

ABSENTEE VOTING FOR NEPALI DIASPORA A REPORT

Submitted to:

**Committee on Studying the Feasibility of Absentee Voting
For Nepali Diaspora
Formed by Election Commission of Nepal**



Submitted by:

**Jiba Lamichhane, President, NRNA
Member of the Study Committee on
Feasibility of Absentee Voting For Nepali Diaspora**

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PREFACE:

Non Resident Nepali Association (NRNA) would like to thank the Election Commission (EC) on forming this study committee to encompass the Nepali Diaspora in the electoral process and give them an opportunity to exercise their citizenship rights in political participation through external voting. I also thank the Election Commission for nominating me as the member of this committee and requesting us through its letter dated 2069/01/06 to provide an estimation of Nepali Diaspora of voting age and a report on policies and practices of other nations on absentee voting. I also take this opportunity to thank NRNA, National Coordination Councils (NCC) for supporting this activity by providing data and information presented in this report within in a very short notice.

Many countries allow their citizens the right to vote in elections when they are not present in their home country. Currently, there are around 115 countries and territories – including nearly all developed nations – that have systems in place to allow their emigrants to vote. And the number is growing. Even countries with very high rates of emigration, such as Italy, the Dominican Republic, and Mexico have recently allowed their expats to vote. Countries within South Asian Association for Regional Cooperation (SAARC) such as Sri Lanka, India and Pakistan have already passed legislation for absentee voting and are designing systems that will provide this opportunity to their emigrants in the near future.

A 2006 study of countries that allow their emigrants to vote externally included:

- 21 African nations
- 13 North and South American countries
- 15 Asian countries
- 6 Pacific countries
- 36 European countries.

Sixty-five of these countries allow for external voting for everyone, while about 25 place restrictions on it, based on such factors as to whether they intend to return permanently or how long they have been away. Citizens in the US can vote no matter how long they stay away, while citizens of Britain are disqualified after fifteen years if they do not come back at all. Some countries, like France and Portugal, even reserve seats in their parliaments for citizens who live abroad. Countries like Ireland, Zimbabwe, El Salvador, Nepal etc. do not allow their emigrants to vote. Other countries, such as New Zealand and Sweden, not only allow absentee voting but also extend the right to an external vote to residents who are not citizens: this is sometimes referred to as the ‘franchise for foreigners’

NRNA recommends that time and resource constraints may not permit this process to be implemented in all countries where there are resident Nepali migrants, simultaneously; it deserves to be tried out in a few countries which may agree to provide friendly assistance to set up this action such that the lessons learned may enable Election Commission of Nepal to enhance this practice in other countries in the future.

Jiba Lamichhane,



President,

International Coordination Council,

Non Resident Nepali Association,

Member, Committee on Studying the Feasibility of Absentee Voting for Nepali Diaspora.

SUMMARY:

While the constitutions of Nepal guarantees the right to vote for all citizens, in reality voters who are outside when elections take place are disenfranchised because of lack of proper procedures enabling them to exercise this right. Globalization of political, personal and professional life, the spread of democracy throughout the world and an increase in migration have all contributed to an increasing interest in voting rights for people who are temporarily or permanently absent from their own country. The ability of these people to exercise their right to vote when an election in Nepal takes place has long been an issue in electoral design and management. It is important to extend voting rights to citizens living abroad where large numbers of citizens have left the country as migrant workers as a result of transition after authoritarian rule, civil or political unrest and external voting could be considered an approach adopted as part of a post-conflict transition to democracy.

Although it is quite a recent phenomenon, external voting is now on the political agenda in many countries. Universal - that is, unrestricted and unconditional - external voting is regarded by many as part of the citizen's rights in a world where living or staying abroad forms part of the life of millions of people and where the exercise of rights and the enforcement of laws are becoming more transnational every day. In almost all cases, the right to cast an external vote is granted only to citizens of the home country. Citizenship is therefore a minimum requirement for determining eligibility to vote externally. Some countries deal with this issue by entitling all their citizens to vote for its elections, regardless of whether they have ever resided in the home country. Others apply rules related to the length of time spent by the citizen in the home country and/or time spent away from the home country.

Once a person's eligibility to cast an external vote is established, there is usually a second requirement to be met - the need to be registered on the electoral register in order to show that the person is entitled to vote. Special registration requirements may be necessary for external electors, or external electors may be required to register in the same way as all in country voters. Registration requirements thus introduce a second stage into the entitlement process. Another aspect of entitlement, where countries are divided into electoral districts, is the electoral district in which an elector is entitled to vote. This could be determined by reference to the address at which the elector most recently resided before leaving the country, or by reference to the person's place of birth, or, where a person has never resided in the country, by reference to the address of a parent or grandparent. Another option is to provide for special districts composed entirely of external electors, particularly where large numbers of electors are concerned.

At each stage of the external electoral process, emphasis must be placed on implementing procedures and processes that are not only faithful to the legislation but also as close as possible to those in place for in-country voters. All electors must have access to a similar registration and polling process, no matter where they are located. Administrative creativity and flexibility are needed, but the process must always be in accordance with the law. Registration as an external elector usually requires the elector to complete a form, which is then processed by the authority responsible for keeping the electoral register. In some cases, the person may be required to provide documentary proof of eligibility, such as proof of citizenship, age or residence. In most cases it would be appropriate to apply the same level of authentication requirements to registration as an external elector as applicable to the normal electoral registration process.

Many countries allow their citizens the right to vote in elections when they are not present in their home country. To enhance and expand the voting rights, the Association of Asian Election Authorities conducted a seminar from 14 to 17 December, 2010 in Taipei, aimed at sharing electoral ideas and experiences by taking both academic and practical approaches on the topic of absentee

voting system. This seminar highlighted the following points as being very crucial while considering absentee voting:

- types of election to be applied for the absentee vote,
- the eligibility of absentee voters,
- the absentee voting system to be operated,
- the registration process for absentee voter,
- relevant electoral administrative matter, etc.

Administrative problems or delays in the external voting are often viewed as deliberate acts of fraud by an incumbent government or even by the election management body (EMB). 'Transition elections should be viewed as accidents waiting to happen at the intersection between political suspicion and administrative incapability. 'Every administrative problem is interpreted by one side as designed by its opponent to do it harm' (Pastor 1999). This is particularly true for external voting. It is important to eliminate any potential cause for suspicion when planning the implementation of external voting. Finally, disputes and complaints will need to be resolved quickly and fairly. All participants in the electoral process must have the right to appeal to an independent, impartial body. Procedures need to be established for the appeal process to ensure it is accessible for the external electors and within the election timeline. All complaints will need to be dealt with in an equitable and timely manner. For this reason, the planning for external voting requires a carefully integrated approach to ensure that it is as transparent and administratively correct as the internal voting.

NRNA affiliations are spread in 61 countries or territories and a total of 25,07,359 eligible external voters are estimated to be residing in these countries divided into six regions (see appendix I). Asia Pacific region consists of 14, Middle East 10, Europe 25, Africa 8, Americas 2 and Oceania 2 countries with a voting population of 5,47,939; 13,03,300; 96,370;5,750; 5,11,000 and 43,000 respectively. A country has as much as 0.6 million to mere 20 Nepali emigrants. The largest number of population is in Middle East followed Asia Pacific, Americas, Europe, Oceania and Africa. Out of these 61 countries and/or territories 40 or 65.57 % allow whereas 21 or 34.43 % do not allow absentee voting. Countries ranked high on democratic practices as well as development allow emigrant voting whereas countries ranked low on democratic practices and development do not allow such practices. Appendix II highlights polices and practice of some countries region wise. Many countries not only entertain voting from overseas but also allow non-citizen residents to vote in local election if they fulfill specified criterion.

