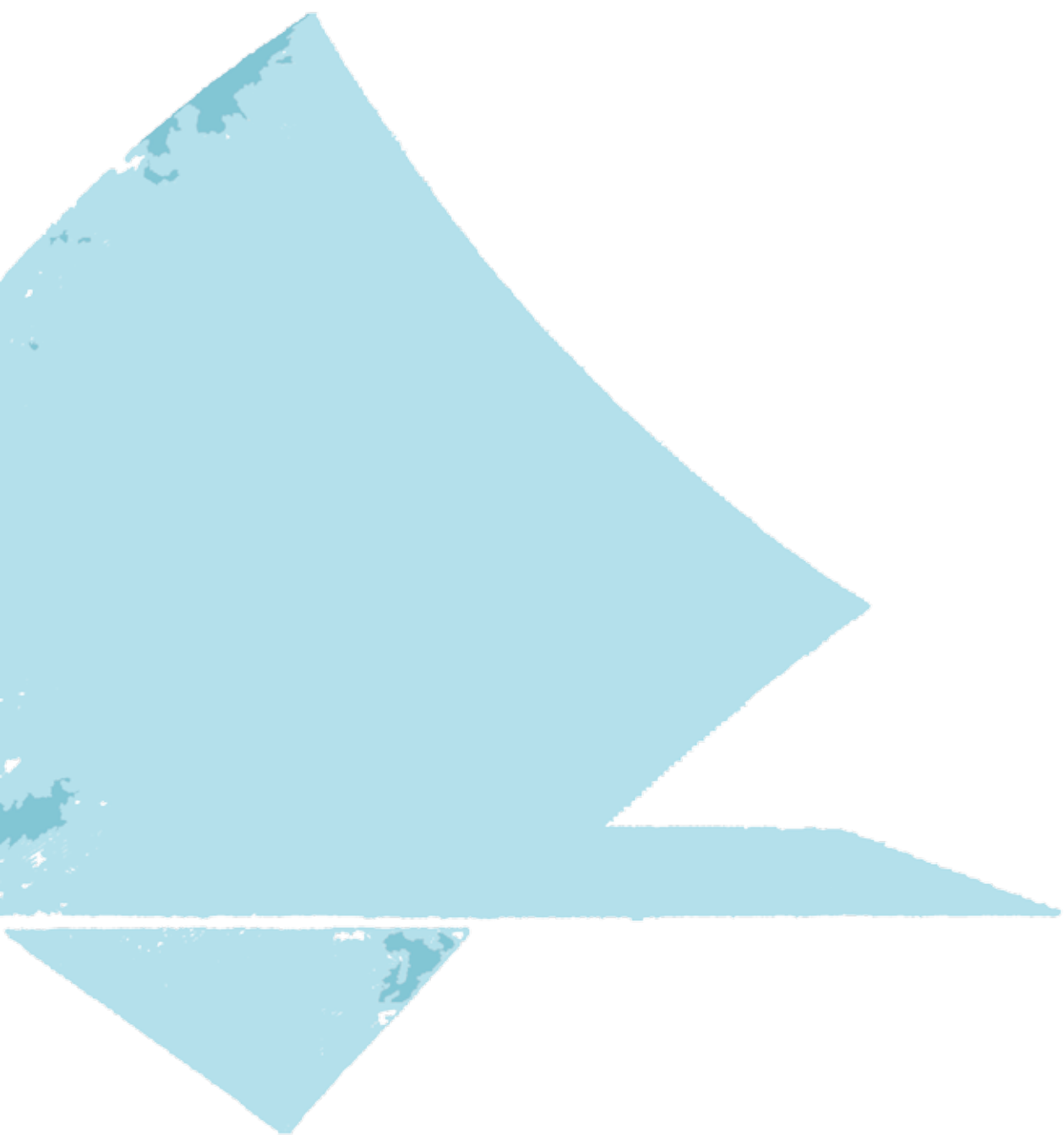


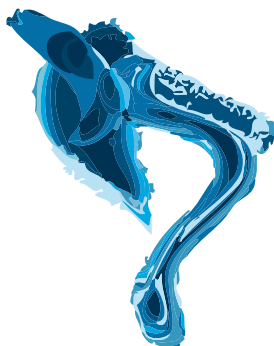
Table 1

Country	Year when voting abroad was adopted ²
Colombia	1961
Brazil	1965
Peru	1979
Argentina	1991
Venezuela	1993
Dominican Republic	1997
Honduras	2001
Ecuador	2002
Mexico	2005
Panama	2006
Bolivia	2009
Paraguay	2012
Costa Rica	2013
El Salvador	2013
Chile	2014

Such is the background for the aim of this study. It first attempts to identify and analyse some of the factors that affect voting from abroad today, as well as challenges posed by regulation and debate around the practice. It then proceeds to render a comparative overview of both the fundamental features of the regulations adopted by the 15 countries in the region, and of the systems that have been used to implement them.

The methodology for the development of the study follows this sequence: In the first part, the nature, span and implications of the concepts and discourse that underlie the subject are considered. This is followed by discussion on the axes and nodes of conflict involved in the debate, and solutions that have been attempted in the legal domain. The second part focuses on a more rigorous, comparative assessment of models and experiences across the region. To that end, the legal rules, their implementation, as well as some facts and figures associated with various key variables of voting from abroad, are described and contrasted.





I. ON THE FOUNDATIONS FOR VOTING FROM ABROAD AND THE CONFLICTING NODES OF ITS DEBATE AND REGULATION

First we must define “voting in a foreign country” and “voting from abroad”. There is a distinction: the former emphasizes the place where the vote is cast, the latter implies where the vote has an effect, that is, the country of origin. Bearing this distinction in mind, we understand the concept as expressly regulating the electoral law of a country so that its qualified voters living abroad or in transit can exercise their right to register – if necessary – and vote without having to return to their country.

It is also convenient to anticipate that the political, legal and institutional dimensions of proposals to regulate the vote from abroad, inasmuch as the characteristics (scope and reach) of the means that may be eventually implemented to that end, may depend greatly on the meaning given to the concept of vote from abroad, which is not at all universally understood.

On the other hand, it is important to point out the difference between voting from abroad and a comparable yet opposite concept: the recognition of the right held by foreign citizens –usually permanent residents though not naturalised ones – to vote. This right is included in some countries’ laws and is usually restricted to local or municipal elections

1. AN ENVIRONMENT OF SOCIAL DEMAND

It is possible today to document the existence and application of regulations and systems for voting from abroad in about 150 countries, or on a smaller scale, in 15 of the 18 Latin American countries that are the basis for this comparative study.



When reviewing the full list of countries³ that allow their citizens to vote from abroad, it is obvious that they represent widely varying stages of development and political, institutional, socio-economic or socio-demographic processes.

This makes the work of identifying or isolating common factors for the causes, reasons and other motivations that have led such a great number of countries to recognize and legislate the vote from abroad quite complex. We must keep in mind the presence and interaction of highly contextual factors in order to explain or understand the acceptance of such practices in each case.

Should each country within the scope of our study be thoroughly analysed, we would often find that the circumstances, demands or drives of each context – mostly political-institutional ones – determine in great measure the acceptance or refusal of the devices for voting from abroad. Despite this, we cannot omit the fact that these demands have become manifest on a global scale in recent decades as a result of, and as part of, processes of globalization. Though varied in method and intensity in each region, some of these dynamics have created a demand for full realization of political rights, or more specifically, for universalization of the vote. This demand finds solid conceptual and doctrinary support in some global or regional juridical instruments, such as the UN's International Covenant on Civil and Political Rights. These dynamics have cleared the way for the speeches and initiatives that reclaim the diaspora's electoral rights, in and out of their native countries.

A couple of such processes, whose consequences are particularly relevant for us, are the promotion and establishment of laws, institutions and democratic practices on an unprecedented scale – albeit asymmetrically in many regions and nations – and the evident increase of international migration.

We have, on the one hand, preaching – often quite cosmetic – about the principles of democracy and democratic institutions akin to western culture that tends to flourish at political and electoral levels. However extended or profound their actual effects may be, the noticeable contribution of those principles and democratic institutions to the dissemination and establishment of civic education among important social groups cannot be contested. This results in demands for full recognition of political rights and the ensuing capability to build or make use of the mechanisms essential to their exercise.

On the other hand, there has been an important increase in international migration. Data issued in 2013 by the United Nations and the Organisation for Economic Co-operation and Development⁴, show that roughly two percent of the world's population lives in a country different from their native one (where they should be naturally entitled to the franchise and exercise of their political rights). However, the quantitative weight of massive migration is not what needs to be emphasized, since this is a phenomenon determined by impressive growth in the number of native, traversed or destination countries, along with the underlying factors leading people to migrate. Instead, emphasis should be on the changes occurring in the sociocultural⁵ profiles of many international migrants.



From available information and testimonies, it may be inferred that a civic culture, acquired due to increased access to higher levels of education and/or exposure to new socialization processes in either their native or destination countries, is a characteristic of sizeable groups of international migrants. In some of these groups, this culture includes a greater degree of consciousness and demands regarding migrants' conditions and civic rights, including political rights.

It is no wonder that, within this frame of recurrent discourse on the validity of political rights and universal suffrage, the interaction of those two global processes has resulted in stronger demands from the diaspora to claim and exercise their political rights. However, this process is taking place in a context where it is easier, if dispute arises, to side with migrants' native countries rather than with the ones where they now live.

Still, it remains a paradox that while international migration is increasing and claims from diaspora communities for their political rights are growing, many states around the world, especially those considered 'natural destinations' for international migration, have revised and hardened their immigration policies⁶. These states have heavily restricted immigrant settlement to geographical areas with less development and economic potential, or at least treated migrants in a way that leaves them more vulnerable.

This has also influenced international immigrants' original states to support claims for recognition of their political rights, in contrast to destination countries where migrants often remain in prolonged legal limbo.

2. BASIS OF THE RATIONALE

The concept of citizenship has been redefined in recent years in interesting and very telling ways⁷, aiming to reconcile it with the important and occasionally dramatic transformations produced as a result of the peculiar processes of globalization.

One trait of those redefinitions must be emphasized: the aim to link the concept of citizenship – and its ensuing political rights – with the notion of effective residence in a specific state jurisdiction and not with original belonging (*ius sanguinis* or *ius solis*), or the formal adherence to one of them (*naturalisation*).

Renewed proposals and theoretical work on the notions of citizenship, at least in its aspect as a *sine qua non* condition for the ownership and exertion of political rights, have not reached very far, except in such cases as unified Europe and New Zealand⁸. The international legal systems⁹ aimed at the promotion and protection of fundamental political rights, as well as those that specifically consider the rights of migrant workers and their families, tend to acknowledge entitlement to such rights and their exertion within the legal jurisdictions of nations of origin. Moreover, none of these instruments allow,



at least not expressly or without a doubt, favouring and encouraging the recognition and exercise of the right of citizens abroad to vote.

It is therefore contradictory that the recognition and regulation of voting from abroad has not resulted in a concise basis for these practices in those international judicial systems that recognize and foster political rights. Neither are those systems in agreement with the novel work and proposals around the concepts of citizenship in a globalized world. Nonetheless, these developments are indeed causing the conventional meaning of citizenship to be modified, along with the ownership and exercise of political rights, as it relates to mandatory permanence or stay within the territorial boundaries of a national jurisdiction.

In fact, we see a continued tendency to pose and solve issues of the basic political rights of the millions of migrants established in countries that do not bestow such qualities upon them, or whose naturalisation is unattainable in or of no interest to those countries, according solely to the legal framework and political and institutional decisions made in their original nations.

The unequivocal proof for the latter is the scope of regulations and systems for the exertion of voting from abroad, along with ongoing efforts to foster and guarantee parliamentary representation of migrant groups¹⁰ in some of their native countries (via passive suffrage and reserved parliament seats).

The facts and ideas presented to this point attempt to support the following thesis: the growing importance of the subject of voting from abroad can be interpreted through an array of issues that necessarily traverse national borders, yet undoubtedly the reasons and motives that restrain and define legal recognition of voting from abroad, and the systems required to implement it, are driven by factors pertaining to the context of individual nations.

3. AIMS AND MOTIVES

One can readily understand why supporters of the rights of the diaspora usually invoke and treat those rights as linked to democratic principles and values of universal nature and span, although they lack foundation in the legal instruments that acknowledge, promote and protect fundamental political rights. This position can be upheld from a perspective directed towards ampler protection for human rights in a globalized world, when mere *de facto* residence in a specific jurisdiction implies neither the recognition nor the guarantee of those rights, including political ones, for non-natives or non-citizens.

The centre of discussion about the political rights of migrants is therefore displaced towards their original communities and corresponding political institutions. A global comparative perspective allows us to claim that the following objectives stand out among those most advocated in favour of the right to the vote from abroad:



- Contributing to the legitimacy of a renewed political or electoral regime.

The meaning of “renewed political regime” should be wide. It should equally embrace a profound transformation – in particular the cases of instauration or restoration of the regimes peculiar to so-called democratic transitions – as well as minor processes that, nevertheless, bring about major adjustments of electoral norms, institutions and procedures. Inclusion of votes from the diaspora does not necessarily contribute to a bias on the intention or the qualities of such modifications; otherwise their votes would be invariably supportive of genuine democratic regimes or positive change, which is not always the case.

- Compensation for the forced exile of those persecuted by autocratic regimes.

The coming to power of autocratic or dictatorial regimes may not merely have suppressed all sorts of liberties, but has often triggered intense campaigns of prosecution and repression against political dissidents and opponents, many of whom could survive only through exile. Of course, we cannot lose sight of the fact that such campaigns (even of extermination) may also be motivated by other factors, including ethnic or religious ones, and affect many people. Here we are stressing the political aspect, but the term is certainly broader.

Inclusion of voting from abroad within the framework of recommendations for the restoration of democracy is in some instances intended to restore to those in exile the sense of connection and belonging to the political communities they were forced to flee. Argentina, Spain and Portugal are poignant examples of this trend¹¹.

- Preservation, restoration or strengthening of links with the diaspora.

Although migration is a phenomenon that cannot be separated from human nature, and is certainly a personal decision, many times it is conditioned mostly by socio-economic factors; that is, by the necessity and will to strive for better living conditions.

In a globalized yet asymmetrical world in terms of economic growth and human development, it is obvious that international migration is in vogue and a major issue. This may be a) motivated by the need to find work; b) shaped by old patterns of periphery-centre or South-North, and c) massive in size.



Various institutions work to advance voting from abroad, aiming to preserve or safeguard affinities or solidarity with migrants' causes and interests. This is especially pertinent for nations that are massive sources of workers and that, due to symbolic or emotional issues, as well as pragmatic demands or calculations – such as the value of external remittance income to the economy – are interested in maintaining that link.

- Strengthening and improving the qualities of democratic regimes.

There are cases, such as Costa Rica and Panama, where recognition of the vote from abroad may arise essentially from real progress in efforts intended to reinforce a democratic regime.

This catalogue is far from exhaustive, neither for the region considered nor for the world, and of course there are several experiences where more than one motive may play a role in recognition of the vote from abroad.

As other researchers have also emphasized and striven to document elsewhere¹², available evidence suggests that the feasibility of the proposals on the matter is ultimately determined not exclusively by the circumstances, demands and possibilities of each context but additionally and even fundamentally by the benefit, interest or design assigned to them by the politicians and parties involved.

Nevertheless, analysis of any given experience requires examining the role played by representatives of the diaspora themselves: they may highlight the issue to the extent that it enters the public debate and also exert pressure towards a favourable solution to their demands. There are several cases where migrants' capacity to organize themselves and apply pressure has been essential to explain the adoption of regulations on voting from abroad.

4. SOME MAJOR QUERIES AND PROBLEMATIC JUNCTIONS

It is difficult to propose a plan to allow voting from abroad that will not provoke dissent and argument due to its nature and implications, or a specific model for implementation that is not challenging and complex. Indeed, literature dealing with comparative perspectives and experiences has already shown how likely these issues are to unchain bitter controversy around concepts and laws, as well as generate severe dilemmas and technical challenges. The weight and complexity of these varies according to several factors, the major ones being the legal-institutional traditions and sociocultural values that pervade each nation¹³.

The range of factors and variables deployed – what is to be debated, how it is



resolved, and, if relevant, which model must be implemented for voting from abroad – depends heavily on the context. It involves a relationship to a variety of elements, in their turn linked to the conditions, demands and capabilities of each country; hence we often find significant differences from one instance to another.

Even more so, the regional scope object of this study reinforces this logic. The experiences of the countries in this region, which aim at solving the main issues posed by the regulations and operation of the devices for voting from abroad, will point out their common conditions, needs and demands as well as some of their main variables. It is important to bear in mind, though, that some of these variables which may be characteristic of the region may not reflect those demands or solutions from other contexts.

Evidence suggests that once the subject becomes part of the public agenda, it acquires a set of core controversies, especially in those underdeveloped countries that produce large numbers of migrants. Resolution of these issues determines, in the first place, the feasibility of demands for recognition of the vote from abroad and, secondly – if it should occur – the fundamental characteristics (coverage and scope) of the system developed for its implementation.

Among the main queries and points of opposition that tend to recur in discussions on voting from abroad, the following should be highlighted:

4.1 Should voting from abroad be permitted?

If such a question develops within a democratic environment, it may well become the centre of public debate. Undeniably, this question does not have an unequivocal answer: its pertinence and relevance, as mentioned above, vary in accordance with the legal-institutional traditions and sociocultural values upheld by each society.