Since almost an estimated 10% of eligible voters of Nepal's total population, this percentage could be even higher because total population also accounts for citizens bellow 18 years; is residing abroad in 61 NRNA affiliated countries, mostly as migrant workers who will ultimately return to Nepal; therefore, they should be given the opportunity to participate in their country's political activity through absentee voting mechanism. The number of migrant workers is on the rise and this number will be much higher in the foreseeable future. It is high time that the Nation recognizes their contribution to their country and allows them the right to vote. The practical implementation of external voting is complicated by factors such as the number of electors, their locations, the distances involved and the complexity of the voting system in place. Election planning becomes a two-tiered process as the tasks involved in organizing an election in-country are duplicated, under very different circumstances, for the external voting. Time and resource constraints may not permit absentee voting in all countries and/or territories where Nepali Diasporas are residing, simultaneously; but it deserves to be tried out in a few countries which may agree to provide friendly assistance to set up this action such that the lessons learned may enable Election Commission of Nepal to enhance this practice in other countries in the future.

SCOPE OF WORK:

The Committee on Studying the Possibilities of Providing Absentee Voting Facility to the Nepali Diaspora formed by the Election Commission of Nepal had requested the President of NRNA, who is also a member of this committee, through its letter dated 2069/01/06, to present an appraisal on the estimated population of Nepali Diaspora above 18 years of age and the policies and practices adopted by countries where the affiliations of NRNA is established. This report has been prepared in this aspect.

METHODOLOGY AND LIMITATIONS:

Both primary and secondary data and information have been used in preparing this report. The primary data and information were obtained from NRNA's National Coordination Councils (NCC) established in 61 countries and the practices adopted by these countries as sent by these NCCs. The secondary information were compiled from online information and reports presented by institutions affiliated such as International Institute for Democracy and Electoral Assistance (IDEA) Handbook on External Voting, ACE Electoral Knowledge Network, "Perfecting Political Diaspora" and Report on seminar held by Association of Asian Election Authorities (AAEA) on 14 – 17 December, 2010.

REVIEW OF RELATED LITERATURES:

Entitlement:

Entitlement to cast an external vote is usually linked to the general entitlement to vote that applies to all eligible electors in a country. However, there are sometimes extra requirements imposed on external electors, such as a minimum period of previous residence or an intention to return to the country. In some cases only limited groups of external electors may be eligible to vote, such as diplomats, other public officials and members of the armed forces, and their families. Some countries extend the right to vote to all their citizens living abroad, regardless of the length of time they have spent out of their home country, while others impose time restrictions or require evidence of an intention to return.

Some countries, such as New Zealand and Sweden, also extend the right to an external vote to residents who are not citizens: this is sometimes referred to as the 'franchise for foreigners'. In this case different rules from those that apply to citizens are usually needed to determine whether these non-citizen residents are eligible to cast external votes. In some countries the numbers of people eligible for an external vote are relatively small. Other countries do not allow anyone to vote if they are outside their home country. In some cases, for example, following major civil or political unrest or where national borders have changed, or where there are large numbers of migrant workers abroad, large numbers of people may be resident outside the country and have a legitimate claim to vote. In these cases the question of who is eligible to cast an external vote may be a major issue, and determining eligibility may be crucial to the election outcome.

Once a person's eligibility to cast an external vote is established, there is usually a second requirement to be met - the need to be registered on the electoral register in order to show that the person is entitled to vote. Special registration requirements may be necessary for external electors, or external electors may be required to register in the same way as all others. Registration requirements thus introduce a second stage into the entitlement process and may serve to limit the numbers of persons who are eligible to cast an external vote.

Another aspect of entitlement, where countries are divided into electoral districts, is the electoral district in which an elector is entitled to vote. This could be determined by reference to the address at which the elector most recently resided before leaving the country, or by reference to the person's place of birth, or, where a person has never resided in the country, by reference to the address of a parent or grandparent. Another option is to provide for special districts composed entirely of external electors, particularly where large numbers of electors are concerned. In some cases, countries will also limit the types of ballot in which external electors may participate. For example, external electors may be permitted to vote in national elections for head of state or national parliament but not in local government elections. (In Switzerland, different rules apply in different cantons.)

Types of election:

Entitlement to vote is sometimes limited to particular types of election. For example, external electors may be permitted to vote in national elections for head of state or national parliament but not in local government elections. In some presidential systems in Africa and Asia, citizens living abroad have the right to vote for a president but not in elections to the legislature. Because of their distance from their mother country, citizens living abroad are allowed to influence domestic politics only to a limited extent and consequently are granted only selective rights in national elections and referendums.

Conditions for Entitlement to Vote:

To be entitled to cast an external vote, a person must first satisfy the general qualifications for electoral registration and voting that apply in their home country.

The entitlement to vote is generally linked to citizenship, age and residency. For example, a country may only permit a person to vote if he or she is a citizen of that country, is 18 years of age or older and has been resident in that country for at least 12 months. Determining whether a person meets these qualifications is generally straightforward while resident is in the home country. However, where a person is not resident in the home country - either temporarily or permanently - determining their entitlement to an external vote generally requires the application of more complex tests of eligibility.

Determining the citizenship of a person who is absent from the home country, particularly where the person has adopted the citizenship of another country, involves interpretation of the applicable laws of citizenship. Determining a person's age may raise difficulties if the registration process requires the person to provide proof of age. In some cases, particularly that of refugees, a person may not possess documentary proof of age. Even where a person does possess proof of age, if they are applying to register to vote while outside the home country, providing that proof of age to the registration authority may be difficult. This is an issue that will need to be addressed when determining exactly how a person may register for external voting.

Applying a residency test to a person who is not resident in their home country is perhaps the most difficult aspect of determining entitlement to vote externally. Some countries deal with this issue by providing that all their citizens are entitled to vote for its elections, regardless of whether they have ever resided in the home country. Others apply rules related to the length of time spent by the citizen in the home country and/or time spent away from the home country.

Some countries also impose further limitations on entitlement that restrict the classes of people who can vote while absent from the home country. For example, some countries limit the right to vote externally to citizens employed in particular occupations, such as diplomats and members of the

armed forces. Others restrict voting to those who are resident in particular locations, such as places where there is a specified minimum number of electors or the locations of diplomatic missions of the home country.

Citizenship:

Eligibility to vote is usually linked to citizenship. The definitions of citizenship that are applied can also affect which classes of people are eligible to cast external votes. Citizenship can be defined as the status of a citizen. A citizen can be defined as a member of a state or a nation. Citizenship carries with it a range of rights and duties. One of the key rights of a citizen who is of voting age is the right to vote. Citizenship can be conferred on a person in a number of ways. A person can become a citizen by descent, by place of birth, or by naturalization.

Citizenship by descent (*jus sanguinis*, or 'law of the blood') is one of the two internationally recognized legal principles used to determine an individual's country of citizenship at birth. Generally, where this principle is applied, if one or both parents are citizens of a country their offspring are automatically given this citizenship at birth. Under this principle, it is possible of a person to attain citizenship for a country they have never been in, or to attain citizenship for more than one country if the parents have two different nationalities.

Citizenship by place of birth (*jus soli*, or 'law of the soil') is the other internationally recognized legal principle used to determine an individual's country of citizenship at birth. Where this principle applies, a person has citizenship of the country in which he or she was born. In some cases, both *jus sanguinis* and *jus soli* may apply, and this is another way in which a person may attain citizenship of more than one country.

Finally, a person may acquire a different citizenship by naturalization. While there are several ways in which this can be done, naturalization is usually granted to an immigrant after a specified period of residence. Citizenship can also be lost. In some cases, naturalization can involve renouncing any previous citizenship held. In other cases, a person can lose his or her citizenship automatically upon becoming a naturalized citizen of another country. In other cases, a naturalized citizen is permitted to retain other citizenships. Some countries do not permit their citizens to renounce their citizenship (for example, Greece and the United Kingdom (UK)). In these ways, many people can hold dual (or multiple) citizenship.