It is true that either faction, the one seeking an affirmative answer and the other a negative one, may use an abundant repertoire of arguments, reasoning and data to support their positions. However, the increasing number of countries in this region and globally that have taken legal steps to implement voting from abroad clearly signals the direction in which the balance is tilting. The growing trend to permit voting from abroad and the path incurred in some particular cases¹⁴ demonstrate that decisions on this matter are not pre-determined or easy to make. Dissenting voices can be major hindrances.

Most frequently, objectors consider migrants as subjects no longer under the jurisdiction of their original countries: 'why should they be allowed to partake in the political life of their countries if, (allegedly), they no longer live there nor belong to the corresponding political community', they argue. In addition, add these voices, migrants will not be subject to the mandate of their own decisions or the effects of those laws approved, and – some factions frequently



argue – many migrants willingly left their lands for foreign ones, knowingly relinquishing their voting rights. Voting from abroad has also been postulated as a source of conflict concerning sovereignty or loyalty towards the nation.

This study does not attempt to enlist every possible objection or the arguments to counteract them, albeit some of those issues will be evident in later sections. Yet, one must realize that the profiles and numbers of potential voters in foreign countries are both factors that can greatly influence the denouement of these conflicts, which leads us to the next point.

4.2 Who may be allowed to vote from abroad?

This matter must be outlined in terms of the ‘potential voters abroad’, to introduce in the analysis a distinction that may result in important practical consequences to the definition and resolution of the problem.

The question is quite complex, yet for the sake of this study it is adequate to make a distinction, even if *grosso modo*, between those cases in which the concept embraces citizens who perform official duties outside their countries, and those involving persons who happen to be or reside abroad whatsoever the motive. This latter situation renders applicable use of the term “migrant”. The concept and the rights related to it span the entire group of citizens who have migrated.

Differences with respect to the political, normative and functional aspects of putting in place the vote from abroad can be large. The obstacles and complexities contained in the political and legal details of proposals cannot possibly be analogous in the cases of, on one hand, citizens who perform official duties abroad – regardless of their number – and on the other, all citizens located abroad, among whom there exist several categories. This applies even more when migrants represent an important number of potential voters in proportion to those registered within national borders.

An approach that considers those people who perform official duties or hold unique positions – be it in the diplomatic service, working for an international institution or organism or serving alongside military forces in a foreign land – as voters would hardly generate controversy concerning conventional notions or legislation on citizenship, loyalty to the nation, avoidance of state jurisdiction or belonging to the original political community. Additionally, the number of such potential voters tends to be relatively minor and simple to measure. However, when the scope widens to include migrant groups of various profiles and large numbers, the reaction is very different.

These references allow us to view the matter in such a way that we can speak, in general and succinct terms, of a natural relation between the profiles of categories of migrants – precisely of potential voters – and the degrees of



socio-economic and political-institutional development in diverse countries. Purportedly, in countries with greater development in those two spheres the diaspora is driven by different motives and exhibits a different profile than in nations with more fragile institutions, weaker economies and greater social inequities.

Much more complex reasoning is needed for that sort of analysis, either comparative or focused on a single case. Nonetheless, the previous approach allows us to pose this argument: in countries with lower levels of political-institutional development (emerging, fragile or restored) and socio-economic development, as well as high rates of migration driven by work, political and cultural issues, the debate, regulation and establishment of systems for voting from abroad can be much more complex.

In such countries, the consideration of variables and variations related to the numbers and influence of potential voters abroad – often pervaded by sheer political speculation or party bias – acquires greater importance in debates and decisions on voting from abroad. Hence, those discussions feature more problematic issues, such as the ones reviewed in the next section. Before broaching that topic, and following the discussion on the diversity of migrant categories, it is necessary to briefly examine a source of recurrent confusion and controversy when countries experience massive work-driven migration: illegal migrants.

From legal and institutional perspectives, this issue is pertinent only for destination countries, those where immigrant groups settle, contravening the laws or policies regarding migration in those lands. Thus, it is the sole topic within this discussion that does not pertain to the original countries; these countries must not and cannot discriminate against their citizens because of their migratory condition, in this case because a destination country considers them to be illegal.

The phenomenon of irregular migration has considerable consequences for the design, operation and, most importantly, the efficacy (span and impact) of systems devised for voting from abroad. Not every such system includes traits, terms, requirements or modes that take the subject (potential voter) into account, though irregular migration results in perceptions and behaviours of vulnerability that are problematic to overcome, no matter how broad in scope or well-intentioned the process may be.

It is still an irony, highlighted and accentuated due to globalization, that while many international migrant groups, especially those motivated by the search for work (though illegally), are vast masses of people partially or completely deprived of due franchise or exercise of their political rights, other forms of citizenship – communitarian in the European Union or through the acceptance of multiple nationality – bestow on other groups of people the possibility to claim and exercise those rights in two or more jurisdictions. One must not



overlook the fact that the quality of citizenship and the requirements to obtain it, prove it, or lose it, vary widely throughout the world, which leads to a range of predicaments around our matter of study..

4.3 Why is it that voters abroad may influence the results of electoral processes?

In order to answer this question, we will discuss possible motives, expectations and mere speculation about the quantity and preferences of potential voters, all of which might substantially bias public debate and the positions taken by political forces towards initiatives for voting from abroad.

Frequently, the major source of controversy and debate is the number of probable voters abroad. This issue arises mostly in countries with large flows of international migrants; unfortunately there are often severe challenges to obtaining reliable data or estimates of those quantities. The figures presented, whether real or hypothetical, are seen as unreliable, which leads to three other subjects of speculation and political design. One is the proclivity within interested groups (opinion leaders, analysts, journalists, etc.), as well as the general population, to suppose that the majority of potential voters abroad would rush to fulfil the required official procedures as soon as voting from abroad becomes reality.

The idea quickly grows in the public's imagination that an approved initiative will be followed by a large percentage of potential voters casting a ballot: regardless of the estimated number of potential voters, the larger the numbers who actually vote, the greater the speculation grows. It is easy to overlook that there may be requirements, terms or procedures in the design and configuration of a system to register voters and exercise the vote from abroad that could preclude, to a large degree, the access of many potential voters.

The second frequent object of speculation visibly reflects political-electoral calculations. Some political forces, especially those with seats in congress who can directly influence the legislative process, are prone to defining their positions on voting from abroad, and on its regulation (scope and inclusion), based on the alleged electoral benefits they may obtain.

There is no fixed frame for these political assessments; instead they refer to situations and force correlations that are highly contextual. However, some cases may be considered in general terms for the sake of learning. In some cases, conservative parties tend to reluctantly consider or plainly oppose these initiatives, especially due to their association in public opinion with the very causes of massive migration to foreign lands. Regardless of whether those causes are socio-economic or political-institutional, these parties fear protest votes from migrants. Among the emerging, avant-garde parties there prevails an attitude of greater acceptance.



Last, it is not unusual for opinion makers, especially those with negative views on voting from abroad, to adhere to and insistently support a very doubtful thesis: because of their quantity, potential voters in foreign countries may be able to decide the outcome of an electoral process. This thesis is not necessarily valid since it assumes that voters abroad make up a homogeneous group in terms of preferences, or even that they are subject to undue manipulation abroad. In each case, the assumption is that they are distinct from national voters.

This sort of rationale is standard in questioning electoral participation of the diaspora and gives it a negative feature, even leading to allegations that migrants' voting will lead to election results that counter the interests of the national political community. Suffice it to say, to refute this idea, that in an analysis almost any variable (not just behaviour of voters abroad) may be isolated to explain or justify the outcome of an electoral process, especially when it happens amid conditions of intense competition and narrow margins of advantage. In paragraphs to come, a set of arguments and reliable data shall be stated to counter these ideas.

5. FUNDAMENTAL ALTERNATIVES FOR DESIGN AND IMPLEMENTATION

The creation of any system for voting from abroad is accomplished through a process of negotiation, agreement and decision-making that goes beyond the conditions and demands distinctive of each context. Ultimately, it is this group of basic elements that gives each system its own characteristics and identity.

A comparative study reveals five basic elements that can be used to distinguish, classify and contrast the different devices for voting from abroad:

- 1) Requirements for eligibility;
- 2) Requirements to register;
- 3) Types of elections to be considered;
- 4) Mechanism of voting and; and
- 5) Possibility for voters abroad to also have official political representation.

It is important to emphasize that in many cases the likelihood of recognition of voting from abroad depends precisely on the acceptance of certain terms or conditions within the definitions of the elements above, which is part of the negotiation and construction of political and legislative agreements. In other words, there are cases in which such decisions do not result from well-informed and documented reasoning about alternatives but rather from conditions imposed through negotiation amongst various factions of political power.



5.1 The requirements for eligibility: Who qualifies as a voter abroad?

This is the first element, a definition that embraces the nature, the scope of inclusion and the limitations of the model to be used for voting from abroad. The most restrictive approach limits the vote from abroad to citizens who perform official functions or mandates in foreign countries; members of the foreign service or diplomatic missions in other countries; officials representing the state or the government in international or regional organizations; members of the military or security deployed abroad and, if relevant, their spouses or kin.

This approach immediately precludes every possibility of access to vote for any immigrant, if the concept is to be strictly interpreted, and consequently excludes any debate concerning conventions on citizenship, access to enfranchisement and exercise of political rights for the diaspora. From organizational and logistical viewpoints, it bears the advantages of requiring systems that operate under clearly-defined conditions in controlled environments.

On the opposite end are systems that impose, at least in principle, no further requirements or restrictions for someone to be granted the condition of voter than those demanded within the country. The requirements for citizenship, whatsoever the concept or how it may be achieved, represent the minimal threshold in most cases.

As mentioned, the concept of citizenship and the requirements to access it, to demonstrate it, or lose it, vary worldwide and may lead to diverse sets of problems, which in turn might have effect upon the subject of this paper. For example, consider the possible setbacks for voters abroad arising from discrepancies between jurisdictions that acknowledge or ban multiple citizenship. Or, a different situation, the debates around assessing cases of citizenship acquired by right of ancestry, which can lead to the possibility of entitling electoral rights upon people who may have not been born in the original country, or ever resided in it.

Comparative international law comprises at least two variants worth mentioning, even if briefly, which is far from the aforementioned extremes. They clearly exemplify demands or restraints agreed in response to concerns related to the condition of voters abroad, thus rendering the suitable initiatives for the recognition and regulation of such conditions viable.

One of the variants encompasses some cases in which the core is a restrictive approach that excludes most migrants or resident citizens abroad who do not perform official duties or represent the original country, but they bestow electoral capability upon very specific categories of citizens, like duly registered students at educational institutions (Guyana and Malaysia) or merely those favoured by state loans or scholarships (Ghana).



The other type includes cases in which electoral rights are bestowed or protracted for a limited period that spans between 3 years (New Zealand) and 19 years (Guinea), save for those who perform official functions. To a meaningful extent, this type of disposition responds to preoccupations about the continuity of the sense of attachment to a political community or the interest of citizens in national affairs after a prolonged absence or during a definitive residence abroad, excluding those persons who have never resided in the country.

As stated above, the requirements for a migrant to qualify as a voter abroad is a major reference for the inclusiveness and potential scope of a given system; without a doubt, restrictive approaches that consider only people with an official mandate living in a foreign country establish those requirements clearly from the beginning. Nonetheless, this does not imply that laws that do not demand requirements beyond those needed to qualify as voters inside the country, may not eventually impose other demands that could seriously impair the ability to exercise the right to vote from abroad. We shall come to this in forthcoming sections.

It is important to point out that some potential voters may be excluded from this scope, since its emphasis is on eligibility requirements. This happens merely for administrative reasons, not so much for legal ones: those voters in transit. The term is used for those people who are duly registered as voters, and could vote on Election Day if within the national territory; however, for other reasons, such as tourism, business, medical attention, or any other reason, are abroad on that day.

Some essential elements, demands or administrative conditions (usually with a political background full of suspicions), make it very difficult or even impossible to offer guarantees or facilities for voters in transit to cast their vote. For instance, in Latin America, there is no country that contemplates such possibility, even when some of such devices are quite inclusive.

5.2 Requirements and conditions for registration: obstacles towards access

Normally, the possibility of potential voters abroad to exercise their right to vote depends on completing a registration procedure that is in addition to the one necessary in their original countries, and which is not equivalent in terms and requirements. Yet again, comparing legislation reveals noticeable variations in the terms and conditions for registration. These variations ultimately restrict the possibility of access to the right of voting from abroad one way or the other, and to varying extents.

In order to outline the implications and complications that may arise from these registration procedures, let us examine four of their basic components: modality, location, periods and required identification documents. It is worth highlighting that many of the issues to be discussed are possible exceptions:



they are those cases where enfranchisement as voters abroad derives from the formal notice of stay or residence that citizens deliver to their diplomatic or consular representative.

Modality and location

Modality and location are two distinct elements: the first refers to the manner of registration and the second to where it can be done. Yet, for practical purposes they are usually closely related and influence one another.

We can roughly distinguish two types of modalities: mandatory (in-person) presence, which requires the concerned citizen to deliver the application or perform the required registration procedure him or herself; and those we can generally call distant modes, where the concerned person does not have to personally fulfil the required legal formalities because they can be done via electronic telecommunications or postal services. It is obvious from its very definition that in most cases the in-person mode puts severe restrictions on access, while the distant mode offers a greater number of possibilities and simplifies the process.

Consequently, for the in-person method, the locations or venues where the procedure may take place greatly determine the access and scope. Generally, the fewer the locations to register, the greater the difficulties in access for potential voters. With this method, conventional practice is to carry out registration at diplomatic and consular venues abroad. Thus, ease of registration depends to a great degree on the coverage of the diplomatic and consular network of the concerned country abroad, and on the availability of transportation to such places for interested persons.

According to this two-fold principle, and especially for lesser developed countries, it is necessary to ponder these issues: a) the scope of the diplomatic network is limited and does not necessarily coincide with all the sites (countries/cities) where potential voters may live; b) even where sites exist, long distances from the potential voter's place of residence or work may make travel unrealistic; c) the cost and risks of transportation also may make travel extremely difficult for many of those interested, especially non-qualified workers with irregular migratory status.

The availability of precise information, or at least reliable estimates, about the populations and patterns of distribution of potential voters abroad may be useful and even indispensable to address these challenges. With this information, and the necessary resources, capabilities and will, it will be easier to implement additional measures to improve the scope and reach of the registration process (and the casting of votes), thus making both more effective.

If there is a process for distance registration – via electronic telecommunications, postal service, etc. – then the location of the place or site where the



procedure takes place may no longer represent a great difficulty to overcome. Nevertheless, this does not imply that complications due to other elements of the procedure will be simultaneously overcome.

Periods

In places where using transit is problematic, the periods and schedules for the in-person registration modality may pose additional problems for the majority of potential voters (at least in terms of the time and costs incurred). That is because, adhering to budgetary and logistical-administrative guidelines, registration periods abroad are generally shorter and the deadlines earlier than they would be within the country, so that the necessary certification and validation can be done.

In the postal ballot modality, registration deadlines might occur so far in advance of the actual voting that potential voters are actually unaware of them or possess no information about the candidates. In addition, if the registration schedule is restricted to certain days and hours, the possibility of access for many potential voters, who maybe be living many time zones away, is further narrowed.

Once again, most of the problems previously outlined can be avoided or at least largely reduced through distance registration modes, using electronic or online resources.

Required identification documents

The requirement for certain identification documents for registration can seriously reduce the expectations or demands for inclusion of potential voters abroad whose migrant status makes them particularly vulnerable. The form of exclusion is double: first, due to the nature of the documents demanded and, second, due to the possibility of obtaining them while abroad.

If valid (not outdated) documents are required and, additionally, those documents cannot be obtained or renewed abroad in some cases – not even at official venues or via Internet – access for those people lacking such documents may be drastically reduced or even blocked. Returning to their country to obtain or renew documents is not likely to be an option for most people.

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



authorities.

5.3 Systems for casting the vote: a range of options

For the sake of this study we intend to group the varieties of systems found globally for voting from abroad into two categories: in-person and remote. This classification allows us to compare and contrast three basic components at once: a) the mechanism used for casting the vote; b) the degree of control or supervision that the authority has over the environment where the process develops and, c) the vote's accessibility, scope and reach, attributes that are especially important for the aim of this study.

From their name, in-person methods imply the personal attendance of the voter at sites or buildings specially set up for voting by the competent authority, which is also in charge of verifying the identity of the voter. Voting, and usually the recount also, takes place in an environment controlled by the authority, which may mean people representing the electoral body or any other institution that has legal authority to organize elections abroad, including, for instance, diplomatic and consular personnel.

In-person voting permits manual verification of ballots that are marked either by hand or by electronic means, and replicate the scope and reach characteristics of registration mentioned above. Usually voting sites are located in countries with diplomatic or consular representation, whose buildings are well-equipped for the task. The best argument for using these venues is the fact that, regardless of their personnel's involvement in the organization of the process, they offer the best base for necessary diplomatic negotiations and can largely handle the logistical and informational tasks.

Not every system of in-person voting involves participation of the diplomatic personnel or the use of their buildings. Involvement of such personnel, even when merely for support or secondary tasks, is usually ruled out whenever their political impartiality may be questioned, a situation that could lead to suspicion of undue bias in the process. Use of diplomatic venues may also be excluded for the same reasons, but also because other locations or buildings simply provide greater capacity of service or scope.

Leaving aside the optional use of diplomatic premises as voting venues, and the participation of their personnel in electoral activities, there is certainly, as said above, a strong pattern of installing voting systems abroad in countries that host diplomatic representation.

Of course, the fact that installing voting venues abroad depends on the reach of the network of diplomatic and consular representations, may pose important restraints of access and scope. Potential voters who reside or are located in a country without an official venue may have very few possibilities of exercising their right. But even if they live in a country with such venues, the



distance between their residence and the venue may represent an obstacle no less unsurmountable than the situation described above. In addition, complications may arise because of the times or schedules established for voting.

The second variant includes the systems of remote or distant vote, which consist essentially of electronic voting via Internet and the postal ballot. As previously stated, these varieties, though very different from one another, have been grouped together due to the possibilities they offer regarding accessibility, scope and reach. Of course they also share the characteristics of being developed in environments that are not directly controlled by the electoral authority, in dealing with matters as sensitive as verification of voters' identity and guarantees of secrecy and safety in casting the vote.

At least ideally, the postal ballot and the Internet process share the virtue of facilitating access and widening the scope of systems for voting abroad, since they are not dependent upon physical infrastructure or installed systems abroad. That does not preclude complexities in their implementation nor very important differences between them.

For example, voting via postal ballot means that the system's capability depends on the network and quality of the postal service, elements that are outside the control of the electoral authority and the potential beneficiaries. In addition, it demands major adjustment in the time required for organizing and carrying out the process (including registration of candidates and printing of ballots and electoral documents) in order to meet the needs for casting of the vote (timely delivery and collection of the marked ballots). All in all, there is no question that, compared to in-person methods, the postal ballot offers greater opportunities of access for voters in regions lacking diplomatic representation or where voting sites have not been planned.

In terms of potential accessibility and effectiveness, voting via Internet (and very soon using other electronic means) doubtlessly offers the greatest advantages for the voter and the authority. Evidently, its characteristics and features of its implementation cannot and must not be detached from the debate around the digital "gap", especially when we discuss extending the vote to a massive diaspora consisting largely of migrant workers. Nonetheless, this method clearly presents a very accessible, financially affordable option and even a response to several practical challenges and complexities that do not reflect an overt policy of distrust of institutions and political-electoral procedures.

Frequently, the major obstacles facing remote systems, especially the Internet, derive from mistrust. Without minimizing their relevance, it is convenient to point out that the comparative experience and legislation hold several good examples of concrete measures that can be incorporated in these systems to guarantee security for voting (voter identity and secrecy) as well as integrity



of the process as a whole¹⁵.

5.4 The types of elections that include voting from abroad

The decision about the types of election for which voting from abroad is to be considered (whether national, sub-national and even those comprising instruments of citizen participation such as referenda or recall of mandate) is obviously related, firstly, to legal and political-institutional factors or judgements.

Among the major factors that must be taken into account when defining the types of elections for which voting from abroad is to be considered are: the type of state (federal or unified) its corresponding political-administrative divisions and the spheres of competence between the levels of government; the type of government (presidential or parliamentary); the type of national parliament (one or two chambers), and the systems used for elections of the various authorities.

In a federal state, for example, the decision may depend upon the distribution of political-electoral powers among the different levels of government. Consequently, the different constituencies might decide whether voting from abroad applies within their own jurisdictions, and if so, which types of elections would include it; this is why differences may arise even within the same country. In a unified state there cannot be such variation: one definition is adopted and a homogeneous pattern is fixed.

The decision may be made on the basis of the degree of the connection desirable between voters abroad and the authorities or government bodies in whose election or integration they participate. In some cases it may be decided that the only necessary link with potential voters is the one with the national government or authorities, since their condition as residents abroad makes the national level the only one that they can influence and where their interest is represented. In other cases, the importance of preserving links with local affairs by participating in elections of representatives at sub-national levels may well be prioritized.

In practical terms, there is no doubt that the design and implementation of systems to vote in national elections and single-member posts present fewer challenges and complexities than those experienced in establishing the vote from abroad for choosing members of assemblies or the election of representatives for sub-national posts. In the case of in-person voting in a presidential election, for instance, it is only necessary to reproduce and distribute one type of ballot, while for a legislative election in which representatives are chosen for multiple single-member posts by district, authorities would need to secure the production, distribution and availability in all venues of ballots corresponding to every district.

A substantial portion of the organizational and logistical complexities in vo-



ting from abroad for different types of elections can be reduced and even eliminated by using electronic voting systems, though, as has already been stated, implementing these may pose other dilemmas and they do require, at any rate, a high degree of public trust.

The dominant worldwide trend is to allow the vote from abroad for national-level elections (and citizen initiatives), by means of in-person voting, but there is evidence of a shift in such dynamics and of possible changes in the near future.

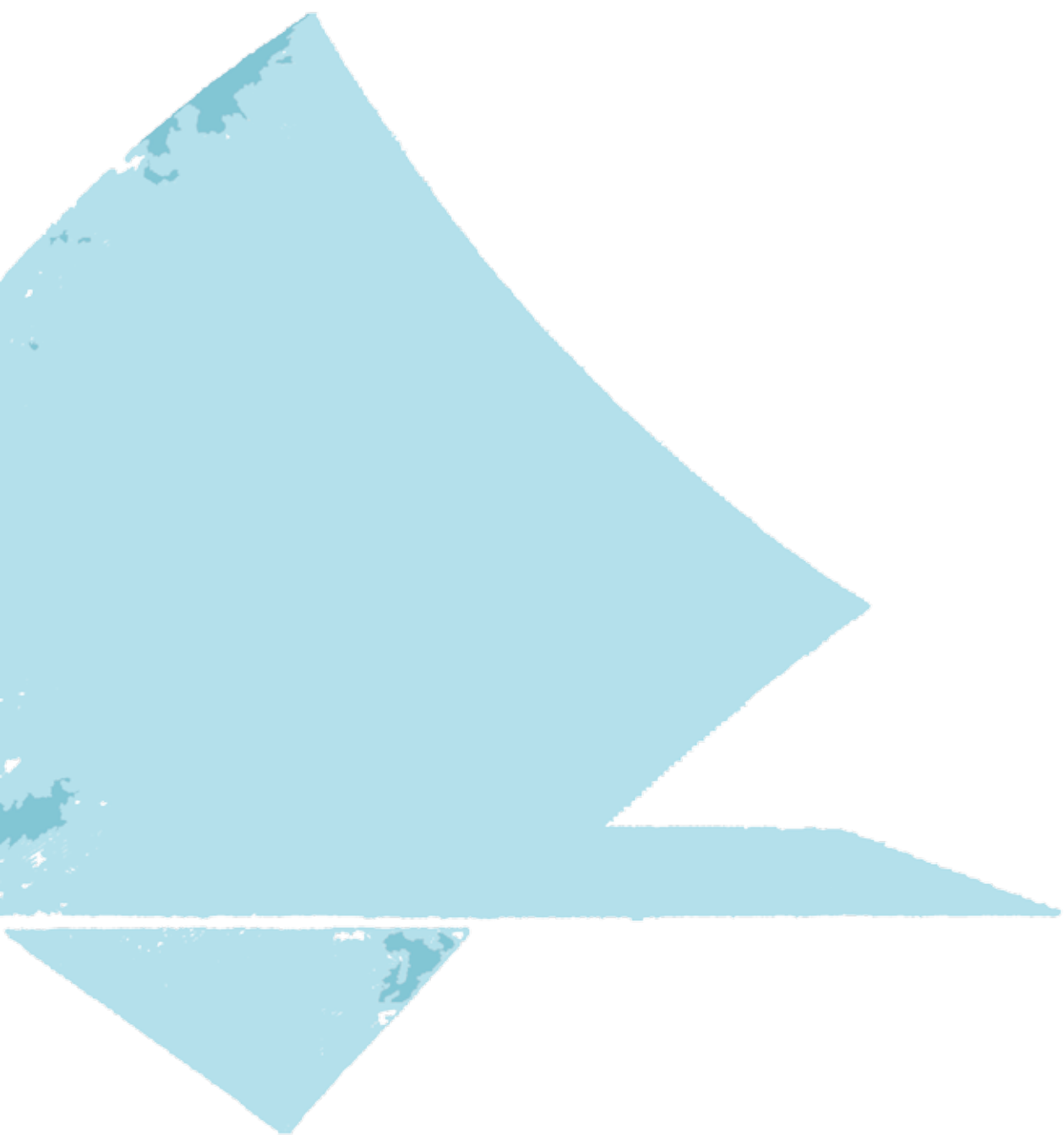
5.5 Political representation of the diaspora: making progress in the recognition and exercise of their rights

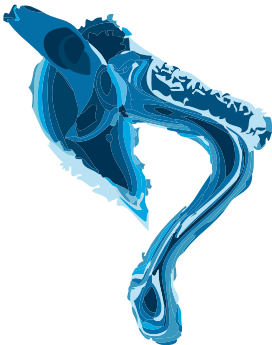
The idea that residents abroad, besides active participating in the election of government and legislative officials, ought to have the ability to elect their own representatives for the national legislature, even the right to be nominated for certain elective posts, has been gradually growing across the world. Several countries have already taken legal steps to that end.

This tendency, though still incipient, signifies real growth towards the acknowledgement of the political rights of residents abroad, transcending the mere recognition of migrants' rights to active voting.

Whether it is the result of state authorities' interest in recognizing the importance of their migrant people, and to strengthen relations with them, or of effective political pressure exerted by organized groups in the diaspora, the guarantee of political representation (through reserved seats in the national parliament) today creates some opportunities for residents abroad to promote their perspectives and interests in the legislative agenda, as well as to get involved in discussing and defining national affairs.

Although the effects and implications of this novel process still to be analysed and debated, three countries in the region (Colombia, Ecuador and the Dominican Republic) have already committed to it by putting in place legal devices aimed at securing political representation of their expatriate citizenries.





II. THE COMPARATIVE PANORAMA FOR LATIN AMERICA

As stated at the opening of this study, in the last quarter of a century the number of countries in Latin America that recognize and have adopted legal regulations to allow voting from abroad has risen from 3 to 15. This is the vast majority of the 18 countries on which this series of comparative studies has focused, giving the region the highest percentage of positive cases world-wide, as shown in Table 2.

Table 2

Region	Number of Countries	Countries with Vote from Abroad	Percentage
Latin America	18	15	83.33
All the Americas	27	8	29.63
Africa	54	35	64.81
Asia	44	25	56.82
Europe	50	41	82.00
Oceania	14	8	57.14
Total	207	132	63.77

This table demonstrates that most of the countries in the region have made efforts to develop and set electoral norms, institutions and procedures as keystone components in the process of strengthening and renewing democratic systems. Indeed, it is unlikely that any other region in the world in recent decades has been as keen to confirm electoral means as the only legal, social and legitimately recognized way to access and renew political powers periodically.



It is true that recognition and regulation of voting from abroad is not yet a keystone in the reform processes of all the region's countries. Nevertheless, the rationale for this practice made in some of the arguments, and the power of the demands, have influenced agreements to include the vote from abroad in the body of law.

Even in the three countries that have not yet taken steps to recognize and regulate voting from abroad, there is enough evidence of interest in the matter to predict favourable results in the near future. Since the 1990s in Guatemala, there have been overt demands from organized groups within the diaspora and attempts from Congress and the electoral authority to promote initiatives responding to those demands. Of the three countries, Guatemala is most likely to produce a favourable result in the near future.

In Nicaragua, both the current legislation (issued in 2000) and the 1995 reform note the possibility that citizens who reside or are temporarily abroad should be able to vote in presidential and legislative elections, using in-person voting. Nonetheless, for this to occur requires "the same conditions of cleanliness, equality, transparency, safety and control, supervision and verification, which are implemented within the national territory". The legislation bestows powers on the electoral authority so that, having consulted the political parties six months ahead of the start of the electoral process, it may comply with the legal mandate if the conditions above exist. Till now, the Supreme Electoral Tribunal has not exerted this power.

The circumstances in Uruguay are quite peculiar. After repeated ineffectual attempts to achieve legislative reform due to the lack of parliamentary support, in 2009 a plebiscite was held on voting from abroad within the framework of the October general elections. The result surprised various observers, national and international, and contradicted most opinion polls: the initiative obtained only 37.5 percent support, far from the absolute majority required for approval.

We shall now compare some features of the vote from abroad among the 15 countries that have taken steps to support it. We must state beforehand, though, that the data relative to Chile are incomplete because the constitutional reform that supports the vote from abroad, published at the end of 2014, is clear in principle but its implementation will begin only with the presidential elections in 2017, after the regulatory law is issued. Therefore, this study covers only the basic definitions integrated in the approved constitutional reform; details will be available with the definition of the corresponding law.

1. ORIGIN AND FOUNDATIONS

It has already been argued that the conditions and demands particular to each country must be taken into account in any attempt to explain the origin and motives that underlie support for recognition and casting of the vote



from abroad. Yet, we also pointed out that the recent currency and relevance of the matter in this and other regions would be hard to explain if one did not consider broader dynamics and tendencies.

Data relative to the year of adoption and first implementation of legal devices for voting from abroad (in the near future in the case of Chile) may be useful to illustrate the relationship between these two tendencies.

Table 3

Country	Year of Adoption	Year of Implementation
Argentina	1991	1993
Bolivia	2009	2009
Brazil	1965	1989
Chile	2013	2017
Colombia	1961	1962
Costa Rica	2012	2012
El Salvador	2012	2012
Ecuador	2002	2002
Honduras	2001	2001
Mexico	2005	2006
Panama	2006	2006
Paraguay	2012	2013
Peru	1979	1980
Dominican Republic	1997	2004
Venezuela	1993	1998

On the one hand, we have the pioneering experience of Colombia, with more than five decades of uninterrupted practice. It could be deemed exceptional, relative to political development in the region as a whole, but not as concerns the process of articulation and maturing of its political regime. Colombia takes a different path than global dynamics, or even regional ones. The processes for deliberation and decision-making about implementation are unprecedented, neither framed by external factors nor bound by their schedules. There is no sense of urgency.

The Brazilian case is notably contradictory, in the first place because of the conditions of its process. The legal mandate for the recognition of the vote from abroad was produced and approved in 1964 by the recently installed military regime, which soon after suspended all democratic institutions; implementation of the mandate took place only 15 years later, when a civil government was again installed. The second reason is that, in a chronological sense,



its implementation intertwines acceptance of systems for voting from abroad to the processes of democratic change or restoration representative of the 1980s, even more so to the ensuing effort to preserve, strengthen or renew the legitimacy of those processes. With this as a backdrop, other countries took steps to accept systems for voting from abroad as the 1990s progressed.

In considering the regional trend, the other key component already mentioned must not be overlooked: the phenomenon of international migration. Before the 1990s, numerous countries suffered from massive exoduses of citizens to foreign countries, some of them driven by recurring causes. Notably, the processes of democratic change or restoration coincided largely with the effects of grave economic crises that struck the region, arising from the worldwide shift of paradigms for managing economies. As such, the return of democratic values, liberties and expectations took place in a context of grave economic precariousness and deprivation. What is the connection between these problems and our subject?

According to data from the International Organization for Migration (IOM), at the turn of the century migration to/from Latin American countries was negative for the first time; that is, the number of citizens who migrated was greater than the number of foreigners who settled in these territories. Although the balance returned to positive in a few countries (Chile, Costa Rica and Venezuela) in the first decade of the new century, it remained negative in the others, and in several cases (Bolivia, El Salvador, Mexico, Peru and the Dominican Republic) the negative trend was steady or accelerating¹⁶.

For the first time in recent history, massive migration to foreign countries – predominantly of workers – became common in most of the region's countries. This resulted in the need to visualize the diaspora, its needs and interests, importance and capabilities in a new light and from a new perspective. The vote from abroad was then proposed on new principles, beyond its symbolic role.

In this context, it is interesting to discern and contrast the experiences of several nations according to their original motives and the interests and demands that were decisive in their adoption of the corresponding devices for the vote from abroad. A two-pronged structure is proposed, in which one extreme is dictated by the will or interest of a specific state institution or outstanding political personage, while the other represents the capability of representatives or mediators for the diaspora, the potential beneficiaries, to exert political pressure.

One may begin by pointing out that in most cases, including the previously mentioned ones of Colombia and Brazil, the original or fundamental motives belong to the first pole, which, for sake of clarity, we will label a state or political initiative. But within this tendency there are important variations and



shades. In strict chronology, Peru inaugurated the contemporary stage or second-generation devices for the vote from abroad. This was the only occasion in which the vote from abroad was included in the political arrangements and electoral innovation resulting from a return to democratic institutionalism, thus ending a military dictatorship. It was a specific decision agreed by the constituent assembly created in 1978, and was established in the constitutional text announced the following year.

More than a decade would go by before the group of countries increased its number with Argentina in 1991. Clearly, this was an instance of acceptance of the vote from abroad as a gesture of reconciliation, agreed by the government and the political parties with those in political exile after a cruel dictatorship. Paraguay is a very recent case, where the process stems from a wide public political agreement that goes beyond pragmatism, and whose terms are worth mentioning. As happened three years previously in Uruguay, political forces in Paraguay decided to submit the matter to a plebiscite. However, unlike Uruguay, the outcome was clearly favourable: though attendance at the polls was rather scarce, almost 85 percent of voters supported the expatriate vote.