In determining whether a person is eligible to cast an external vote, an understanding of the relevant citizenship laws is therefore essential. Different countries' citizenship laws vary. While a person who is currently abroad from a country might have had the status of citizen there before leaving that country, he or she may have lost the entitlement to be a citizen of that country by taking on a different citizenship. As there are several ways in which a person may obtain dual or multiple citizenship, dual or multiple citizenship is quite common. This is not usually a cause for denying a person the right to vote in any of the countries in which they hold citizenship. However, policy makers may wish to consider whether holders of dual citizenship might have a conflict of interest in some circumstances.

Where a person who is living abroad changes citizenship by naturalization and in the course of doing so renounces his or her previous citizenship, that person would not retain the right to vote in the country for which citizenship has been renounced. Where the right to vote while abroad is based on citizenship, it is important that any forms used for electoral registration and for external voting ask the voter whether he or she holds citizenship of the country concerned. In the unlikely event of dual

or multiple citizenships being relevant to the franchise, the relevant forms should also ask the elector whether they hold any other citizenship.

In almost all cases, the right to cast an external vote is granted only to citizens of the home country. Citizenship is therefore a minimum requirement for determining eligibility to vote externally. However, some countries, for example New Zealand and Sweden (for elections to the European Parliament) also extend the right to vote externally to residents who are not citizens. In this case different rules from those that apply to citizens are needed to determine whether these non-citizen residents are eligible to cast external votes.

Place of residence:

Applying a residency test to a person who is not resident in their home country is perhaps the most difficult aspect of determining entitlement to an external vote.

External electors can be categorized according to a range of typical residential circumstances. The more common categories include:

- citizens temporarily resident outside their home country who intend to return to live in that country;
- citizens in defined occupations, such as military personnel, public officials or diplomatic staff (and their families);
- citizens resident outside their home country who live in specified countries and who may be subject to special circumstances, such as refugees or migrant workers;
- citizens resident outside their home country who do not have a fixed intention to return to that country; and
- non-citizens who have been granted the right to vote in a country through residency but are temporarily outside that country.

These categories can be further qualified by limiting the right to vote externally by imposing time limits on the length of absence from the home country.

The broadest category of residential entitlement to an external vote is the first - that extended to citizens who are resident outside their home country without regard to their intention to return. Several countries extend this right to their citizens. Some allow any citizens living abroad the right to register and vote regardless of the amount of time they have spent away from the country, while others place a time limit on that right.

For example, Belarus, Bosnia and Herzegovina, Estonia, Norway, Poland, South Africa, Sweden and the United States of America all give their citizens living abroad the right to register to vote regardless of the amount of time they have spent away from the country. Countries that impose time limits on this right include Germany (25 years for persons resident in countries that are not members of the Council of Europe), New Zealand (three years for citizens, 12 months for permanent residents) and the UK (15 years).

One rationale for imposing time limits on the right to vote is that the longer citizens stay away from the home country the more they lose their ties to it. Those who have been away from the home country for a long time cannot arguably aspire to make decisions with regard to domestic politics. It is of course difficult to measure the degree of an absent citizen's attachment to his or her home country. It can depend on more than the length of absence, as the German legislation illustrates. The rationale behind the German provision is that, because of the cultural context, German citizens living

in Council of Europe countries are more closely linked to their country of origin. Moreover, because of their geographical proximity they have easier access to the current political information of their home country than they would in other regions of the world (Schreiber 1985).

In some of these cases, citizens may only be registered as external electors after satisfying a minimum residency requirement in their country of citizenship (as in Germany, New Zealand and the UK). In other cases, it is possible that a person who is granted citizenship through descent may be eligible to vote in elections for their country of citizenship even though they may have never been resident in that country.

However, granting citizens living abroad the right to vote regardless of intention to return could result in citizens who have no close links with the country beyond holding citizenship exercising significant influence over the results of elections. The greater the number of citizens living abroad, the greater the influence they could have. Whether this is desirable will depend on the particular circumstances of the country. It may be desirable to extend voting rights to citizens living abroad where large numbers of citizens have left the country as refugees or as a result of civil or political unrest. The 1994 general election in South Africa is an example of such a case. In other cases such an approach has been adopted as part of a post-conflict transition to democracy, as in Cambodia in 1993, and Bosnia and Herzegovina in 1996.

The second category of entitlement to an external vote - the right extended to citizens and other permanent residents who are temporarily abroad and intend to return to their home country - is the next-broadest category. Countries that provide for this kind of voting include Australia (for registered electors who are abroad for six years or less, although extensions may be granted) and Canada (for citizens who are abroad for five years or less).

Granting the right to an external vote to persons temporarily absent from their home country caters for those people who are absent on holiday or who are out of their home country for work, study or personal reasons for relatively short periods of time. This model has the advantage of retaining the right to vote for people who have clear ties to their home country, while ensuring that people who may not have such close ties do not have the opportunity to influence elections in which they do not have a personal stake.

Third, several countries have special entitlement provisions for citizens in defined occupations, such as military personnel, public officials or diplomatic staff and their families. Usually this involves waiving time limits and/or providing for automatic registration. Some countries that do not have a general entitlement allowing citizens abroad to vote have special provisions that apply only to citizens in defined occupations. For example, Lesotho only provides for external voting for public officials employed at diplomatic missions and their dependents or employees, and the Republic of Ireland only provides for external voting for officials employed at diplomatic missions and for members of the armed forces. Non-resident Indian citizens who are employed by the Government of India in a post outside India (this includes the military) are eligible to register as electors. In most cases, where special entitlement provisions are made for citizens of defined occupations, those entitlements are extended to members of their families resident with them who are otherwise entitled to vote.

Fourth, the right to vote externally can be linked to residence in specified countries and/or may be limited to electors who may be subject to special circumstances, such as refugees or migrant workers.

Such restrictions on the right to vote externally may be pragmatic solutions for limiting the number of persons who are eligible for an external vote. Allowing all citizens to vote while they are abroad can add considerably to the cost of running elections, depending on the numbers involved. It is a matter of judgment whether this additional expense is justified. An interesting example is that of Senegal, where the electoral law states that citizens living abroad have the right to vote if at least 500 of them register with diplomatic missions in the foreign country. The underlying reason for this limitation is a pragmatic one—the financial and administrative costs of implementing external voting in extremely small overseas communities are out of proportion to the increase in electoral participation which its introduction might bring about. However, such restrictions might violate the principle of electoral equality. The scope of this potential danger depends on the number of external electors involved and the geographical distribution of overseas citizens.

Similarly, another pragmatic approach that has been adopted that has limited the categories of citizens entitled to vote externally has been to restrict voting rights to those who are able to attend a particular location to vote. For example, for the Ukraine elections of December 2004, the election law provided that polling stations could be created in ‘diplomatic and other official representations and consular offices of Ukraine abroad, and in military units located outside the borders of Ukraine’. Consequently, 113 polling stations were established abroad, all located in diplomatic and consular offices. For the Iraqi elections of 2005, the Iraq Out-Of-Country Voting Program facilitated polling in 36 cities in 14 countries. Only those Iraqi voters who could attend at one of the specified polling places were able to vote outside Iraq.

Finally, some countries extend the right to vote externally to non-citizen permanent residents. This is sometimes referred to as the ‘franchise for foreigners’. Where such non-citizen permanent residents are normally entitled to vote while resident in the country, they may be permitted to vote if they are temporarily (but not permanently) abroad. For example, in Sweden citizens of any member state of the European Union and citizens of Iceland and Norway are entitled to vote in municipal and regional elections if they have been registered residents of Sweden for three consecutive years on Election Day. In some cases the rules applying to citizens and non-citizen permanent residents are different. For example, New Zealand citizens overseas are qualified to register and vote if they have been in New Zealand within the last three years; whereas permanent non-citizen residents are only qualified to register and vote if they have been in New Zealand within the last 12 months.