In Ecuador and Honduras, where labour-driven migration has grown noticeably in recent decades, acceptance of devices for voting from abroad was the evident result of agreed or imposed decisions, mostly hidden and lacking public disclosure. Notably, evolution in these countries has followed diverging paths: in Ecuador social-political transformations soon caused interested or representative organizations of migrants to engage in the matter, and progress has continued. In Honduras, conflict and apathy have caused the project to become entangled, at least in terms of regulation and implementation.

What distinguishes the experiences in Costa Rica and Panama is that processes for the recognition of the vote from abroad were essentially issued as parts of movements by electoral authorities to expand and strengthen the electoral regimes, and they attained the necessary consensus in a relatively straightforward manner. In Costa Rica, the initiative was issued by the supreme electoral tribunal. The experience in Panama was uneven, given that in 2001 Congress consented to a petition from the electoral tribunal to repeal the legal dispositions for voting from abroad, because of difficulties in implementation. Despite that decision, eight years later the legal mandate was reaffirmed following a proposal issued by a reform commission, which is constituted after each election and includes the electoral authority.

Two of the most recent cases, Chile, which will have a legal mandate for voting from abroad in 2017, and El Salvador (2012) are, with Mexico, examples of a clear confluence between the two variables introduced for this analysis. In those cases, achievements were made after a long period of difficulties and via political and legislative agreements that enabled the mechanisms. Indeed, the three cases can be said to have been driven by the systematic claims and demands made by their main beneficiaries – migrants. Even after finding an



echo amongst some opinion-makers and political forces, this movement had to remove other obstacles and gradually generate consensus before it could achieve its aims.

Finally, in the cases of Bolivia, the Dominican Republic and Venezuela, we can say that the determining force for the realization of the vote from abroad was the systematic pressure exerted by representative groups or forces common to potential beneficiaries. These three cases, as well as the Mexican one in great measure, were the first examples of a series of requirements temporarily obstructing the coming into being of laws that expressly contemplated the possibility of voting from abroad. As the time to process any project or initiative was too long and an impasse had developed, it was necessary for supporters to intensify their pressure and demands until they succeeded.

The case of Bolivia is particularly illustrative. The possibility of voting from abroad was incorporated into electoral legislation in 1991 and replicated in the laws that followed it, but its implementation was subject to publication of a law by Congress. However, the main political forces made no attempts to pass the law for several years, in spite of repetitive and angry protests by representatives of the diaspora. By mid-2000, legal representatives of some of the organized groups abroad had already taken the issue to the judiciary, demanding that Congress comply with its responsibilities and sanction a law. A favourable result was delayed until there was a major shift in political forces, resulting in the publication of a new constitutional text in 2009 that included guarantees for the registration and casting of the vote from abroad in the provisional electoral law that governed the elections that year.

The particularities and shades of these different experiences aside, it is pertinent to emphasize that, as a group, the devices adopted in Latin America have made sense within the framework of political-electoral regimes that satisfy basic democratic requirements and characteristics. This implies that devices for voting from abroad have been agreed upon as part of a game governed by the rules of democratic institutionalism, and have not revealed vulnerabilities in electoral processes, despite some insufficiencies or limitations in their concept or design. This is contrary to experiences in other regions.

2. TYPES OF ELECTIONS WHERE VOTING FROM ABROAD MAY APPLY

Reflection or debate around the types of election that may include voting from abroad is very often limited to recent specialized literature, so that any decision on the subject is likely to be seen as the correct one. This may well be true, provided the decision is generated through institutional means.

Each case may be mediated by contextual factors and assessments, especially legal or political-institutional ones, and also by contingencies or restraints of administrative, budgetary or operational nature. Thus, it should not be surprising to find a gamut of alternatives and combinations throughout internatio-



nal experiences: while some countries exemplify an extreme where the vote from abroad is limited to presidential elections, a few go to the other extreme, permitting it for almost any kind of election or direct democracy instrument.

That slight digression is intended to highlight that even the topics of electoral capability, including political participation and representation of migrants in government spheres or bodies, are subject to distinct interpretations and responses. The seemingly conventional solution applied to the matter throughout most of Latin America is to bound the active electoral capability to the election of national authorities and representatives for voters effectively residing abroad, save for those in transit or performing official duties.

It might be difficult to argue in favour of theses supporting the rights of migrants to preserve or acquire decisive capability in sub-national elections or in defining sub-national policies or laws, for at those levels there is a weaker relationship between such matters and the scope of influence or interest of expatriates. Yet, it will still be an open field for debate, especially if in the near future technological development neutralize the administrative and operational restraints to the increase in scope in voting from abroad intended for more localized governmental realms.

One may better understand the Latin American response by keeping in mind the differences in political-administrative organization, bearing in mind that weighing differences in governmental regimes is irrelevant in the face of the presidential authority that is a common feature in the region. To avoid unnecessary digressions on the subject, it is sufficient to differentiate, on one side, the most conventional concept of elections – the act of choosing members of the bodies for popular representation in different spheres of government – and on the other, the expression of preferences by means of what are generally called “direct democracy instruments” or “citizen initiatives”.

Even within such a simple two-fold classification – elections and referenda – further rationalization would require greater precision or elaboration to illustrate the variations of its components caused by the different forms of political organization or the nature and consequences of affairs subjected to the verdict of the citizenry.

In order to attain greater clarity, these are the characteristics of the data in Table 4: they are limited to differentiate, for elective posts, between national elections (presidential and legislative) and sub-national elections (corresponding to the different spheres of government of the political-administrative organization in each country – from regions or provinces down to municipalities or neighbourhoods). In the case of devices for direct democracy instruments or citizen referendums, these are appointed generically to embrace any one applicable in each country, only specifying those instances where the concept “recall of mandate” is considered and referred to expressly.



One first relevant feature in the records of these 15 Latin American countries, with the exception of Mexico, is that the vote from abroad is solely considered for national elections or referenda, though with peculiarities worth mentioning. (Chile has been included in this section because the approved constitutional reform clearly defines which elections shall include the vote from abroad.)

Clearly visible in Table 4 is a first set of countries (Brazil, El Salvador, Honduras and Panama) whose voters abroad can take part only in presidential elections, the most limiting ones in scope from the proposed point of view. A second set groups four countries where the vote from abroad embraces national referenda as well: Bolivia, (the sole country to include the revocation of mandate), Chile, Costa Rica and Venezuela. A third set comprises four countries where citizens abroad are able to vote in legislative elections beside the compulsory presidential ones, though not in direct democracy instruments. This includes three countries with national parliaments divided into two chambers – Argentina, Paraguay and the Dominican Republic – and one, Ecuador, which has a single-chamber parliament.

This group includes two good examples of how, in a very short time span, devices for voting from abroad were significantly widened in scope, by extending them to include legislative elections along with the original presidential elections. These cases also increase migrants' rights by including their own parliamentary representation, in keeping with the example of Colombia (see below). Ecuador did limit the vote to presidential elections in its first law in 2006, but this was changed in the constitutional text approved in 2008 and in new electoral legislation in 2009. Dominican Republic had a similar experience, approving a constitutional text in 2010 that included migrants' rights to vote in legislative elections and for their own representatives, whereas the laws of 2004 and 2008 limited voting from abroad to presidential elections.

Table 4

Country	Scope of Applicable Elections	Election Type ¹⁷
Argentina	National	• Presidential • Legislative (both Chambers)
Bolivia	National	• Presidential • Direct democracy instruments • Recall of mandate
Brazil	National	• Presidential
Chile	National	• Presidential • Direct Democracy instruments
Colombia	National	• Presidential • Legislative (both chambers) • Direct democracy instruments



Country	Scope of Applicable Elections	Election Type ¹⁷
Costa Rica	National	• Presidential • Direct democracy instruments
El Salvador	National	• Presidential
Ecuador	National	• Presidential • Legislative
Honduras	National	• Presidential
Mexico	National and local	• Presidential • Legislative (only the Senate)
Panama	National	• Presidential
Paraguay	National	• Presidential • Legislative (only the Senate)
Peru	National	• Presidential • Legislative • Direct democracy instruments
Dominican Republic	National	• Presidential • Legislative (both chambers)
Venezuela	National	• Presidential • Direct democracy instruments

The list of countries that bound the vote from abroad to national elections and direct democracy instruments of national span is completed by Colombia and Peru, both adopting the amplest scope within this group of countries, including all the possibilities already mentioned for voting from abroad. Colombia pioneered this practice in the region more than half a century ago, when it was uncommon throughout the world; it remains the strongest model for continuing progress and innovation.

From 1961 until 1990, Colombia limited exercise of the vote from abroad to presidential elections. In December of the latter year, voters abroad were invited to participate in the integration of the national constituent assembly, which delivered the new constitutional text a few months later. It was published in July 1991. The new constitution ratified the right to vote in national direct democracy instruments and extended it to legislative elections, though implementation took some time. It has been valid for the senate since 1998 and for the chamber of representatives since 2002. Most innovative was the recognition of parliamentary representation for migrants in the lower chamber, starting with one seat in 2002 and extended to two seats since the elections of 2013.

Mexico comes last in the list: for more than six decades there prevailed a marked division between the electoral competences of the federation and those of the states. In 2005, the right to vote from abroad was acknowledged by the federation exclusively for presidential elections, setting a precedent for the 32



states to recognize it in their own realms. This has happened in a handful of states to date, making Mexico the first country to accept the vote from abroad in sub-national spheres, though according to terms and modalities determined by each state.

Major constitutional and legal reforms that took place at the beginning of 2014 had significant impact on Mexico's vote from abroad experiment. For our purposes, suffice it to say that the new legislation of national type and reach has extended the right to vote from abroad to senate elections in the federal realm, starting in 2018, and has also reasserted the possibility of the 32 states to include it for elections of local executive officials, at least.

It is worth pointing out that the seven regional cases where voting from abroad includes some type of national legislative elections apply conventional residence or birth criteria to determine the electoral jurisdiction of voters registered abroad. This means that each vote cast from abroad is assigned to the electoral district that corresponds to the territory where the voter lived or was born within the country, or that of his/her parents. This is important since there are cases elsewhere in the world where these votes are assigned to a pre-determined electoral district that has no relationship whatsoever with the voters' data.

3. ON THE REQUIREMENTS FOR ELIGIBILITY

A review of vote from abroad systems in the region reveals four defined requirements for someone to qualify as a voter: full citizenship, minimum age (which is commonly necessary to attain formal citizenship and thus the entitlement to a set of rights, including political ones), residence abroad and the fulfilment of a registration procedure.

We may assume that none of these requirements imposes restrictions or undue difficulties in accessing the right to vote from abroad, therefore making these systems highly inclusive. Yet, some cases bear peculiarities worth mentioning because of the ways in which they may be interpreted for practical purposes: this could well be the basis for creating obstacles to the understanding and effective application of the guarantee to universal access to vote.

The requirements of citizenship and minimal age (which is inherent to citizenship), are generally accepted. In most Latin American countries the concept of citizenship is legally founded upon the requirements of nationality – acquired in any accepted fashion: by right of birth, by right of ancestry, by naturalisation – and a pre-determined age: 16 to 18 years. Besides, citizenship explicitly grants the ability to exercise a set of additional rights, especially political ones.

There are divergent concepts and continued confusion about the notions of nationality and citizenship, and the relation between the concepts¹⁸. Never-



theless, it is interesting that today the legal norms of the 18 countries under analysis admit the possibility of multiple nationalities for citizens, on their own terms and conditions. That makes it possible for some people to achieve citizenship, and therefrom entitlement to the exercise of political rights, in two or more state jurisdictions.

It is therefore not unusual for the countries that accept two-fold or multiple nationalities to impose certain restraints upon people in such a condition, including naturalized foreigners, to acquire or exercise specific political rights, including to be nominated or appointed for certain public posts. It is no surprise then that in the cases of Brazil and El Salvador, explicit provisions bar people bearing another nationality from qualifying as voters abroad, or that in the Dominican Republic the restriction is applied only to persons who have previously performed military duties for another country whose nationality they also hold.

Leaving aside the practical challenges to the effective implementation of these restraints, and in contrast to other areas, we see no further complexities in discerning and validating citizenship in the countries of the region. The common trend in legal rules on the matter is to emphasize the currency and validity of political rights adjacent to citizenship; that is, the person must not be charged with legal sanctions that deprive him/her of the full entitlement to their lawful rights.

The requirement of residence abroad is explicit in seven countries – Argentina, Bolivia, Brazil, Colombia, Mexico, Peru and Venezuela – though in distinct terms. This may be examined from two complementary points of view: on the one hand, it tends to eliminate the possibility for certain persons to be qualified as voters if they are abroad only temporarily or in transit: access may be completely denied in these and other cases due to the requirements or procedures for registration. On the other hand, the residence requirement might imply severe restrictions on those without legal documentation abroad, because they may be required to produce documents that are out of their reach.

The importance and implications of the last of the four most common requirements, demanding a registration procedure to qualify as a voter abroad, deserves special treatment. It is useful first to highlight that restrictions derived precisely from requirements and procedures for registration and, if relevant, the mechanism accepted for casting a vote, may be as important, or even more so, than restraints imposed by the requirements for eligibility. This is to say, even when the device accepted for the voting is the most inclusive in terms of eligibility requirements, it might be drastically limited by the procedures foreseen for registration or by the method accepted for voting.

4. PROCEDURES FOR REGISTRATION



In all countries that have implemented voting from abroad, one essential requirement for eligibility and voting itself is fulfilling specific registration procedures. These are in addition to the modes of electoral registration within these countries, and are required in order to be entitled to electoral rights abroad.

Requirements and procedures for registration may include several variants in different countries. In Table 5, we can discern four basic features, allowing us to compare those variants in nature and reach.

Table 5

Country	Registration Type	Modality for Registration	Period	Documents
Argentina	Permanent	In-person and Internet	Continuous and up to 6 months before elections	National Identity Document (NID)
Bolivia	Permanent	In-person in embassies and consulates	In-person in embassies and consulates	Official ID or valid passport
Brazil	Permanent	In-person in embassies and consulates	Continuous and up to 5 months before elections	Official ID
Colombia	Permanent	In-person in embassies and consulates	Temporary and up to 3 months before elections	Citizen card or valid passport
Costa Rica	Permanent	In-person in embassies and consulates or inside the country	Continuous and up to 4 months before elections	Valid identity card
El Salvador	Permanent	In-person and Internet	Continuous and up to 6 months before elections	Identity document
Ecuador	Permanent	In-person in embassies and consulates	Continuous and up to 5 months before elections	Citizen card or valid passport
Honduras	Permanent	In-person in embassies and consulates (only in the US)	Temporary and up to 3 months before elections	Identity card
Mexico	Permanent	Personal, postal and Internet	Temporary and up to 6 months before elections	Photo voting card



Country	Registration Type	Modality for Registration	Period	Documents
Panama	Permanent	In-person and Internet	Continuous and up to one year before elections	Valid identity card
Paraguay	Permanent	In-person in embassies and consulates	Temporary and up to 4 months before elections	Identity card
Peru	Permanent	In-person in embassies and consulates	Continuous and up to 3 months before elections	National identity document
Dominican Republic	Permanent	In-person in embassies and consulates	Continuous and up to 3 ½ months before elections	Identity and electoral card
Venezuela	Permanent	In-person in embassies and consulates	Continuous and up to 3 months before elections	Identity card

The first one is the temporal feature: in each case registration is permanent, which simply means that the voter preserves his/her quality as such for an indefinite length of time, that is, for all successive electoral processes, except in those cases where an additional requirement for validation or update is specified. Given that registrations are usually associated with certain territories – normally the jurisdiction assigned to an embassy or consulate – what is actually demanded of the voter, in case they change their place of residence or return to their country, is that they register the change with the new jurisdiction.

A second characteristic is the modality or means to carry out the registration process. One may discern the following methods: in-person, which implies the personal and direct appearance of the person in a place designated for the purpose; and distance, such as postal or Internet-mediated systems. Distance modalities seem to offer greater advantages for the interested citizen, who would only need to have access to the Internet or a nearby post office to register as required, no matter where they may be. The in-person method has the possible disadvantage of having to travel great distances between one's location or residence and the nearest registration site.

The in-person modality is dominant across the region, therefore it is important to consider some of its aspects. First, the sites planned for registration from abroad are to be exclusively located in countries and cities holding official representations (embassies or consulates) because of diplomatic or organizational rationales, which are readily understandable. The probable reach of this method is usually limited since it depends on the span of the diplomatic network. Secondly, the in-person modality is dictated in accordance with the



characteristic of the voting, that is, they both require strict personal appearance.

These features are not uniformly associated in all cases, sometimes due to the fact that the sites for registration and voting are not necessarily located at official venues – logistical or political causes may determine this – or because the legal devices approved for the purpose limit the implementation of necessary resources to only certain countries or cities. Honduras is an extreme example of the latter: since the approval of voting from abroad in 2001, registration and voting have been limited solely to cities of the United States where the country has consular representations. In contrast, in 2004 the Dominican Republic centred its initial vote from abroad efforts in five foreign countries, but for the following two occasions (2008 and 2009) expanded those to eight countries. Bolivia had a similar beginning in 2009, limiting registration and voting to four countries, but by October 2014 the elections extended to the 33 countries where it has diplomatic representations. Brazil has an interesting situation: registration may take place at any diplomatic venue abroad, but at least 30 registered voters are required before a voting station can be established.