Compulsory voting and external voting:

Those countries that have compulsory voting add another layer of complexity to the issue of determining entitlement to vote externally. In general, countries which have compulsory voting allow registered electors to escape a fine for not voting if they have a valid reason for failure to vote. Being absent from the home country would be expected to be an acceptable reason for failing to vote. In Australia, the electoral law specifically states that absence from Australia on polling day is sufficient reason for not voting. However, under a compulsory voting system, failure to vote while absent from the home country may impact on a person’s ongoing right to remain registered to vote externally. For example, Australia removes a person’s name from its register of external electors if the person fails to vote or fails to apply for a postal vote for a national general election.

Registration of External Electors:

Once a person’s eligibility to cast an external vote is established, there is usually a second requirement to be met—the need to be registered on the electoral register in order to show that he or she is entitled to vote. Special registration requirements may be necessary for external electors, or they may be required to register in the same way as all other electors. Registration requirements thus

introduce a second stage into the entitlement process and may serve to limit the numbers of persons who are eligible to cast an external vote.

In most countries ordinary electors are registered in respect of particular locations - usually their home residence - so that they can establish their right to vote in particular electoral districts and for regional levels of government. As it may be difficult or impossible to allocate an external elector to a particular locality in the home country, it is sometimes desirable to use a special registration process for external electors.

Where the eligibility requirements and/or voting rights for external electors are different from those for in-country electors, it is essential that external electors use a separate registration process. For example, where they are entitled to vote for national elections but not local elections, the electoral register must clearly distinguish external electors.

Whether external electors are listed on a special external electoral register or are listed on the normal electoral register will depend on local circumstances. One relevant factor would be whether a country has one national electoral register or different registers for different levels of government. Another would be the level of technical sophistication of the electoral register. Australia, for example, essentially maintains one computerized national electoral register that is used for elections for all levels of government. While it has a separate registration form for external electors, their names are stored on the national electoral register with all other registered electors, with an annotation indicating that they have registered as external electors. Other countries, particularly those that have different electoral registers for different regions and/or levels of government, might be more likely to maintain separate electoral registers for external electors. Where electoral registers are kept by different authorities for different levels of government or for different regions, such as the different states in the USA, the process for registration as an external elector may vary from jurisdiction to jurisdiction and/or from place to place.

In some cases, simple registration on the normal electoral register is sufficient for an external elector to retain the right to vote, without the need for special registration as an external elector. For example, Swedish residents living abroad remain on the electoral register for an absence of up to ten years. Only those who are absent for longer than ten years need to register in order to remain on the electoral register.

People absent for short periods, such as those on holidays; generally do not need to apply for special external elector status if they are already listed on the normal electoral register. Where a person is absent for a longer period, many countries require special registration as an external elector. This is particularly important where the electoral register is regularly reviewed, and people are removed from it if they do not appear to be resident at their registered address.

Registration as an external elector usually requires the elector to complete a form, which is then processed by the authority responsible for keeping the electoral register. In some cases, the person may be required to provide documentary proof of eligibility, such as proof of citizenship, age or residence. When considering whether such evidence should be required, attention should be given to the feasibility of this requirement. If a person is applying for registration from outside the home country, the requirement that identity documents (IDs) be provided may be impractical or unreasonable. Where a country is in transition or is otherwise subject to civil instability, many citizens, particularly refugees, may not have valid IDs (see chapter 7 and the case studies on Afghanistan, Bosnia and Herzegovina, and Iraq). In these cases, the registration process may need to rely on a declaration signed by the applicant and/or a declaration signed by a witness.

In most cases it would be appropriate to apply the same level of authentication requirements to registration as an external elector as applicable to the normal electoral registration process.

Where a specific external elector registration form is required, care should be taken to ensure that the form seeks sufficient information to demonstrate that the applicant is entitled to be registered. A registration form could for example require the applicant to state how they acquired citizenship, when they last lived in the home country, whether and when they intend to return to the home country (if relevant) and when they were born.

Keeping a register of external electors up to date is a difficult task. Electoral registration authorities are unlikely be able to review the status of registered external electors who are resident abroad. In practice, the most feasible approach is to rely on external electors to update their details when applying to register or when actually voting. One way to keep the electoral register free of out-of-date entries is to remove the names of those who do not vote, for example, for one or two national elections in a row.

Implementation of External Voting:

The practical implementation of external voting is complicated by factors such as the number of electors, their locations, the distances involved and the complexity of the voting system in place. Election planning becomes a two-tiered process as the tasks involved in organizing an election in-country are duplicated, under very different circumstances, for the external voting.

At each stage of the external electoral process, emphasis must be placed on implementing procedures and processes that are not only faithful to the legislation but also as close as possible to those in place for in-country voters. All electors must have access to a similar registration and polling process, no matter where they are located. Administrative creativity and flexibility are needed, but the process must always be in accordance with the law.

The problems of implementation will vary depending on the methods of registration and voting, the geographical distribution of expatriates and the political situation (e.g. during a transition after violent conflict). In all cases, *security* and *privacy* are central to the process, whether voting is done in person, by post, by proxy (essentially an internal process) or by electronic means.

Administrative problems or delays in the external voting are often viewed as deliberate acts of fraud by an incumbent government or even by the election management body (EMB). ‘Transition elections should be viewed as accidents waiting to happen at the intersection between political suspicion and administrative incapacity. Every administrative problem is interpreted by one side as designed by its opponent to do it harm’ (Pastor 1999). This is particularly true for external voting. It is important to eliminate any potential cause for suspicion when planning the implementation of external voting.

Finally, disputes and complaints will need to be resolved quickly and fairly. All participants in the electoral process must have the right to appeal to an independent, impartial body. Procedures need to be established for the appeal process to ensure it is accessible for the external electors and within the election timeline. All complaints will need to be dealt with in an equitable and timely manner. For this reason, the planning for external voting requires a carefully integrated approach to ensure that it is as transparent and administratively correct as the internal voting.

Qualification to Stand as a Candidate in Elections:

In determining the eligibility rules for external electors, it is important to consider whether the same eligibility rules should apply to candidates for election. Particularly where the right to vote is extended to all citizens who are resident abroad, regardless of intention to return, it may be desirable to have stricter eligibility rules for candidates. This would usually take the form of a residence requirement.

In some cases where political players may be in exile from their home country it might be desirable to allow persons resident outside the country to be candidates. This could be appropriate where a country is undergoing a transition to a new, democratic form of government, as in South Africa in 1994.

Considerations of dual or multiple citizenships may be more important for candidates than for voters. It may be desirable to prevent holders of dual citizenship from standing as candidates. For example, Australia's constitution does not allow 'a citizen of a foreign power' to sit in its national parliament. Such a provision is intended to ensure that elected members do not have divided loyalties that could lead to conflicts of interest. In practice, dual citizenship is so common that this type of provision can lead to candidates and elected members being ruled ineligible for what is arguably a technicality.

Examples of Qualifications and Practice of External Voting:

While most countries' qualifications for external voting fit within the broad categories outlined above, the details usually vary from case to case. Below you find list of some examples of different external voting qualifications. In most cases, the qualifications listed relate to national elections. Different rules may apply for provincial and local government elections. *The list of examples is not, of course, complete. Other countries also allow their citizens to vote while abroad.*

Australia: External electors must satisfy the normal requirement for electoral registration in Australia, which means that they must be Australian citizens (or British subjects who were on the electoral register in Australia on 25 January 1984). Registered electors who leave Australia and intend to return within six years can apply to be registered as 'eligible overseas electors' and retain the right to remain on the electoral register and vote while overseas; eligible overseas electors who are overseas for longer than six years can apply for 12-month extensions indefinitely. Spouses or children of eligible overseas electors who become entitled to register to vote while overseas by turning 18 or becoming Australian citizens may also apply for registration as eligible overseas electors. Eligible overseas electors can lose their right to be registered and to vote if they do not attempt to vote at a national general election held while they are overseas. Registered electors who go abroad but have an intention to return to live at the same address can remain on the electoral register and entitled to vote without having to register as eligible overseas electors. In this case there is no time limit.

Belarus: Citizens living outside Belarus can participate in elections by applying to specified diplomatic missions.

Bosnia and Herzegovina: Citizens living outside Bosnia and Herzegovina can register to vote.

Canada: Citizens who have lived abroad for less than five consecutive years since their last stay in Canada and who intend to resume their residence in Canada may apply for registration on the register of non-resident Canadians, and thereby become entitled to vote while abroad. Canadian

members of the armed forces, public servants or employees of other specified organizations, and their families, are eligible to apply for registration on the register of non-resident Canadians regardless of their length of absence from Canada.

Estonia: Citizens residing temporarily or permanently outside Estonia may apply for registration to vote at their nearest Estonian diplomatic mission.

Germany: Germany has three categories of external electors qualified to apply for entry on the register of electors—German citizens who are civil servants or armed forces personnel and other salaried public employees, and their family members; German citizens resident in another Council of Europe member state, provided that after 23 May 1949 and prior to their departure they were permanently resident in Germany for an uninterrupted period of at least three months; and German citizens resident outside the Council of Europe member countries who were, prior to their departure, permanently resident in Germany for an uninterrupted period of at least three months, and not more than 25 years have elapsed since their departure.

India: Non-resident Indian citizens who are employed by the government of India in a post outside India, including military personnel, are eligible to be registered as electors.

Iraq: For the Iraqi elections of 2005, the Iraq Out-Of-Country Voting Program facilitated polling in 36 cities in 14 countries. Only those Iraqi electors who could attend one of the specified polling places were able to vote outside Iraq.

Ireland: Public officials employed at diplomatic missions and members of the armed forces are the only categories of elector permitted to vote while abroad.

Namibia: Any holders of a valid voter registration card are eligible to vote, including citizens resident abroad.

New Zealand: Citizens overseas are qualified to register and vote if they have been in New Zealand within the past three years; permanent residents are qualified to register and vote if they have been in New Zealand within the past 12 months; New Zealand public servants and defense personnel and their spouses and children over 18 years of age are qualified to register and vote regardless of length of time overseas.

Norway: Norwegian citizens resident abroad retain the right to be registered to vote if at any time previously they have been registered at the population registry as resident in Norway. All Norwegian public servants employed as diplomatic or consular staff and their families are entitled to vote even if they have never been registered in the population register.

Poland: Citizens living abroad and holding a valid Polish passport may apply to be entered on the register of electors.

Sweden: Citizens resident abroad are included on the electoral register and remain entitled to vote if they left Sweden within the previous ten years; after an absence of longer than ten years they must notify the relevant authority if they wish to remain on the electoral register.

United Kingdom: British citizens living abroad are eligible to register and vote as overseas electors if their name was previously on the electoral register for an address in the UK and no more than 15 years have passed between the qualification date of that register and the date on their application to register as an overseas elector; or if they have reached the age of 18 while living abroad and they

were too young to be on an electoral register before they left the UK and a parent or guardian was on the electoral register for the address at which they were living on that date.

United States of America: The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) guarantees US citizens overseas the right to vote in federal elections in the United States. (Federal elections include primaries, general and special elections for the president, vice-president, senators and representatives to Congress.) The UOCAVA applies only to federal elections. However, many states in the United States have enacted legislation whereby certain categories of citizens residing overseas can vote by absentee ballot for state or local officials. The same procedures for obtaining local election ballots are used for obtaining federal election ballots.

In order to vote in either federal or state elections in the United States, most states require citizens residing abroad to register in the state of their 'voting residence'. A voting residence is the legal residence or domicile in which the elector could vote if present in that state. Military and Merchant Marine members, and their spouses and dependents, may register to vote in the domicile (state) that the member claims as his or her residence. Civilian US Government employees overseas, their spouses and dependents will generally register in the state they claim as their legal residence. In accordance with the UOCAVA, overseas citizens (not affiliated to the US Government) must vote in their last state of residence immediately prior to departure from the United States. This applies even if many years have elapsed and the person maintains no abode and has no intention of returning to that state.

FINDINGS:

Many countries allow their citizens the right to vote in elections when they are not present in their home country. The constitution of Nepal also allows all citizens to vote but proper legislation is not in place to implement it and allow more than 10% of the electoral population residing abroad. A study conducted by International Institute for Democracy and Electoral Assistance (IDEA) in 2006 states that there are 115 nations that allow their emigrants to vote externally of which 21, 13, 15, 6, and 36 fall under African, North and South American, 15 Asian, 6 Pacific and 36 European countries. Sixty-five of these countries allow for external voting for everyone, while about 25 place restrictions on it, based on such factors as to whether they intend to return permanently or how long they have been away. Countries within South Asian Association for Regional Cooperation (SAARC) such as Sri Lanka, India and Pakistan have already passed a legislature for absentee voting and are designing systems that will provide this opportunity to their emigrants in the near future.

The Association of Asian Election Authorities (AAEA) conducted a seminar from 14 to 17 December, 2010 in Taipei, aimed at sharing electoral ideas and experiences by taking both academic and practical approaches on the topic of absentee voting system. This seminar highlighted the following points as being very crucial while considering absentee voting: types of election to be applied for the absentee vote, the eligibility of absentee voters, the absentee voting system to be operated, the registration process for absentee voter, relevant electoral administrative matter, etc. The practical implementation of external voting is complicated by factors such as the number of electors, their locations, the distances involved and the complexity of the voting system in place. Election planning becomes a two-tiered process as the tasks involved in organizing an election in-country are duplicated, under very different circumstances, for the external voting.

The problems of implementation will vary depending on the methods of registration and voting, the geographical distribution of expatriates and the political situation (e.g. during a transition after violent conflict). In all cases, *security* and *privacy* are central to the process, whether voting is done in person, by post, by proxy (essentially an internal process) or by electronic means. At each stage of

the external electoral process, emphasis must be placed on implementing procedures and processes that are not only faithful to the legislation but also as close as possible to those in place for in-country voters. All electors must have access to a similar registration and polling process, no matter where they are located. Administrative creativity and flexibility are needed, but the process must always be in accordance with the law.

NRNA affiliations are spread in 61 countries or territories and a total of 25,07,359 eligible external voters are estimated to be residing in these countries divided into six regions (see appendix I). Asia Pacific region consists of 14, Middle East 10, Europe 25, Africa 8, Americas 2 and Oceania 2 countries with a voting population of 5,47,939; 13,03,300; 96,370;5,750; 5,11,000 and 43,000 respectively. A country has as much as 0.6 million to mere 20 Nepali emigrants. The largest number of population is in Middle East followed Asia Pacific, Americas, Europe, Oceania and Africa. Out of these 61 countries and/or territories 40 or 65.57 % allow whereas 21 or 34.43 % do not allow absentee voting. Countries ranked high on democratic practices as well as development allow emigrant voting whereas countries ranked low on democratic practices and development do not allow such practices. Many countries not only entertain voting from overseas but also allow non-citizen residents to vote in local election if they fulfill specified criterion (see appendix II).

CONCLUSION:

The extension of the right to vote to citizens outside their home country varies enormously from country to country. Some countries allow no one to vote who is not physically present in their home country. Others allow any of their citizens to vote from anywhere in the world, regardless of whether their citizens have ever resided in the country of their citizenship. In between these two extremes, there are many variations that allow certain classes of citizens to vote. As with so many other aspects of the electoral process, there is no single 'correct' way of deciding who should be entitled to vote externally. A model that will suit one country may be totally inappropriate in another. For example, it may be feasible to allow any citizen of a country to vote externally, regardless of their intention to return, where the population of the home country is large and the voting influence of expatriates would not be expected to outweigh that of the home population. On the other hand, a country with a small population and a relatively large number of expatriates might be wary of handing electoral influence to a body of persons who may no longer have a direct interest in their home country.