Only two countries accepted from the beginning the modality of registration via postal service – Mexico and Panama. In both cases initial operating difficulties were so large, and compounded by complications for voters, that the systems were quickly revised. The ample reform of the electoral regime carried out in Mexico in early 2014 did significantly affect the device for the vote from abroad. Registration via postal service was not eliminated, but meant to be simplified: citizens were given the option of depositing their ballots at embassies, whose personnel would take charge of the delivery to the electoral authority. More importantly, voters abroad now can vote via Internet. In Panama, the postal ballot has been replaced by the in-person and distant, electronic modalities. One very interesting innovation is that the essential parts of registration can be performed via teleconference (Skype).

Efforts at including ways to register via Internet have become ever more numerous and promising because of their potential scope and ample accessibility. Certainly, other electronic means or new technological applications will very soon offer added possibilities. Obviously, if interested citizens have access to several alternatives for registration, they will be more likely to register and possibly influence elections.

The third feature for assessing the benefits of a registration procedure is the time set for its deployment. Here, two aspects may be considered: the relative continuity or permanence of the procedure, that is, whether or not it is limited to periods around electoral processes; the other is how long before elections the registration periods end. Setting a deadline to complete the paperwork for registration is a feature common to the electoral regimes in Latin America. Adequate time is required for the authority to validate the submitted requests



(registration, dismissal, update or correction of personal data) and to print and deliver the voters' lists that will be displayed on polling day.

Table 5 shows that in most cases – 9 out of 14 – the process for registering voters abroad is continuously available, so it may be performed at almost any given moment, save for after the closing or suspension dates for each election. This is further simplified if the process occurs at permanent venues, even more so if electronic distant means are available. Dominican Republic deserves special mention, since it has established permanent venues abroad specifically for processes related to the civil registry and electoral registration; they are autonomous of diplomatic representations.

The terms for registration are temporary in the other five countries – Bolivia, Colombia, Honduras, Mexico and Paraguay – and they cover a period that commonly ends before each electoral process. There are some variations. For example, the national elections of 2014 were Bolivia's second experience of voting abroad, and on this occasion the number of foreign countries where voting from abroad was available grew from 4 to 33. The registration process was carried out in two stages: one lasting for slightly more than a month during November and December 2013, focused on the 7 countries with the highest numbers of potential voters; the second process included all 33 countries. However, while for the 7 most relevant countries the process in the second stage lasted 3 months (10 March -10 June 2014), for the remaining 26 it operated only in the last month of that period.

Regarding the length of time before elections that closing dates for registration are set: one extreme is Panama, where one full year is required, and the other is Brazil, where it is one month. These terms are appointed in accordance with the time required to update registrations and issue electoral lists within the countries.

The fourth feature for assessing the benefits of a registration procedure corresponds to the identity documents required to register. Countries can be divided initially into two categories: in the first (the majority of countries), only one specific document is admissible. These include the nine nations that have unique national identity documents (whose denominations vary) and Mexico, where there is no national identity card or document but the electoral identification, issued exclusively by the electoral authority, substitutes for it. The other category consists of Bolivia, Colombia and Ecuador, where the passport is admitted as well as the national identity document, and Brazil, where any officially issued document is accepted.

Importantly, in Bolivia, Colombia and Panama it is mandatory for the required document to be valid at the time of the process; if not, registration cannot be finalized. Yet, in every case for which the process requires in-person appearance at an official venue abroad, that venue is also able to issue the required



document. This is an evident advantage for people potentially interested in registering.

Mexico and the Dominican Republic did not initially consider issuing the document required for registration abroad, but given the problems and demands that arose, they reversed that stance. As mentioned earlier, in every country where it has implemented the vote from abroad the Dominican Republic established permanent venues to carry out all registration procedures. The Mexican case will be studied in detail later.

5. METHODS FOR THE CASTING OF THE VOTE

Table 6 shows that most of the region's countries (11 out of 14) strictly require the voter to appear in person at specially created sites; thus, one may speak very properly of in-person voting in controlled environments. The noticeable exceptions are El Salvador, Mexico and Panama, and detailed definitions from Chile are pending.

Table 6

Country	Modality	Comments
Argentina	In-person	It has diplomatic representation in 165 countries.
Bolivia	In-person	It has diplomatic representation in 33 countries.
Brazil	In-person	It has diplomatic representation in 137 countries.
Colombia	In-person	It has diplomatic representation in 63 countries.
Costa Rica	In-person	It has diplomatic representation in 42 countries.
El Salvador	Postal	
Ecuador	In-person	It has diplomatic representation in 84 countries.
Honduras	In-person	Only in the US.
Mexico	Mixed	Postal and Internet
Panama	Mixed	Postal and Internet
Paraguay	In-person	Applies in only 3 countries
Peru	In-person	It has diplomatic representation in 58 countries.
Dominican Republic	In-person	Applies in only 8 countries
Venezuela	In-person	It has diplomatic representation in 92 countries.



The usual practice, provided that space and resources are available, is that voting stations are installed inside the premises occupied by diplomatic representations (embassies and consulates) so as to facilitate organizational and logistical matters, improve control and security and to replicate the operation of voting stations within national territory. As would be expected, the pattern frequently requires variations in order to meet the conditions for voting abroad.

The previous statement is crucial. Especially for the in-person method, it is quite natural to try to replicate the organizational features of the voting process within the country. Yet even when the environment in official venues is quite reliable, the fact that voting is organized abroad inevitably brings about changes and innovations, some major, according to the circumstances of a foreign and scarcely controllable realm.

Most of the models for the in-person modality consider the installation of voting stations inside diplomatic venues as the ideal option. But this parameter admits two important exceptions. The first one relates to implementation of voting stations in alternate or additional sites due to administrative and logistical matters. It may well happen that official venues lack space or resources to implement sufficient voting stations. On these occasions it is sensible to look for locations that facilitate organization and provide the elector with better service or comfort. Therefore, it is common for authorities to request permission to pursue other options, including: the use of public sites or the premises of other official bodies representing the original state; lease of school and sporting facilities, and even the use of offices, corporate buildings or property of national citizens in the host country, as exceptionally considered in the Brazilian legislation.

Some countries have taken measures to further these efforts, especially in recent times, with the intent of bringing voting stations closer to voters. Based on information on voters' residences, contained in the database of the register, authorities from Bolivia, Ecuador and the Dominican Republic have tried to determine the places with the highest populations of voters, so they can establish voting stations where access is easier. Limitations created by the locations of diplomatic representations abroad are hard to overcome for in-person voting; however, as already stated, steps are being taken to counter this.

The other exception to the use of official premises, and involvement of any kind in the casting of the vote from abroad by diplomatic personnel, responds to concerns about the lack of guarantees that personnel will perform functions impartially. From the beginning, the model of the Dominican Republic was structured around this concept – and it remains integral to it – so much so that, as stated before, it created offices abroad exclusively for the electoral authority, where proper legal processes and the necessary organization and logistics for voting can be carried out without the intervention of diplomatic officials.



The previous exception aside, the in-person modality can only actually function in countries and cities with official representation. All in all, the scope of the vote from abroad is directly dependent on the span of the diplomatic network, albeit with the mentioned important exceptions: for Hondurans the in-person modality is limited to six cities in the United States; in its first deployment, Paraguay restricted voting from abroad to four foreign countries, and the Dominican Republic has had it grow only slightly to eight nations.

Generally, established procedures for the selection of personnel at voting stations abroad are analogous to those in the national territory, but there are variations worth mentioning. In some countries, consular officials bear the powers to appoint personnel from amongst registered voters; in Argentina and Colombia, in a primary role and in Peru to substitute for other officials. Consular officials can assume the post of president at stations if the appointed person does not appear on election day. Peruvian law dictates that if a minimum of 200 registered voters is not attained, the consular official shall preside over the station and appoint two voters as assistants for deployment, suffrage and tally, 300 being the minimum number within the national territory for a station to be deployed.

With respect to the number of voters that can participate at each voting station abroad, usually the national standard is followed. Argentinian law sets a maximum of 500 voters per station abroad, but only 300 within its borders. Brazil's law states that the minimum required is 30 registered voters abroad, though 400 is required within its borders. Brazil is also the only country that bestows on the majority of its voters – where the technology is available – the benefit of the electronic ballot box, not to be mistaken with the Internet voting already used in other jurisdictions. In the other 10 Latin American countries that follow a similar pattern, in-person voting abroad is done in a conventional fashion; though Venezuela also employs a form of automated personal voting within its territory, it is not available abroad.

Among the 11 countries that employ in-person voting, 5 – Argentina, Bolivia, Brazil, Ecuador and Peru – have made voting mandatory in national elections, and failure to comply results in monetary and administrative penalties, save for fully justified instances. Only Peru extends the punishments beyond national borders and failure to vote without justification will be thoroughly prosecuted, according to the law. In the four other countries, voting is optional for voters abroad.

Colombia stands out in approving measures to facilitate voting from abroad in the in-person modality. A set of legal reforms was approved in 2011 that provides voters abroad greater advantages for voting. One norm states that voting stations should remain active for one full week, instead of only on election day. This measure was implemented in the majority of voting stations deployed during the legislative and presidential elections of 2014. Colombia



is also the sole country to offer rewards to citizens who exercise their right to vote in national territory or abroad; those who vote abroad receive 10 percent off the cost of any consular service and 30 percent off the tax for leaving the country, when they stay a maximum of 45 days.

In all the cases of in-person, extraterritorial voting, scrutiny and tally of the votes are performed at the stations themselves, and the scheduling is adjusted to the time zones of the corresponding countries. Occasionally disputes have arisen around the differences between time zones, arguments being made that this might allow voters abroad to know preliminary vote counts in external zones – overall those to the east – before voting closes. However there is no evidence that major problems have arisen. Votes cast abroad are transmitted, revised and broadcast once voting in the country has closed or, if relevant, once the banned period ends.

Mexico was the first country to approve postal ballots for voting from abroad; until then only in-person voting was performed within national borders and abroad. Approval of this innovative method was due greatly to requirements imposed by the need to preserve security, reliability and integrity in the process, but certainly the rigorous requirements for registration and voting significantly hampered its potential benefits. Votes were received from almost 90 countries (a wide scope), yet the rates of registration and participation were very poor (because of scarce awareness and interest).

Panama (2006) and El Salvador (2013) followed Mexico's steps in approving the postal ballot for voting from abroad, at least for their first experiences. Despite the evidence available from the Mexican process, and the fact that both countries designed systems with greater allowances for requirements and aid for access, both cases yielded very poor rates of registration and participation (see below). The result was even more surprising for Panama, which in 2013 became the first country in the region to offer its citizens the option of Internet voting in national elections.

The results of the use of the postal ballot in the region fall short of expectations that it could help to overcome the limitations imposed by in-person voting. This is probably partly due to the strangeness of the process for voters, as well as the fact that necessary arrangements have to be made far in advance of election day.

The unsatisfactory results from the two elections and continuing demands to improve the model led the Mexican authority to a recent reform that includes a combined model, like the Panamanian, but with features of its own. The new legislation is of national span and presently ponders the combination of the postal ballot and the Internet vote in the near future; it also fosters the possibility of delivering postal ballots to specially installed stations in the premises of embassies or consulates. This is not an in-person modality; however, it shares some features with it.



It is worth mentioning that in Mexico the ability of states to approve their own regulations regarding the vote from abroad existed already, given the delegation of competences observed in the federal pact. In the local elections of 2012, Mexico City, the federal district, implemented a mode of registration and voting via the Internet for voters abroad, as well as the postal ballot. That was a first for the region.

6. COORDINATION AMONG INSTITUTIONS AND ARRANGEMENTS REGARDING HOST COUNTRIES

Implementation of any system for voting from abroad requires the electoral authority to carry out negotiations, make arrangements and perhaps sign formal agreements to attain certainty and viability for the process, within the original country and abroad. These arrangements may involve a number of institutions, organizations or agencies whose collaboration is needed to make implementation of the system viable or merely simpler.

The type and number of institutions involved and the kinds of arrangements required largely depend upon the characteristics of the model foreseen for registering and voting from abroad. Of course, the in-person modality requires much more coordination than the postal ballot, while Internet voting is the method that poses the least challenges and complexities. Given the extraterritorial nature and implications of a system for voting from abroad, the electoral authority must maintain clear and direct communication with its government so that the necessary support can be timely given. That communication is even more important when the electoral authority is autonomous from the government.

Reluctance to admit government officials as personnel for electoral registration or voting from abroad, and the necessity for communication and collaboration between institutions so as to deploy a proper electoral system outside of the original country, creates a problem. Implementing a sufficiently consistent and efficient system becomes impossible without the support and collaboration of the government, in particular its chancellery and the diplomatic network; this is especially important for in-person voting.

Experience in the region demonstrates that cooperation among institutions of the electoral and governmental realms works along two main axes. First, the organizational and logistical aspects of the election determine specific responsibilities or participation: general guidelines for these are stated in the legal dispositions that authorize the vote from abroad, and they particularly concern embassies and consulates. These dispositions are the basis for communication and coordination, or even of new agreements to improve the clarity and precision of those relations.

Second, actions of the chancellery and its representations may be vital for the feasibility of deploying the system, whether diplomatic personnel bear direct responsibility during the electoral process or not.



We can describe five types of supportive functions for the chancellery, though with variations in each case: 1) liaison and communication with the government or authorities of the country where voting takes place; 2) creation of information about the elections; 3) provisions for the use or lease of locations for the installation of registration or voting stations, also for the contracting of complementary staff or services; 4) transportation, delivery and recovery of electoral documents and material; 5) broadcast and promotion to potential voters.

The functions of liaison and communication with foreign governments are not ruled by established patterns or procedures, though they are usually led or facilitated by the corresponding diplomatic bodies and mediated by official communications of various types. These labours are very specific, and depend on protocols, policies and traditions of the host country, the characteristics of the bilateral relation and, especially, whether the premises and resources to be used belong to diplomatic venues only or if external ones will be necessary.

Information support may comprise several aspects, but for the purposes of this study the relevant one is the supply of information concerning citizens registered or residing in the relevant foreign countries. This allows the authority to estimate the number of potential voters and their geographical distribution, which in turn may facilitate better planning for registration and participation.

It is almost always necessary to look for additional locations and to hire extra personnel or services, especially if official premises or diplomatic staffs are to be avoided. Diplomatic representations have the greatest advantage to facilitate these tasks due to their practical knowledge and relations with the host countries, thus enlisting them avoids unnecessary complications.

The diplomatic pouch can be a practical and economical means to carry and deliver the necessary material and documents in countries where voting abroad takes place, especially delicate items like ballots, electoral lists, templates for voting and tally bills. It may also be a reliable way to send the documents required for official scrutiny and tally to the original country.

The personnel and resources of diplomatic representations may be useful in supporting information strategies designed by the electoral authority for potential voters, as well as campaigns aimed at encouraging registration and voting. This may be done by exhibiting or delivering information at diplomatic venues or on websites, by active intervention of representatives as spokespersons in promotional campaigns and through the use of their contact data to make connections and share information amongst interested groups.

The electoral authority may carry out some of the tasks formerly mentioned, in particular if it is intent on asserting its autonomy vis-a-vis the government, but certainly support given by diplomatic personnel may save time, resour-



ces and labour as well as mishaps during the process of making formal legal or administrative agreements with authorities, institutions, service suppliers, individuals or legal entities.

Most electoral authorities in the region therefore pay special attention to their relation with government bodies regarding voting from abroad. Particularly important are the bodies in charge of foreign policy. There are many ways in which that collaboration may be created, depending on the nature and conditions of the relation between the electoral body and the government. In Argentina, the executive holds direct power over the electoral organization, which can be exercised through one section at the Ministry of the Interior. This provides a strong basis to deliver assistance abroad.

There is no evidence of established guidelines or protocols for governments to arrange for the deployment of systems for voting from abroad. There is debate around the need for official communications or petitions addressed to foreign nations for their approval, one argument being that if the entire process is physically bound to the premises of diplomatic venues, there would formally be no extraterritorial action.

For all purposes, it is better that proceedings adhere to principles of international law and diplomacy, to the law and protocols of the host country and to the norms of bilateral relations, and that the support and provisions bestowed by the host country are in accordance with the features of the system to be deployed. The greater the scope of the process outside of official premises, the more relevant formal understandings with the authorities and suppliers of host countries become.

There have been no cases, among the countries in the region which have implemented the vote from abroad, where the arrangements with host countries have had to privilege or foresee any risk or problems in security beyond the basic measures to keep public order or the security of the process. This situation is different from other countries, such as Iraq, Afghanistan in its own time or some countries from Eastern Europe, where the security risks and the measures necessary to overcome them are not only an essential part of the arrangements with host nations, but even have great impact on budgetary issues.

The peculiarities of the postal ballot require distinct arrangements. Rather than emphasizing governments and diplomatic bodies, attention is directed to negotiations and agreements between postal services in the original countries and abroad, or with specialized international delivery services (such as DHL or UPS).

The huge variety in the types and policies of services offered by postal bodies and specialized airmail providers around the world can make negotiations



straining, even more so if control and security measures are desired in the handling of the mail, such as certified delivery, paid postage or personal deliveries to the relevant voters.

7. STRATEGIES AND PROGRAMMES FOR INFORMATION AND PROMOTION OF THE VOTE FROM ABROAD

The electoral authority may face serious challenges supplying potential voters with timely and sufficient information about registering and voting, or about exercising their rights. The simple reason is that these actions must be carried out and/or have impact abroad, so that the authority must resort to means that are outside their jurisdiction.

Governments in the region that have implemented voting from abroad have faced the challenge of doing so with only imprecise information about the population to work with, including social-cultural profiles, socialization behaviours and geographical patterns of distribution. This imprecise information remains probably the greatest challenge for authorities.

The size and complexity of such a task are determined largely by the method chosen for registration and casting of the vote. The in-person method, limited to countries with diplomatic representation, allows for more precise action, which narrows further if the set of countries is reduced, as in the case of Honduras, Paraguay and the Dominican Republic. On the contrary, distance methods, such as the postal ballot and Internet voting, require actions of ampler scope and international reach, which aim at dispersed sets of population.

Fortunately, a wide variety of strategies and means exist today to face those challenges: modern telecommunications, constant innovation in technology and developments in publicity techniques.

Countries that have ventured in relatively recent times to implement the vote from abroad have faced the most demanding contexts and undertaken most decisively the task of designing and carrying out communications campaigns to deliver information to possible beneficiaries. This has generated an exchange of knowledge and experience among representatives of the region's electoral bodies, facilitating sharing of innovative and effective initiatives and increasing awareness about the relevance of such efforts, thus contributing to the attainment of their ultimate objectives.

It is worth mentioning that today almost every electoral body in the region that has implemented voting from abroad has included the design and implementation of ad-hoc information strategies as essential components. The contents and reach of these strategies vary according to the peculiarities of each system, and are usually sparsely funded, but the determination to profit to the utmost from the resources and means at hand is evident and instrumental in the messages reaching their elusive addressees.



The planning of strategies comprises the basic precaution of resorting to a wide variety of resources. Here are some examples:

Limited use of conventional means of communication abroad

A large proportion of the diaspora consists of labour-driven migrants in countries with languages different than their native ones. They rarely have the chance to access the most influential mass media in the countries where they live, or lack the interest to learn about current matters through such media. Hiring air time or space in the popular media of countries with large populations of potential voters is therefore dismissed for these reasons and for the huge costs implied.

What is sought instead is access to media that offer reduced coverage but larger audiences among Spanish-speaking populations, so that brief appearances or interviews during news or current affairs shows can still have significant impacts. The evidence shows that many local media and some large Spanish-language chains in countries such as the United States accommodate these appearances and facilitate information needs by reducing or waiving costs.

Intensive use of new informative technologies and social networks

The websites of electoral bodies or diplomatic missions, as well as so-called social networks (YouTube, Facebook, Twitter, Tumblr, Instagram, etc.) have recently become the main means for disseminating information campaigns about the vote from abroad.

Whether many in the diaspora have the possibility to access and systematically use those media is a matter of debate, yet they are certainly effective if one wants messages to reach the youth audience, as well as highly cost effective.

Active involvement of migrant organizations and opinion leaders

Developing close relations and alliances with organized groups within diaspora communities in main destination countries has proven to be an effective way to improve reach and effect, regardless of the formats or media chosen to broadcast and otherwise share information.

The experiences of countries like Bolivia, Ecuador, Mexico and the Dominican Republic demonstrate that migrant organizations possess the capacity to exert pressure to demand respect for their political rights, and once they have attained recognition, they display a willingness to support information campaigns aimed at their members.

Recruiting opinion leaders and popular personalities (artists, musicians, athletes, etc.) to support campaigns has also proven effective. In the cases of El



Salvador and the Dominican Republic, alliances have been formed with churches and religious groups that help to share information within relevant communities.

Promotional activities in areas with highly concentrated populations

Identifying areas with high concentrations of potential voters (residential, commercial, sporting, civic and religious sites) is best achieved using information issued by diplomatic representations and migrants' organizations or resulting from purposeful analysis. In those places, information and promotional activities, such as the delivery of brochures, display of posters, as well as presentations in mobile units for instruction and registration, may take place. The Dominican Republic deployed mobile units in areas where registration and voting would later occur.

Efforts to take advantage of every available opportunity to use highly effective promotional activities have included putting institutional propaganda in pre-paid telephone cards, money remittance centres, airports, sporting events, music shows and informative reels broadcast by airlines during flights.

Intensifying diffusion of information in home countries

For the 2006 electoral campaign, Mexico created an integral strategy that focused on disseminating information within its own territory, the first of its kind for the country. The rationale for this has been upheld by other countries of the region: a good proportion of migrants maintain strong ties and have frequent contact with relatives residing in their original country, and the latter serve as natural transmitters of information related to requirements, procedures and opportunities for registering and voting abroad.

8. ELECTORAL CAMPAIGNS IN FOREIGN COUNTRIES

The mere implementation of voting from abroad leads to the subject of the regulation of candidates' campaigning activities abroad.

It comes as no surprise that most legislation on devices for voting from abroad contain no explicit or specific clauses regarding the matter; the few that include them (Argentina, Bolivia and Ecuador), do so in very general terms, but without restraining measures. The noticeable exception is Mexico, whose law explicitly prohibits any campaigning activity in foreign countries.

This gap in the legislation is largely the consequence of the very nature of extraterritorial activities considered for regulation: fundamentally, the original state would have no powers to regulate actions outside its territory, and so the electoral authority has no powers to ensure their due execution.

One may easily suppose that in most cases, and in the absence of legal res-



straints to campaign activities abroad, the execution of such activities would depend solely on the possibilities and interests of the contenders (candidates and leaders or representatives of political forces) and on the restraints and bans imposed by the law of the countries where elections would be held.

We can easily assume that campaigning activities abroad must rigorously observe the terms and conditions set by the legal regulations peculiar to each country. It is beyond the scope of this study to survey the main legal restraints or bans that may affect campaigning activities geared towards voting abroad. Yet, evidence and testimonies indicate that, generally, the development of these activities, proselytizing or effectively delivering propaganda in foreign territory, do not usually face many obstacles and tend to be relatively selective and limited practices.

The practices are said to be limited and selective as they cannot take place as often and in as organized a manner as they would within the original country, because they happen abroad and at a high cost. They are also difficult to carry out in all countries and cities where voting from abroad is to occur.

The cases of Bolivia, Ecuador and the Dominican Republic provide more evidence about campaigning acts abroad. Some common features are :

- a. They are related to presidential candidacies, which is consistent with the governmental regime common to the region and with the only elective post included in all the devices for voting from abroad. In addition, the relation between cost and benefit favours actions during such elections.
- b. In selecting the countries and cities where campaigning acts will take place (especially neighbouring countries, the United States and some European nations) the decision is based on pragmatic speculation about the maximum potential votes weighed against the cost, the conditions of bilateral relations with host countries, the capacity for organization and dialogue of the diaspora and the resources at hand or possible sponsorships.

Information available from the main destination countries for the diaspora shows Canada to be the only one whose legislation bans any type of political and electoral activity related to foreign countries outside of diplomatic premises; this, of course, includes setting up voting stations.

As previously stated, only Mexican legislation explicitly bans political and electoral activity outside the country's territory. This is a consequence of approval of the device for voting from abroad, and a comparatively strict measure, arising from the legal framework and rigorous regulations that aim at preserving security and reliability in voting from abroad. It is also explained by national legislation devoted to the guarantee of equity in electoral compe-



tition, so that this condition may not be altered or infringed by extraterritorial campaigns. The most scrutinized aspects are the financing of parties and campaigns and the access and use of communications media.

The capacity of the electoral authority to ensure that provisions are complied with may be questionable. What one can tell from the design of the regulations and the working of the electoral regime is that there are enough guarantees to inhibit, detect and punish transgressions.

The ban imposed on campaigning activities might preclude voters from receiving and possessing information that could allow them to consider the different proposals. The Mexican electoral authority is the only one to consider this possibility and supplies voters with standard information material provided by the candidates, which is delivered with the electoral ballot.

Extraterritorial campaigning activities deserve a distinct assessment when considered as fundamental means for providing potential voters with enough information for the reasoned or better informed casting of their votes. Even in those cases with the most limited scope and reach, Honduras and the Dominican Republic, it is very unlikely that all candidates have real possibilities of campaigning at every voting station.

That is why contenders in some cases devote so much effort to campaigning via electronic means (blogs, Facebook, Twitter, YouTube Tumblr or common teleconference and chat rooms) where it is possible to establish direct dialogue or contact without actually leaving national territory, and to do it more economically and with greater scope and reach.

9. LEVELS OF REGISTRATION, PARTICIPATION AND DISTRIBUTION OF THE VOTE

Positions and debate around voting from abroad are commonly nurtured by preconceived or ideas lacking evidence. Many pertain to the degree of registration and participation of voters abroad and do not correspond to actual data or indicators.

When a country has approved a device for voting from abroad and is going to implement it for the first time, debate may persist. It is not unusual for interested groups to overestimate the possible effects of voting from abroad and to think that all migrants are potential voters, assuming that most citizens abroad shall eventually devote themselves to complying with requirements and proceedings necessary to become voters.

The available data on the majority of countries in Latin America (as for other regions) show plainly that there are important, even enormous, differences between the estimated population residing or settled in foreign countries and the number of those actually registered as voters abroad. Table 7 displays



data on 14 countries in the region that have deployed systems for voting from abroad. In order to compare relatively homogeneous estimates for all countries, the basis for these figures is estimates from the United Nations Economic Commission for Latin America (ECLAC), on the population of migrants for each country in 2010, and the official registration figures prior to the most recent election that included a device for the vote from abroad.

Table 7

Country	Estimated Diaspora Population	Registered Voters Abroad	Percentage
Argentina	710,000	37,954	5.35
Bolivia	686,000	272,058	39.65
Brazil	874,000	252,343	28.87
Colombia	1'976,000	532,384	26.95
Costa Rica	111,000	12,653	11.40
El Salvador	1'316,000	10,334	0.78
Ecuador	995,000	285,753	28.72
Honduras	611,000	46,331	7.58
Mexico	11'863,000	59,115	0.49
Panama	126,000	5,407	4.29
Paraguay	688,000	21,981	3.19
Peru	981,000	754,154	76.87
D. Republic	1'070,000	328,649	30.71
Venezuela	439,000	100,495	22.89

As can be appreciated, the median of estimated registered voters is less than 20 percent of the estimated population, that is, only one in five persons from the set of potential voters abroad may have registered to exercise their right to vote. Note that this is merely an illustrative calculation based upon two debatable suppositions: first, the estimates are reliable; second, most of the migrants may fulfil the requirements to qualify as voters. Yet, the figures are useful to put in perspective, and under scrutiny, the purported contrast between the whole of the diaspora and those migrants with the capability or genuine interest in registering to exercise their right to vote.

Examining the indicators, one can see that the figures are very heterogeneous. Seven countries are above the median and seven are below it, but there is an astonishing difference between the proportion of participation for Peru (over 75 percent) and for Mexico and El Salvador (below 1 percent). Any purported explanation for this is beyond the scope of this study; the most that one may say is that any serious attempt to compare and interpret the data must be based upon thorough analysis of causes and chronology.



Such an analysis must take into consideration the characteristics specific to each device as described in previous sections: requirements for eligibility, modality, proceedings and instruments for registration and voting. Just as important is the relationship between the geographical distribution of the migrant populations, their social-cultural profiles and patterns, the features of the campaigns carried out by authorities to promote registration and voting from abroad and the measures taken to compensate for deficiencies, limitations or new needs for legal devices or proceedings.

The analysis must also include legal and institutional elements that may greatly influence the proportion of those who register. The example is again Peru, where registration and voting from abroad are mandatory, and failure to vote brings about severe administrative punishment, rigorously observed (loss of the right to perform official proceedings, such as obtaining a passport, or carrying out banking operations). This might largely explain the unusually high percentage of registered voters abroad.

El Salvador and Mexico exhibit striking contrasts. They have the lowest proportions of registration and feature continuous patterns of abundant labour-driven migration, mainly directed towards the United States and including large numbers of illegal migrants. They are two of three countries to have initially approved a postal modality for registering and voting from abroad. Without a doubt, analysis of these cases requires emphasis on the importance of social-demographic and political-cultural variables and on the relevance of the established requirements and procedures for registration and casting of the vote.

Correct assessment of indicators for electoral registration and participation abroad requires a rigorous, integral analysis comprising the features of the approved legal device and their degree of adaptability to face implementation challenges. Variables that affect the performance of the system and the environment of operation must also be included, as must the possibility to introduce adjustments after identifying deficiencies or needs.

By analysing the change in the indicators over time we can see how they have progressed. This exercise might also yield useful insights about the relationship between important changes to the legal device (more allowances in meeting requirements and increase in the system's geographical scope) and between the electoral authority's increasing and systematic efforts to foster access or simplify registration procedures; or even between such efforts and social-demographic processes.

These and other arguments are to be developed ahead. To illustrate them, Appendix 3 integrates a brief historical description of the evolution in registration and participation for the 14 countries that have implemented systems for voting from abroad; it comprises information available since 2000. The comparative tables per country emphasize the proportion between the regis-



tration and participation figures and the national tally, but the third column clearly shows the real increase in the quantity of registered voters.

Costa Rica, El Salvador and Paraguay lack precedents for comparison, given that their early experience is very recent. Argentina shows erratic trends, but the 11 other countries display an increase, which corresponds to an actual increase in the proportion that voters abroad represent in the national total.

Such increases might be simply the result of continuing efforts by electoral authorities to provide information and raise awareness amongst potential voters, but it is also possible that it arises from legal adjustments in the designs of the systems and continuous efforts by authorities to improve the procedures and strategies that facilitate access to or increase the scope of the system. Good examples are Bolivia, which uses the in-person modality and has increased its reach from 4 to 33 foreign countries between 2009 and 2013, and Colombia, Ecuador and the Dominican Republic, which have all modified and improved their models by including guarantees for parliamentary representation of the diaspora.

The very same indicators in Appendix 3 show that the number of voters registered abroad remains very small in comparison with the national total, in spite of their gradual and absolute growth. If one looks at the available figures from the most recent electoral processes of the 14 countries considered (Table 8), one finds that only six are over 1 percent, with the three countries above 3.5 percent being outstanding: the Dominican Republic with 5.19 percent, Bolivia with 4.55 percent and Peru with 3.78 percent. The lowest results are again found in Mexico, with hardly 0.08 percent, and El Salvador and Panama, which scarcely surpass 0.20 percent. Oddly enough, all three are countries whose devices initially operated via postal service.

Table 8

Country	Year	National Electoral Register	Electoral Register Abroad	% it Represents
Argentina	2013	30'635,464	37,954	0.12
Bolivia	2014	5'973,901	272,058	4.55
Brazil	2010	135'804,433	200,392	1.48
Colombia	2014	29'853,299	532,384	1.78
Costa Rica	2014	3'078,321	12,653	0.41
El Salvador	2014	4'955,107	10,334	0.21
Ecuador	2013	11'675,441	285,753	2.45
Honduras	2013	5'355,212	46,331	0.87
Mexico	2012	71'738,494	59,115	0.08
Panama	2014	2'456,960	5,407	0.22



Country	Year	National Electoral Register	Electoral Register Abroad	% it Represents
Paraguay	2013	3'516,275	21,981	0.63
Peru	2011	19'949,915	754,154	3.78
Dominican Republic	2012	6'337,567	328,649	5.19
Venezuela	2013	18'904,364	100,495	0.53

These registration figures should prompt revision and re-shaping of expectations about the importance of the devices for voting from abroad. Figures pertaining to attendance during voting make for even deeper reflection, considering the distant modality, the postal ballot and Internet voting. Once more, the records in Appendix 3 are useful to understand the level of effective voting from abroad. If one considers only the records of the most recent elections for which there is sound data, only in Bolivia, Peru and the Dominican Republic are the votes from abroad found to surpass two percent of the total. For the majority of elections, votes from abroad represented less than one percent of all votes, that is, fewer than 1 out of 100 votes cast came from voters abroad.

Table 9

Country	Year	National Electoral Participation	Electoral Participation Abroad	% it Represents
Argentina	2013	23'641,116	n/d	n/d
Bolivia	2014	5'310,437	168,535	3.17
Brazil	2010	111'104,770	88,977	0.08
Colombia	2010	13'061,735	23,032	0.18
Costa Rica	2014	2'099,219	2,771	0.13
El Salvador	2014	2'723,246	2,724	0.10
Ecuador	2013	9'467,062	132,950	1.40
Honduras	2013	3'275,346	4,000	0.12
Mexico	2012	49'087,446	40,714	0.08
Panama	2014	1'886,208	949	0.05
Paraguay	2013	2'409,437	9,013	0.37
Peru	2011	16'466,397	378,792	2.30
Dominican Republic	2012	4'493,788	138,561	3.08
Venezuela	2013	15'059,630	62,311	0.41



The latter confirms that the impact of the vote from abroad is generally quite minimal, if one considers only numbers. These data help to refute the very questionable thesis that voting from abroad possesses a 'defining' capability for an election, based on the sheer quantity of votes. This thesis stems from the exaggerated, unfounded expectations placed on electoral registration outside of the country.

The thesis on the 'decisive' nature of the vote from abroad does not hold together from a strictly statistical point of view since the variables related to structuring or distribution of electoral preference are many: age, sex, degree of education, geographical location, income, etc.). These may be isolated and used to explain the result of a highly competitive election, decided by a narrow portion of the votes; however such explanation is further weakened if the magnitude of the chosen variable is greater than the difference between the two main contenders.