In attempting to specify 'best practice' principles to adopt or amend external voting eligibility criteria, it may be worthwhile to consider the purpose of the franchise. The franchise is the right to vote for elected representatives. Its purpose is to allow persons to elect representatives to sit in parliament and/or the executive and to determine and administer laws on their behalf. It would therefore appear reasonable to limit the right to vote to those who have a direct interest in the determination and administration of those laws. However, if it is accepted that the franchise should *only* be granted to those with a direct interest in the process, it follows that extending the right to vote to absent citizens who have no intention to return to the home country - or to persons who hold dual citizenship and are permanent residents in another country where they are also citizens - may be seen as generous. Indeed, it could be argued that a country's sovereignty could be at risk if its representatives are elected in part by voters who reside abroad. It would also follow that the right to vote should be extended to absent citizens who intend to return in the foreseeable future, as they too would have a direct interest in the government of their home country. This argument would particularly apply to those who are temporarily absent in the service of their country, such as diplomats, migrant workers, students, entrepreneurs and members of the armed forces.

Since almost an estimated 10% of Nepal's total population is residing abroad, mostly as migrant workers and they will ultimately return to Nepal, it would be advisable to give them an opportunity

to participate in their country's political activity through absentee voting mechanism. The number of migrant workers is on the rise and this number will be much higher in the future. It is high time that the Nation recognizes their contribution to their country and allows them to have a say in sapping the Nation's future.

RECOMMENDATIONS:

1. It is recommend that since time and resource constraints may not permit this process to be commenced in all countries where there are resident Nepali migrants, simultaneously; it deserves to be tried out in a few countries which may agree to provide friendly assistance to set up this action.
2. Disputes and complaints will need to be resolved quickly and fairly. All participants in the electoral process must have the right to appeal to an independent, impartial body. Procedures need to be established for the appeal process to ensure it is accessible for the external electors and within the election timeline.

APPENDIX I

POPULATION OF NEPALI DIASPORA ABOVE 18 YEARS IN DIFFERENT NRNA AFFILIATED COUNTRIES

Country S.N.	Region S.N.	Countries	EASTIMATED Number of Nepalese Citizens ≥ 18 years	Ranking as per population	Voting rights and facilities provided to overseas citizens
Asia Pasific Region					
1	1	Brunei	10000	18	No overseas voting rights for citizens
2	2	Cambodia	4000	24	No overseas voting rights for citizens
3	3	China	3500	25	No overseas voting rights for citizens
4	4	Hong Kong	23239	13	No overseas voting rights for citizens
5	5	Indonesia	200	42	No overseas voting rights for citizens
6	6	Japan	25000	12	Overseas voting rights allowed to citizens
7	7	Korea (South)	16500	14	Overseas voting rights allowed to citizens
8	8	Macau	5000	21	Overseas voting rights allowed to citizens
9	9	Malaysia	400000	3	Partially allows overseas voting
10	10	Myanmar	2800	27	No overseas voting rights for citizens
11	11	Philippines	1200	32	Overseas voting rights allowed to citizens
12	12	Singapore	3500	25	Overseas voting rights allowed to citizens
13	13	Thailand	50000	8	Overseas voting rights allowed to citizens
14	14	Taiwan	3000	26	No overseas voting rights for citizens
Total Asia Pasific Region			547939		
Middle East					
15	1	Bahrain	40000	11	No overseas voting rights for citizens
16	2	Iraq	15000	15	Overseas voting rights allowed to citizens
17	3	Israel	12000	16	Overseas voting rights allowed to citizens
18	4	Kuwait	70000	6	No overseas voting rights for citizens
19	5	Lebanon	7000	19	No overseas voting rights for citizens
20	6	Oman	45000	9	No overseas voting rights for citizens
21	7	Qatar	350000	4	No overseas voting rights for citizens
22	8	Saudi Arabia	600000	1	No overseas voting rights for citizens
23	9	UAE	160000	5	No overseas voting rights for citizens
24	10	Yemen	4300	23	No overseas voting rights for citizens
Total Middle East			1303300		
Europe					
25	1	Austria	570	38	Overseas voting rights allowed to citizens
26	2	Belarus	100	43	Overseas voting rights allowed to citizens
27	3	Belgium	3500	25	Overseas voting rights allowed to citizens
28	4	Cyprus	1500	30	Overseas voting rights allowed to citizens
29	5	Denmark	1500	30	Overseas voting rights allowed to citizens

Country S.N.	Region S.N.	Countries	ESTIMATED Number of Nepalese Citizens ≥ 18 yrs	Ranking as per population	Voting rights and facilities provided to overseas citizens
30	6	Finland	1300	31	Overseas voting rights allowed to citizens
31	7	France	2500	28	Overseas voting rights allowed to citizens
32	8	Germany	5500	20	Overseas voting rights allowed to citizens
33	9	Greece	30	46	Overseas voting rights allowed to citizens
34	10	Hungary	20	49	Overseas voting rights allowed to citizens
35	11	Ireland	300	40	No overseas voting rights for citizens
36	12	Italy	750	36	Overseas voting rights allowed to citizens
37	13	Luxembourg	1000	35	Overseas voting rights allowed to citizens
38	14	Netherlands	1100	33	Overseas voting rights allowed to citizens
39	15	Norway	300	40	Overseas voting rights allowed to citizens
40	16	Poland	600	37	Overseas voting rights allowed to citizens
41	17	Portugal	4500	22	Overseas voting rights allowed to citizens
42	18	Romania	250	41	Overseas voting rights allowed to citizens
43	19	Russia	435	38	Overseas voting rights allowed to citizens
44	20	Slovenia	100	43	Overseas voting rights allowed to citizens
45	21	Spain	4000	24	Overseas voting rights allowed to citizens
46	22	Sweden	1050	34	Overseas voting rights allowed to citizens
47	23	Switzerland	425	39	Overseas voting rights allowed to citizens
48	24	UK	65000	7	Overseas voting rights allowed to citizens
49	25	Ukraine	40	45	Overseas voting rights allowed to citizens
Total Europe			96370		
Africa					
50	1	Congo	25	47	No overseas voting rights for citizens
51	2	Kenya	60	44	Overseas voting rights allowed to citizens
52	3	Lesotho	20	49	No overseas voting rights for citizens
53	4	Libiya	2500	28	No overseas voting rights for citizens
54	5	Mozambique	25	47	No overseas voting rights for citizens
55	6	Nigeria	100	44	No overseas voting rights for citizens
56	7	South Africa	3000	26	Overseas voting rights allowed to citizens
57	8	Zambia	20	49	Overseas voting rights allowed to citizens
Total Africa			5750		
Americas					
58	1	Canada	11000	17	Overseas voting rights allowed to citizens
59	2	USA	500000	2	Overseas voting rights allowed to citizens
Total Americas			511000		
Oceania					
60	1	Australia	40800	10	Overseas voting rights allowed to citizens
61	2	Newzeland	2200	29	Overseas voting rights allowed to citizens
Total Oceania			43000		
Grand Total			2507359		

PROVISION FOR ABSENTEE VOTING FOR OVERSEAS CITIZEN*Asia:*

1. **Hong Kong, China:** Voting is a relatively recent right in the Hong Kong Special Administrative Region of the People's Republic of China, initiated only towards the end of the British colonial period (1842–1997) and enlarged [citation needed] somewhat after the handover to the People's Republic of China. For this “special administrative region”, the right to vote accompanies a person's permanent resident status in Hong Kong, not their citizenship.

The right of Hong Kong permanent residents to vote is guaranteed in Article 26 of the Basic Law, where nationality is not even mentioned. And as stipulated in Article 24, permanent residents include foreign persons who have taken up permanent residency in Hong Kong for more than 7 years and other persons (regardless of nationality) who have right of abode in Hong Kong only.