This oft-quoted thesis depicts the diaspora electorate as homogeneous in preferences. Yet to a certain extent, the electorate abroad is a small sample or snapshot of the national electorate. Once again, available evidence shows that in most cases the distribution of electoral preferences abroad is analogous to that within the country, at least regarding the political party or candidate that obtains the higher number of votes.

The underlying assumptions of this thesis should also be questioned as they are contrary to recognition of the diaspora's political rights. They include doubts about their loyalty to the interests of the nation, and their ability to define their preferences freely, uninfluenced by foreign powers.

Analysis of the data on electoral registration and participation abroad leads to an important issue: the trend in the region is a gradual, sustained increase in the relative and absolute quantities of registered voters abroad, a conclusion that contrasts with indicators of electoral participation that yield erratic behaviours. This increase may be due to social-demographic tendencies or institutional efforts to improve the devices, but the efforts to increase the number of registered voters are not commonly matched with a corresponding rise in voting turnout.

Analysis of the causes or factors responsible for this situation is not among the aims of this study; that deserves thorough treatment on its own. That said, the seemingly general trend may suggest an incompatibility between institutional efforts to increase the scope and reach of the voting devices, and the interest generated by candidates' proposals among voters.

10. POLITICAL REPRESENTATION FOR THE DIASPORA

Growing recognition of the diaspora's political rights has led to one of its most perfect expressions: the approval of legal devices that guarantee the



diaspora's parliamentary representation by means of reserved seats that can be occupied solely by representatives of their choice.

Until now, only Colombia, Ecuador and the Dominican Republic acknowledge and guarantee this right in their laws, by integrating diaspora representatives in national assemblies. Yet, migrants from many other countries are starting to claim this right, so that in the near future the number of countries adopting this mechanism can be expected to rise.

In Mexico, which has a federal political system, to date three states – Chiapas, Guerrero and Zacatecas – have adopted legislation guaranteeing at least one 'migrant' representative in their corresponding local legislative assemblies, according to their own terms and modalities. The State of Durango has bestowed on political parties the right to nominate at least one 'migrant' candidate.

The nature and reach of this document dictates that we focus our assessment on the three countries that include this mechanism in the national sphere, but this section ends with a brief reference to the devices used by the four Mexican states that acknowledge 'migrant' candidates or deputies.

First, we must point out that the device included in the national legislations of the three countries implies the following:

- The passive electoral capacity of migrants; that is, the right to be nominated as candidates for public posts, in this case for a seat in the parliament as a representative of the diaspora.
- So as to secure such representation, the electorate abroad must define one or several extraterritorial electoral jurisdictions, and elect representatives for each one.

This is a very recent development in the region as regards comparative electoral law. Colombia holds the distinction of being the first country to implement the practice, in 2002, based on the mandate established in the 1991 constitutional text. That text includes the possibility for special jurisdictions to be defined, ensuring the participation of ethnic groups, political minorities and residents abroad in the Chamber of Representatives. It more than a decade for that possibility to become reality, due to the proceedings required for proposing and approving a law. It defines the legal framework for the election of five deputies in special jurisdictions, one of which corresponds to residents abroad.

The new constitutional text approved in Ecuador recognized the right of the diaspora to parliamentary representation in 2008, two years after a device for the active vote of migrants was adopted. This right was first exercised during the 2009 general elections. The latest country to adopt the practice is the Do-



minican Republic: in 2010 it approved an important set of constitutional reforms, and in 2012 Dominicans residing abroad had the chance to exercise their right to choose representatives for the Lower Chamber.

Number of seats and their extraterritorial distribution

Table 10 shows the one major difference among the three national devices that guarantee the parliamentary representation of migrants: the number of seats approved. Colombia increased the number to 2 out of the 166 total seats in the lower chamber or Chamber of Representatives in a legislative amendment published in July 2013. Despite the increase, an argument can be made that one or two members of the diaspora cannot adequately represent and promote the interests, postures or perspectives of such a heterogeneous group.

Migrants hold 6 out of 137 seats in the National Assembly in Ecuador and 7 out of 190 in the Chamber of Representatives in the Dominican Republic, figures that could at least soften some of the above criticism.

Despite the increased number of representatives, Colombian voters abroad are still grouped in a single electoral riding and vote for candidates on a single global list. Therefore both elected candidates represent all residents abroad, 532,000 of whom had the right to vote in the legislative elections of 2014. Interestingly, the process and results of the first election of the representative for Colombians abroad, in 2002, were controversial. Because of the way that the regulatory law for special circumscriptions was initially interpreted, the full electorate was entitled to vote for five special deputies, including the one representing migrants. The outcome was that the elected diaspora deputy received most votes from the electorate residing in the country, not from Colombians abroad. A later reform corrected that deficiency, so that as of 2006 the two deputies can only be elected by voters entitled to vote from abroad.

In Ecuador and the Dominican Republic, voters abroad are randomly distributed into three extraterritorial circumscriptions, though with interesting variations for each country. As said previously, the Ecuadorian device is defined by the country's diplomatic network, therefore it includes 33 countries, while the Dominican device includes 7 countries.

Consequently, the extraterritorial jurisdictions of Ecuador possess a wider scope: one comprises only the United States and Canada; another embraces Latin America, Caribbean countries and Africa; and the third one spans Europe, Asia and Oceania. The law dictates that for every jurisdiction two representatives must be elected, based on the constitutional disposition requiring at least two representatives per riding for the integration of the National Assembly. However, data from the February 2013 elections shows a noticeable difference amongst the corresponding population: North America hosts 71,584 voters, Europe, 191,964 and Latin America, 21,935.



The delimitation of ridings for the Dominican Republic has two peculiar features. The first is that the electorate registered in the United States is divided into two ridings: the first is North America, formed by Canada (Montreal and Toronto) and the north of the United States (New York, New Jersey, Massachusetts, Pennsylvania and Washington, DC); the second is the Caribbean Basin, including Florida, Puerto Rico, Panama and Venezuela; and the third is Europe, comprising Spain (Madrid, Barcelona, Valencia), Italy (Milan), Switzerland (Zurich) and the Netherlands (Amsterdam). The second peculiar feature is that the North American circumscription hosts the highest number of registered voters and has three representatives, while the other two have two each, resulting in a sort of weighed representation for each riding.

Requirements for eligibility and voting

All three countries permit a citizen to be nominated to the post of representative of residents abroad if they bear citizenship, are at least 25 years old and are nominated by a legally acknowledged political party or movement. In the Colombian case, social movements and significant groups of citizens can also nominate individuals. Requirements of residence differ: while a minimum residence of five years abroad must be proved in Colombia, Ecuador requires only three years, and the Dominican Republic also five, but within the riding to be represented.

The three countries include legislative elections in voting from abroad, but with some differences. On the one hand, Colombia and the Dominican Republic have two-chamber parliaments. They are also the only nations in the region where presidential and legislative elections are held on different dates. In both countries, the vote from abroad is cast to elect members of the two chambers, but in the case of the upper chamber (the senate), the voters select candidates from their electoral riding within the country, while for the lower chamber they can only vote for candidates running in their riding abroad.

The seats at stake are assigned by proportional representation, both for the unique Colombian riding abroad and for the three Dominican ridings. However, while in Colombia the nominating party or group can decide if the voter may or may not cast a preferential vote for any of the two candidates, in the Dominican Republic the list is closed and blocked.

Ecuador has a single-chamber parliament and its elections are concurrent. Voters abroad are given ballots to cast their votes in favour of candidates to represent their ridings abroad as well as for members of the national assembly, which gives them a two-fold opportunity to influence the formation of the assembly. In both cases, the voter can cast a ballot for a list of candidates from one party or cast a preferential vote for various candidates in the riding, even from different lists. The two seats in dispute for each riding abroad are designated by the proportional representation principle, but if the list in second place does not attain at least 35 percent of the votes received by the leading one, this latter retains both seats.



Legislation regarding elections for representatives of the diaspora is not abundant, and the lack of specific regulations for campaigning activities abroad is as noticeable as it is consequential. The original states have no powers to regulate actions outside their territory, so ultimately the regulations to which the campaigning activities may be subjected would be: a) those that can be extrapolated, verified and sanctioned based on internal regulations; b) ones stemming from legal regulations of the countries where those activities would be carried out.

Gauging the preference of heterogeneous and dispersed electorates across several nations is an enormous challenge for any candidate of the diaspora. To have his or her message reach voters demands a great deal of capacity and resources, combined with creativity and ingenuity. This may make campaigning for the vote from abroad one of the most favourable and fertile areas for the intensive usage of new technologies. Data from the most recent elections show the number of registered candidates for seats representing migrants: 28 in Colombia, 2014; 56 in Ecuador, 2013; and 82 in the Dominican Republic, 2012.

The representation of migrants in Mexico

As mentioned earlier, 4 of the 32 Mexican states (including 1 federal district) have approved legal devices to promote or guarantee the presence of representatives of migrant communities in local legislatures, communities that are based mainly in the United States. The following table depicts the basic features of these devices:

Table 10

Entity	Terms of the Device	Comments
Chiapas	One of the 41 seats of the local Congress is reserved for one migrant representative (woman and resident of the US.). Only voters registered abroad can vote for her.	Applied in 2012 for the first time.
Durango	The parties must nominate one migrant among their candidates to the Congress. There is no guarantee of representation.	
Guerrero	One of the 46 seats of the local Congress is reserved for a migrant or binational citizen. This is a proportional representation seat and is assigned to the list of the party that gets more seats by this principle. It is not elected from abroad.	Will apply in 2018 for the first time.
Zacatecas	Two of the 30 seats that make up the local Congress are reserved for migrant representatives. These are proportional representation seats, and are assigned to the two parties with most votes. They are not elected from abroad.	Applied in 2004 for the first time.



11. RECOGNITION OF THE RIGHT TO VOTE FOR FOREIGNERS

The subject of this study begs mention, though brief, of the situation regarding recognition of the right to vote of foreigners residing in the region's countries. In a way, this is the reverse of the aim of promoting and facilitating the exercise of the right to vote among voters abroad.

This subject lacks much of the exposure and popularity of the debate, and regulations, on migrants' rights, yet it arises naturally alongside our primary topic and in relation to international migration phenomena, processes of globalization and the re-shaping of notions around citizenship and the ensuing entitlement to political rights, at least voting rights, in the place of residence.

Ten countries in the region explicitly include in their legal regulations the right for foreigners residing in their territories to take part in some electoral processes, provided that they satisfy certain requirements (see Table 11). Although this possibility is normally quite restricted, it is a positive and progressive symbol.

Some aspects to be elicited are:

- Among the 10 countries, only Uruguay has not yet approved any device for the vote from abroad. A proposal submitted to referendum in 2009 did not obtain the consent of the majority. The other nine do permit the vote from abroad.
- The Argentinian federal pact allows foreigners to vote in two provinces: Buenos Aires (in provincial and municipal elections), and Santa Fe (only in municipal ones). The other federation approving the matter, Brazil, grants the right in all electoral processes to Portuguese citizens only.
- Among the eight unitary states, the cases of Chile and Uruguay stand out. Foreigners in those countries who satisfy the legal requirements can take part in electoral processes for all spheres of government, though the length of residence required differ significantly. In Ecuador and Venezuela the right is valid for elections involving spheres other than the national. In all four cases, the right is essentially for municipal or lower-level government elections..

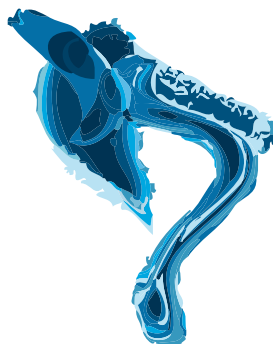
Table 11

Entity	Description
Argentina	In Buenos Aires province, foreigners are allowed to vote in provincial and municipal elections. In Santa Fe province, foreigners are only allowed to vote in municipal elections.



Entity	Description
Bolivia	The law allows foreigners to vote in municipal elections when they can prove that they have been legal residents for at least two years in that same municipality.
Brazil	The Brazilian constitution allows the vote exclusively for Portuguese citizens residing in the country, for all types of elections. This is due to a reciprocity agreement between the two nations. To exercise this right, Portuguese residents must first ask for permission from the Ministry of Justice.
Chile	The Political Constitution states that foreigners living in Chile for over five years who comply with the requirements, may exert their right to vote in such cases and ways as foreseen by the law (including elections for President, representatives, locally and referenda ¹⁹).
Colombia	Foreigners residing in Colombia may vote in municipal and district elections and direct participation devices where they live. In order to do so, they must be 18 years old, registered in the electoral roll, have a resident's visa, alien ID card, and be able to prove having lived there for five continuous years with no interruption.
Ecuador	The Political Constitution allows foreigners with at least 5 years of legal residence in Ecuador, who have a resident's card and are enlisted in the electoral roll, to vote in provincial, municipal and parish elections.
Paraguay	According to the Constitution, foreigners who live in the country permanently may vote in municipal elections, but must be registered in the electoral identity register and have a alien ID card.
Peru	Foreigners may vote only in municipal elections. They must be registered in the Electoral Roll for Resident Foreigners in Peru, must have legally resided for more than two continual years prior to the date of the elections, and must vote with a special document issued by the National Registry of Identification and Civil Status exclusively for polling day.
Uruguay	The Political Constitution states that foreigners of good behaviour, with a family constituted within the republic, with good capital or a property in the country, or those who profess science, art or industry and have lived in Uruguay for 15 years at least have the right to vote (President, representatives, locals).
Venezuela	According to the Constitution, foreigners who are 18 years of age, with more than 10 years of residency in the country, who are enlisted in the electoral roll and are not prevented from exercising the vote may participate in parish, municipal and state elections.





III. BALANCE AND PERSPECTIVES

The turn of the century brought a noticeable increase across the region in application and approval of devices for voting from abroad. So much growth has occurred, in fact, that the region today is among world leaders in approving the practice. Should the trend continue, we are likely to see further growth by the end of this decade. In Guatemala, the topic has aroused such wide consensus that it seems difficult for the next electoral reform not to offer a positive answer. . In Uruguay, despite rejection of a proposal in the 2009 referendum, the current government and various political forces have reiterated their willingness to encourage a new initiative.

Approval of regulations remains subject to conditions, demands or contingencies particular to each political system and regime but even so, there are identifiable common elements that are decisive or characteristic to decision-making processes in most of these countries. The first is that democratising impulses and trends developed in recent decades have created a global context favourable to recognition of migrants' political rights. The second is that migrants have played decisive roles in creating the conditions for initiatives that respond to their demands, for they are often messengers for a renewed political and civic conscience that goes beyond this issue and is largely associated with democratising processes.

The third common element is that initiatives for recognition and regulation of voting from abroad have come about together with reforms aimed at strengthening recently established democratic institutions and electoral regimes, independent of the political motives that gave rise to those initiatives. Thus, most devices for the vote from abroad have been approved only after the processes of democratic change have been consolidated within the original country. Voting from abroad will, in turn, consolidate further and legitimize those democratic changes. The fourth element is that in countries with vo-



ting from abroad devices, legislators and electoral authorities are attempting to modify systems in order to provide easier access, larger scope or promotional activities that would result in greater participation of voters abroad.

One distinctive feature of the devices approved is their high degree of formal inclusiveness. In effect, in no case is access to voting from abroad restricted to certain categories of citizens or based on length of residence in the destination country, unlike in other countries that impose such restraints.

Throughout the region, limitations to the scope and reach of the devices are not dictated by requirements that are additional to those demanded in national territories to qualify as voters. Instead, they stem from the terms and proceedings devised for registration and casting of the vote. Their limitations are rather administrative and logistical. A device requiring in-person appearance cannot possibly be universally applied as not all migrants – even among those who wish to vote – will be able to reach a voting station, but in-person voting is the dominant trend in the region. At most, this mechanism is as ample in scope as the diplomatic network upon which it is based. In some cases, the range of action is quite limited: Hondurans can only vote in some cities in the United States, while Dominicans can do so in eight countries. Nevertheless, none of the devices deployed in the region has been designed to discriminate by profile, conditions or specific characteristics of potential voters.

That a sizeable portion of the diaspora from most countries in the region is today made up of irregular migrants has practical implications for the assessment and performance of devices for extraterritorial voting. No evidence has been gathered over the years to support the perception that pervades the common imagination of migrants: that the actions performed or the mandates provided for registering and voting from abroad may have been used to expose voters' migratory conditions to the authorities of the host countries, or even worse, to take action against those with irregular status. In their actions for diffusion, advising and training to promote the vote abroad, electoral authorities must be sensitive to this situation.

It is very likely that the relatively low and sometimes minimal rates of registration and participation in voting abroad are caused by administrative restrictions inherent to any device, the aforementioned perceptions of peril and, in best case scenarios, the time, money and effort required to comply with procedures.

However, recent events have yielded encouraging results. Bolivia, Ecuador and the Dominican Republic have outstanding indicators that rise above the regional average. From the very first instance of voting from abroad in Bolivia and Ecuador, there was an unusually positive response from potential voters, which was reciprocated by the efforts of authorities to facilitate access and widen the scope of the mechanism. The discouraging results from the first



experiences in the Dominican Republic were a major motive for authorities to assess the deficiencies and limitations of their model and to make the necessary improvements.

Not less important is the fact that Mexico, El Salvador and Panama, i.e. the countries that decided to use the postal ballot initially, are those that currently have the lowest registration rates and consequently, the lowest absolute participation of potential voters vis-à-vis the national tally. There is a contradiction between the features of the postal ballot method, which should have greater scope and reach than in-person voting, and its very poor results. Some factors may explain this outcome, such as atypical procedures for registering and voting or problems posed by the constant mobility of many migrants, which precludes them having a fixed address where they can receive electoral documents. All in all, developments in information and communication technology at the start of the 21st century, combined with future developments that might be applied to elections, may render the postal ballot ever more anachronistic.

First results from the use of Internet voting from abroad have not been very encouraging, initially in Panama and then in Mexico for local elections. Yet, it seems premature to pass judgement on a trend that aims at broadening the practice and presents many other potential benefits. More in-depth analysis should result when we can include the registration and participation data of the Mexican diaspora, which, due to the most recent electoral reform, will be able to vote via Internet in the 2018 federal elections.

Distance electronic voting is already at hand, via the Internet or through other technological applications that may significantly increase the scope, access and ease in deploying devices for registration, promotion and casting of the vote from abroad. Its approval in the near future in a greater number of jurisdictions may depend more on the response to reticence or suspicion about the reliability and security of such devices, rather than on budgetary concerns. In other words, candidates and interested groups must receive full guarantees of confidence and certainty in the entire process.

The great variety and differences among the models prevent fixing parameters in order to compare costs. Still, available information reveals that implementing and operating devices for voting from abroad requires significant additional resources, as in the Mexican case, making such voting more expensive than voting within the national territory. Yet again, the implementation of systems for distant electronic voting may produce advantages when weighing cost against scope and accessibility.

The introduction of new information technologies for remote voting widens the horizon of opportunities in terms of scope and access for several sectors in the diaspora and also makes the use of these technologies in sub-national elections feasible. Definitions on this matter depend more on political-institu-



tional judgements; however, a sizeable proportion of the administrative and logistical complexities posed by voting from abroad for local elections could be diminished or overcome with computer solutions.

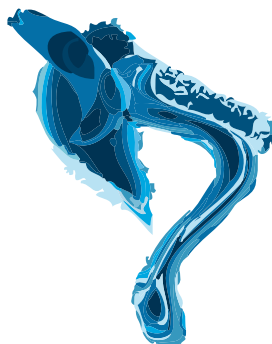
There are no clear signs of intentions to expand the reach of regulations on devices for voting from abroad (beyond those simplifying registration and casting of the vote) into those aspects regarding conditions for competition, such as the running of electoral campaigns or the creation of an explicit system for the resolution of conflict. Yet, this is a possibility that should not be dismissed: Ecuador dictated limits for campaign expenditures that candidates for the diaspora have to abide by, and Mexico took a drastic approach by banning any electoral activity abroad. These, however, are rare cases.

Difficulties in overseeing compliance with regulations during electoral activities on foreign soil and the fact that these latter must also conform to the legal context of the foreign country are, for the time being, two main elements obstructing the extension of regulations on the conditions of electoral campaigns under the premise of minimal guarantees of equity for voting from abroad. This is already noticeable internally in several countries of the region.

One area where new positive action may arise in the near future, due to intensified demands, is the approval of parliamentary representation for the diaspora. No research papers, theoretical or practical, have been found to attempt an assessment of the meaning and implications of this measure very recently implemented in three countries of the region. Nevertheless, this trend is propelled by the persistence of international migratory flows from the region, though erratically due to fluctuations of the global economy, and the growing expectations of the diaspora concerning their political rights in a worldwide context of democratization.

Ideally, the genuine universalisation of political rights, or at the very least of suffrage, could be guaranteed if its entitlement and exertion were associated to the effective residence within a determined territorial jurisdiction (national). But those ideal conditions are unlikely to occur in the foreseeable future; therefore, the recognition of certain rights – voting and parliamentary representation – becomes the only real possibility for millions of people outside their original countries to have access to those rights, albeit in a limited and symbolic way.





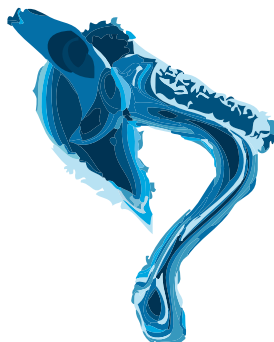
NOTES

1. Except when indicated, the data tables have been elaborated specifically for this study. The information comes from INE's international area's data base, which is fed fundamentally from direct sources, and from the ACE Electoral Knowledge Network.
2. The date refers to the year when the legislation that enabled voting from abroad was approved, not necessarily the year when it was implemented.
3. In International IDEA's database (<http://www.idea.int/resources/databases.cfm#vfa>), one can check the complete list of countries with regulations and devices for voting from abroad. The list is regularly checked and updated.
4. See the document "World Migration in Figures", jointly prepared by the Economic and Social Affairs Department, United Nations (UNDESA), and the Organisation for Economic Co-operation and Development (OECD) for the High Level Dialogue on Migration and Development, held in October 2013, (<http://www.oecd.org/els/mig/SPANISH.pdf>).
5. The same UNDESA and OECD document stresses: "the migration rate of very qualified people was superior to the total rate of migration in almost all of the countries of origin."
6. Among the most recent and exhaustive studies on this topic, is Adam y Devillard (eds), *Comparative Study of the Laws in the 27 EU Member States for Legal Immigration Including and Assessment on the Conditions and Formalities Imposed by each Member State for Newcomers*, Ginebra, IOM, 2008, (http://publications.iom.int/bookstore/free/IML_16.pdf).
7. In this sense, the following texts have already become classics: Baubock, Rainer, *Transnational Citizenship. Membership and Rights in International Migration*, Edward Elgar, Cheltenham, U.K. & Northampton, Ma., E.U.A, 1994; Soysal, Yasemin, *Limits of Citizenship. Migrants and the Postnational Membership in Europe*, Chicago, The Chicago University Press, 1994.
8. Article 22 of the European Union Treaty states the right of all EU citizens to vote and run as candidates both for municipal elections and for the European Parliament in the EU country where they live, under the same conditions as nationals. More information can be found at: http://ec.europa.eu/justice/citizen/voting-rights/index_en.htm. New Zealand recognizes the right of foreigners to vote after a year of effective residence, and they may exert this right even if they are outside the country. More information can be found at: <http://www.elections.org.nz/voters/get-ready-enrol-and-vote/enrol-and-vote-overseas>.
9. The main international legal instruments related to the protection of political rights in general and migrants in particular can be found in Appendix 1.
10. The list of countries, aside from the three Latin American countries, which have granted the diaspora parliamentary representation are listed in Appendix 2.



11. Details on the Portuguese and Spanish experiences can be checked in the case studies included in the International IDEA Handbook on voting from abroad: (http://www.idea.int/publications/voting_from_abroad/upload/Votex-SPA.pdf).
12. See especially the Ellis and Navarro collaborations in the same International IDEA Handbook.
13. In this sense, some of the most representative examples are the Ellis collaboration and the case studies included in the International IDEA Handbook, as well as the different experiences in the book, Calderón Chelius, *Votar en la distancia*, México, Instituto Mora, 2003. Some other illustrative examples are the texts Araujo, Lorena, "Estado y voto migrante: una radiografía de la Región Andina", in the central dossier of a FLACSO-Ecuador text: (<http://repositorio.flacsoandes.edu.ec/bitstream/10469/2083/3/BFLACSO-AM7-01-Araujo.pdf>) ; and Lafleur, "Díspora y voto en el exterior: La participación política de los emigrantes bolivianos en las elecciones de su país de origen" (http://www.cidob.org/es/publicaciones/serie_de_publicacion/monografias/monografias/diaspora_y_voto_en_el_exterior_la_participacion_politica_de_los_emigrantes_bolivianos_en_las_elecciones_de_su_pais_de_origen; <http://www.cidob.org/es/content/download/31656/484489/file/Di%C3%A1spora+y+voto+en+el+exterior.pdf>).
14. In Panama, the original legal instrument that contemplated voting from abroad was abolished in 2001 without being applied. It was reintroduced in 2009, and has been valid and operating since then. As a result of disappointing experiences or the complexities faced in maintaining a mechanism, some countries such as Afghanistan, Armenia, Cambodia and the Cook Islands implemented devices only temporarily.
15. At a global level, Estonia's case stands out because, along with its high degree of sophistication, it gives the voter huge guarantees and facilities: (<http://www.vvk.ee/voting-methods-in-estonia/voting-abroad>). Of course, the debate cannot dismiss the reversals experienced with voting from abroad in countries like Germany or the Netherlands, clearly documented in the work presented at the International Congress on Technology and Elections organized by the Federal Electoral Institute, which took place in Mexico City in September 2013. On the use of electronic voting for voters abroad it is also worth reading: Benoit, Kenneth, "Experience of Electronic Voting Overseas", The Policy Institute, Trinity College Dublin: (<http://www.unic.pt/images/stories/publicacoes1/Appendix%20J.pdf>)
16. See the section on migration numbers in the World Bank database: (<http://datos.bancomundial.org/indicador/SM.POP.TOTL>). To go deeper into the situation and international migratory dynamics of the Latin American countries, we recommend Durand's and Schiavon's work: *Perspectivas Migratorias: Un Análisis Interdisciplinario de la Migración Internacional*, (Migration Perspectives: An Interdisciplinary Analysis of International Migration), CIDE, Mexico, 2010, especially the first two chapters.
17. In those countries with a two-chamber congress where voting from abroad includes legislative elections, it is indicated if voting from abroad implies both chambers or only one.
18. To delve deeper into the subject the following texts are useful: Rubio, Ana y Moya, Mercedes, "Nacionalidad y ciudadanía: una relación a debate", in the Annals of the Cátedra Francisco Suárez, University of Granada, Spain, 2003, (<http://digibug.ugr.es/bitstream/10481/20144/1/nacionalidad%20y%20ciudadan%C3%ADa.pdf>); and Sojo, Carlos, "La noción de ciudadanía en el debate latinoamericano", in Revista de la CEPAL, no. 76, April, 20002, (http://repositorio.cepal.org/bitstream/handle/11362/10799/076025038_es.pdf?sequence=1).
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- Law 4.737 Electoral Code

Colombia — www.cne.gov.co

- Law 1475 of 2011, regulations on the organisation and functioning of political parties and movements, for the electoral processes and some other dispositions

Costa Rica — www.tse.go.cr

- Electoral Code

Dominican Republic

- Electoral Law 275 of 1997
- Law No. 136-11 on the vote of Dominicans abroad

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- Democracy Code

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- Special Law for Out-of-country Voting at Presidential Elections, February 2013

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- Electoral Code

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- Electoral Code
- Regulation for the suffrage of Paraguayans residing abroad for the General Elections of April 2013

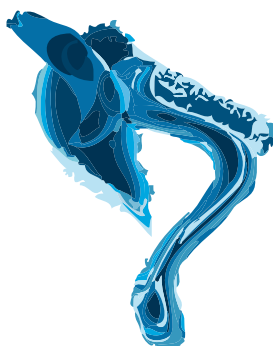
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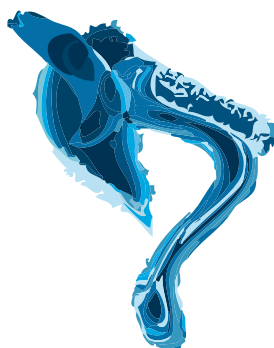
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APPENDICES



Appendix 1

List of international legal instruments

- The Universal Declaration of Human Rights (1948)
http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf
- American Convention on Human Rights “Pact of San Jose, Costa Rica” (1969)
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- European Convention on Human Rights (1950)
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- International Covenant on Civil and Political Rights (1966)
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- International Covenant on Economic, Social and Cultural Rights (1966)
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<http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)
<http://www2.ohchr.org/english/bodies/cmw/cmw.htm>
<http://www.ohchr.org/Documents/Publications/FactSheet24rev.1en.pdf>
- Convention relating to the Status of Refugees (1951)
<http://www.unhcr.org/3b66c2aa10.html>



Appendix 2

Country	Number of seats and Percentage of the Total
Argelia	8 (2% de 389)
Cabo Verde	6 (8.3% de 72)
Croatia	6 (3.9% de 152)
France	12 (3.6% de 331)
Italy	12 (1.9% de 630)
Macedonia	3 (2.4% de 123)
Mozambique	2 (0.8% de 250)
Portugal	4 (1.7% de 230)



Appendix 3

HISTORIC DATA ON VOTER REGISTRY AND ELECTORAL PARTICIPATION ABROAD Compared with national data

ARGENTINA

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2001	24'883,991	28,158	0.113%	18'343,214	n/d	n/d
2003	25'479,366	n/d	n/d	19'594,199	6,420	0.035%
2005	26'098,546	32,510	0.123%	18'513,717	2,992	0.016%
2007	27'090,236	44,452	0.164%	19'452,594	8,127	0.042%
2009	27'797,930	41,827	0.151%	20'123,715	4,301	0.021%
2011	28'918,335	47,042	0.162%	22'956,385	7,660	0.034%
2013	30'635,464	37,954	0.124%	23'641,116		

BRAZIL

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2002	115'245,113	69,937	n/d	n/d	n/d	n/d
2004	121'391,631	59,352	n/d	n/d	n/d	n/d
2006	125'913,479	86,360	n/d	95'996,733	38,860	n/d
2008	130'604,130	132,354	1.01	n/d	n/d	n/d
2010	135'804,433	200,392	1.48	111'104,770	88,977	n/d
2012	140'646,446	252,343	1.79	n/d	n/d	n/d
2014	142'822,046	354,184	n/d	n/d	n/d	n/d

BOLIVIA

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2009	5'139,554	169,096	3.29%	4'859,440	125,101	2.57%
2014	5'973,901	272,058	4.55%	5'310,437	168,535	3.17%



COLOMBIA

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
1998	n/d	n/d	n/d	10'683,897	40,543	0.398%
2002	24'208,311	96,647	0.42%	11'249,734	33,148	0.295%
2006	26'731,700	319,045	1.19%	12'058,788	121,115	1.004%
2010	29'853,299	410,657	1.38%	13'061,735	23,032	0.176%

COSTA RICA

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2014	3'078,321	12,653	0.41%	2'099,219	2,771	0.13%

EL SALVADOR

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2014	4'955,107	10,334	0.21%	2'723,246	2,724	0.10%

ECUADOR

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2006	9'165,125	143,352	1.56%	6'531,870	87,513	1.34%
2007	9'371,232	152,180	1.62%	6'857,466	39,698	0.581%
2009	10'529,765	184,584	1.75%	7'975,133	79,434	0.996%
2013	11'675,441	285,753	2.45%	9'467,062	132,950	1.40%

HONDURAS

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2001	3.448,280	10,826	0.314%	2'285,067	4,541	0.199%
2005	3'976,550	11,510	0.294%	2'190,398	464	0.021%
2009	4'611,211	6,500	0.141%	2'300,056	n/d	n/d
2013	5'355,212	46,331	n/d	3'275,346	3.096	n/d



MEXICO

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2006	71'374,373	40,876	0.057%	41'791,322	33,131	0.079%
2012	71'738,494	59,115	0.082%	49'087,446	40,714	0.083%

PANAMA

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2009	2'209,555	1,706	0.08%	1'515,167	530	0.035%
2014	2'456,960	5,407	0.22%	1'886,208	949	0.05%

PARAGUAY

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2013	3'516,275	21,981	0.63%	2'409,437	9,013	0.37%

PERU

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2001	14'906,233	n/d	n/d	12'128,969	n/d	n/d
2006	16'494,906	457,891	2.78%	14'632,003	290,728	1.99%
2011	19'949,915	754,154	3.78%	16'466,397	378,792	2.30%

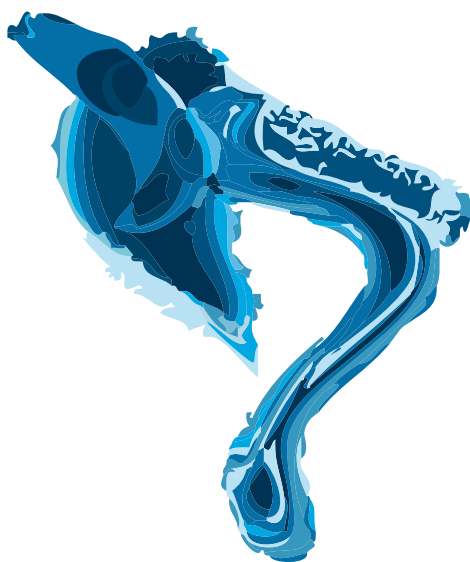
DOMINICAN REPUBLIC

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2004	5'020,703	52,440	1.05%	3'656,850	35,042	0.96%
2008	5,846,768	154,789	2.65%	4'086,541	76,713	2.45%
2012	6'337,567	328,649	5.19%	4'493,788	138,561	3.08%



VENEZUELA

Year	Total Electoral Registry	Electoral Registry Abroad	% it represents	Total Electoral Participation	Electoral Participation Abroad	% it represents
2000	11'720,660	15,269	0.13%	6'288,578	7,759	0.12%
2006	15'417,127	60,367	0.39%	11'790,397	34,216	0.29%
2012	18'903,937	100,495	0.53%	15'176,253	70,951	0.46%
2013	18'904,364	100,495	0.53%	15'059,630	62,311	0.41%



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