While voting by persons holding foreign passports has gone largely unchallenged, there is some indication that increasing appeals to patriotism may make non-citizen voting an issue of debate in the future. For those who are permanent residents of the territory but not concurrently citizens of the People's Republic of China, their permanent residency will be lost if they leave the territory for more than 3 years.

2. **Guangzhou, China:** No Voting rights for Overseas citizens.
3. **Japan:** Currently the Constitution of Japan defines voting rights as only for citizens. In 1990, some permanent residents from Korea petitioned the Supreme Court to gain voting rights. The Supreme Court declined in 1995, but one justice mentioned the possibility of local government voting in an attached opinion.

During the 2009 legislative elections campaign, it appeared that the New Komeito Party, the Japanese Communist Party and the Social Democratic Party were clearly in favor of extending local voting rights to foreign residents, while the Liberal Democratic Party was totally opposed to it and the Democratic Party of Japan was divided on this matter, but in favor of the extension of voting rights, so gaining the support of the Korean Residents Union in Japan (Mindan) for many of its candidates. As of 2010, The Democratic Party is considering making a draft law to permit this. Japan allows absentee voting.

4. **Malaysia:** As for voting in Malaysia, for those who are living outside of Malaysia, the method adopted is by postal voting, where all the citizens who have registered with the Elections Commission can be a voter, by logging at the website www.spr.gov.my. In Malaysia as long you have the Identity Card (IC) as we can check the electoral roll by inserting the Identity card and get the information about where to vote. If you are in the foreign land you can go to nearest Embassy or consult to cast vote.
5. **Philippines:** Article V Section 1 of the Philippine constitution provides that suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year, and in the place wherein they propose to vote, for at least six months immediately preceding the

election.[70] Section 40(d) of the Local Government Code disqualifies persons with dual citizenship from standing for local elective office.

Politically the Philippines has in place a Dual Citizenship Law along with the Absentee Voting Law which enables Filipinos living abroad to vote on all national and local elections as long as they are registered with the nearest diplomatic missions or embassies. On the designated day, the voters go to the embassies, present their voting ID cards and vote electronically

6. **Singapore:** Any Singapore citizen residing overseas may apply to be registered as an overseas elector to cast their vote at any of the 9 designated overseas polling stations, if he/she as on 1 January 2011" he/she is a Singapore citizen not less than 21 years old; his/her name is listed on a register of electors in operation; he/she is not disqualified from being an elector under any prevailing law and he/she is not resident in Singapore but has resided in Singapore for a total of not less than 30 days during the three years immediately before 1 January 2011.
7. **South Korea:** Revisions to voting laws in 2005 allow foreign nationals aged 19 years and older who have lived in South Korea for more than three years after obtaining permanent resident visas to vote in local elections. 6,746 foreign residents were eligible to vote in the May 31, 2006 local elections.

Middle East:

8. **Israel:** In 1960, non-citizen voting rights in local elections were granted for holders of a permanent resident card ("blue card").[2] Most permanent residents, a status created by the 1952 Entry into Israel Law, are migrants, but other groups fall into the same category. Following the 1967 annexation of East Jerusalem, Israel conducted a census on June 26, 1967 in the annexed territory and granted permanent Israeli residency to those present at the time of the census (those not present lost the right to reside in Jerusalem). They can still vote in municipal elections and play a role in the administration of the city. At the end of 2005, 93% of the Arab population of East Jerusalem had permanent residency and 5% had Israeli citizenship.

In the annexed Golan Heights, less than 10% of the Druze was Israeli citizens; the remaining hold Syrian citizenship and have the status of permanent residents. In 2003 the Black Hebrews were granted permanent residency status by the Israeli government. Israel not only practices overseas voting but allows non citizens who are permanent resident of Israel to vote.

9. **Iraq:** For the Iraqi elections of 2005, the Iraq Out-Of-Country Voting Program facilitated polling in 36 cities in 14 countries. Only those Iraqi electors who could attend one of the specified polling places were able to vote from outside Iraq. The Iraqi out of the country voting was managed by "Iraqi High Election Commission" through coordination with the ministry of foreign affairs and Iraqi Republic embassies in host countries.

Section 1: IHEC Regulation No.20

1. **"The Host Country"**: - The state which has agreed to open its office to manage the Iraqi elections abroad.
2. **"Registration and voting"**:- the process of enabling qualified Iraqi living outside Iraq to register and vote in the election of the Council of Representatives.
3. **"Voter Registration"**:- Is a record where the names of the eligible voters will be registered to vote in the out of country elections of the Iraqi council of representatives.
4. **"Center for registration and voting "**:- Is the location where the process of registration and polling occurred, and it contains one or more than one polling station.

Section2 (Managing OCV elections)

1. The Iraqis out of country voting was managed by IHEC, which set up office to manage the elections and connected it with offices in the host countries to form registration and polling centers , in addition to organize its activities according to the instructions issued by the BoC.
2. IHEC coordinates with the ministry of foreign affairs and the Iraqi republic's embassies in the host countries for the following purposes:-
 - Instituting an office in the host country to facilitate and control elections, opening registration and polling centers, in addition to opening the votes' counting and sorting centers.
 - Facilitate communication with relevant government institutions in host countries.
 - Provide support with respect to advertising of posts in the Office of the host country.
 - Facilitate the transfer of voting materials and polling results and protect polling stations.
 - The Iraqi ministry of foreign affairs in coordination with IHEC, and on behalf of it discussed the memorandum of understanding in relation to the OCV with the host governments.
The commission decides in which country registration and polling process for the Iraqis who are eligible to vote; will be stationed after the acceptance of the host states and according to the number of voters.

10. Mauritius: Commonwealth citizens may vote and are eligible for parliamentary elections, with a condition of residence in Mauritius for not less than two years or domiciled in the country on a prescribed date (also compulsory for Mauritius citizens), but "allegiance to a State outside the Commonwealth" is a criterion for ineligibility and "ability to speak and read English with a degree of proficiency sufficient to allow for taking an active part in Assembly proceedings" is a condition of eligibility. Mauritius citizens are allowed to vote from overseas through their embassies if registered in the electoral list.

11. Saudi Arabia: Women were allowed to vote for the first time in the last municipal election held in Saudi Arabia. Absentee voting is not allowed in Saudi Arabia.

12. United Arab Emirates: Though UAE does not allow overseas voting, foreign expatriates residing in UAE can vote for their leaders in home country. For example Filipinos, Bangladeshis, Egyptians etc are already voting for their leaders from UAE. Also other

countries like Pakistan, India etc are going to implement this system in UAE & very soon their fellow citizens residing in UAE can participate in their countries election.

Europe:

- 13. Austria:** In 2002, non-citizens were granted voting rights in state elections in Vienna, but the decision was overturned by the Constitutional Court in June 2004. EU nationals may vote and stand for office in local elections (in Vienna only at borough level, because Vienna is a state of Austria and not a local municipality).

Austria provides "remote voting facilities" to its citizens. Any Austrian citizen can make use of their voting right from a foreign country. Few days before the election, a ballot paper is sent to the voter. The voter fills out the ballot paper and chooses the place to vote from and the vote is then transmitted by ordinary post to the home country.

- 14. Belarus:** Citizens living outside Belarus can participate in elections by applying to specified diplomatic missions.

- 15. Belgium:** European Union residents in Belgium were given the right to vote and to become candidates for the 1994 European Parliament election, then for the 2000 Municipal elections. They had however first only the right to be elected as municipal councilors, not at the executive level (Schepen/Alderman or burgomaster/mayor), the alderman level was only opened for them from the 2006 Municipal elections. They are not eligible for the mayor level election because it includes administrative functions. In conformance with EU regulations, EU residents are submitted to the same residence conditions as Belgian nationals, i.e. residence in the commune at the closure date of the electoral roll (July 31 for the municipal elections).

In 2004, voting rights in municipal elections were extended to non-European Union foreigners living in Belgium, with certain conditions attached. Non-EU foreigners must have been living in Belgium for at least five years before becoming entitled to vote. Any non-EU foreigner who wants to take advantage of the new legislation must also sign an oath of allegiance to the Belgian constitution, formally agree to respect the country's laws and sign the European Convention on Human Rights. Non-EU foreigners are not allowed to stand as candidates.

Belgium allows overseas voting and voting is compulsory and all electors are automatically on the electoral rolls (extracted from a computerized National Register), foreign residents have to enlist voluntarily on the electoral roll, then only they are submitted to the compulsory vote. At the 2006 Municipal elections, only 20.9% (110,973 out of 529,878) of the potential EU voters enlisted (17.6%, or 87,858 out of 498,315 at the 2000 Municipal elections), and 15.7% (17,065 out of 108,607) of the potential non-EU voters.

- 16. Bosnia and Herzegovina:** Citizens living outside Bosnia and Herzegovina can register to vote through their embassies.

- 17. Bulgaria:** In February 2005, the Bulgarian Constitution was modified the article 42, a third paragraph was added to Article 42, stating "The elections for the European Parliament and the participation of European Union citizens in the elections for local authorities shall be regulated by law".

18. Cyprus: Article 8 of the 2004 Local Elections Act (Nationals of Other Member States) (N.98(I)/2004) allows EU residents to vote at local elections. Voters have to register, once registered they are submitted to compulsory voting like Cyprus citizens. EU voters may not stand for election as mayor or chairman of the council and, if elected to the local council, they cannot hold the office of deputy mayor or deputy chairman. Article 9(2) of the 2004 Law on Election of Members to the European Parliament (N.10(I)/2004) allows EU residents to vote and be candidate at the European Parliament elections as well as vote from overseas.

19. Czech Republic: In December 2001, voting rights in local elections were approved for "any natural person who has reached the age of 18, is a citizen of a foreign country and has permanent residence registered in the municipality, if an international treaty by which the Czech Republic is bound and which has been promulgated so stipulates." In November 2002, only EU nationals benefited from such a treaty. An Act on elections to the European Parliament was adopted in March 2003.

20. Denmark: Voting and eligibility rights were granted to Nordic Passport Union country citizens with a 3 years residence condition for municipal and county elections in 1977. These rights were extended to all foreign residents in 1981. In 1995, the 3 years residence requirement was abolished for EU residents, in conformity with the European legislation, and also for Nordic residents.

The Constitution states the franchise requirements as: (1) Danish citizenship, (2) permanent residence in the realm, and (3) the voting age prescribed by law (18, since 1978). Furthermore, a prospective voter must not have been declared legally incompetent. The residence requirement has since 1970 been construed to the effect that employees of the Danish state working abroad fulfils the residence requirement. Furthermore, since 1980 the requirement has also been construed in such a way that employees of Danish private companies working abroad, people working in international organizations of which Denmark is a member, or Danish aid or relief organizations, students studying abroad, or people living abroad for health reasons - as well as their spouses - are all considered to have fulfilled the residence requirement, provided that their stay abroad is not permanent. According to the practice of a special board ("the Franchise Board"), this means less than 12-13 years. The residence requirement of the Constitution does not allow the extension of franchise to all Danes living abroad.

21. Estonia: Article 156 of the 1992 Estonian Constitution states that "Any person who has reached the age of 18 and resides permanently in the territory of that local government will have the right to vote in accordance with the Constitution and the law". In 1996, all foreign residents were granted voting, but not eligibility, rights, for municipal elections with a 5 years residence condition. In March 2002, a new Local Government Elections Act was adopted to confirm with European legislation, granting EU residents the same voting and eligibility rights for municipal elections.

22. Finland: Voting and eligibility rights were granted to Nordic Passport Union country citizens without residence condition for municipal elections in 1981. These rights were extended to all foreign residents in 1991 with a 2 years residence condition. In 1995 (Law 365/95, confirmed by Electoral Law 714/1998), the residence requirement was abolished for EU residents, in conformity with the European legislation Section 14, al. 2 of the 2000 Constitution of Finland states that "Every Finnish citizen and every foreigner permanently resident in Finland, having attained eighteen years of age, has the right to vote in municipal

elections and municipal referendums, as provided by an Act. Provisions on the right to otherwise participate in municipal government are laid down by an Act."

23. France: EU residents have voting and eligibility rights for local and European elections.

In France, the Socialist Party has discussed extending the right to vote to foreigners since the early 1980s (it was the 80th proposition of the 110 Propositions for France electoral program of 1981), but as it needed a Constitutional change it was felt that it would have been blocked by the Senate. The alternative would have been a referendum, but as it was generally assumed that a majority of the public opinion was against it, it could have resulted in a defeat of the government. On May 3, 2000, a bill was voted on by the National Assembly by the Left and 2 centrist Union for French Democracy deputies, but it was blocked by the Senate.

Polls suggest that a narrow majority of the public opinion is now favorable to it and even Nicolas Sarkozy and a few other prominent right-wing politicians like Philippe Séguin (candidate to the Mayorship of Paris in 2001) Gilles de Robien and Jean-Louis Borloo have stated publicly that they personally supported it, but that they would respect the overwhelming opposition to it within their own parties. In January 2006 left-wing senators again tried to put the bill to allow foreigners to vote on the agenda, but the right-wing majority again blocked it.

In the late 1990s-early 2000s some symbolic local referendums on the subject were organized either under the auspices of the Ligue des droits de l'homme or of the municipal authorities, one of them in Saint-Denis, at the initiative of the Communist Party mayor. The Cergy administrative court ruled in 2006 that the referendums were not legally binding. Other communist or socialist-led municipalities organized such referendums, including Le Blanc-Mesnil (PCF), Bondy (PS), Stains (PCF), La Courneuve (PCF) and Aubervilliers (PCF).

The French Overseas Departments and Territories (French: *départements et territoires d'outre-mer*, colloquially referred to as the *DOM-TOM*) consist broadly of French-administered territories outside of the European continent. These territories have varying legal status and different levels of autonomy, although all have representation in the Parliament of France (except those with no permanent inhabitants), and consequently the right to vote in elections to the European Parliament. The French Overseas Departments and Territories include island territories in the Atlantic, Pacific and Indian oceans, French Guiana on the South American coast, and several Periantarctic islands as well as a claim in Antarctica. 2,685,705 people lived in the French Overseas Departments and Territories in January 2011.

24. Germany: In February 1989, the state of Schleswig-Holstein approved local voting rights for Danish, Irish, Norse, Dutch, Swedish, and Swiss 5-year residents; the state of Hamburg approved local voting for 8-year residents. Both were struck down as unconstitutional by the Federal Constitutional Court of Germany on October 31, 1990 (Ruling 83, 37), considering that the Basic Law, when stating in its article 28 that for districts and municipalities "the people" must be represented by election, only meant by "the people" the German citizens resident on the territory of that administrative unit.

Between 1995 and 1999, all states were compelled to change their legislation in order to comply with the December 19, 1994 94/80/CE EU directive over voting and eligibility rights for EU residents for local and district elections.

In 1998 the coalition government agreement between the social-democrats and the Greens for the first Schröder cabinet including voting rights for all residents at the municipal and district level, but the opposition led a harsh campaign for the February 7, 1999 regional elections in the state of Hesse, mostly centered against both the planned reform of the German nationality law and the perspective of noncitizen voting rights, won these elections and got a majority in the federal Upper House, where it blocked any initiative on voting rights and forced the government to adopt a less far-reaching reform of the nationality law.

- 25. Greece:** EU residents have voting and eligibility rights for local and European elections. In 2010, these rights were extended for local elections to non-EU foreigners. 12,762 foreign residents out of a potential electorate of 266,250 actually registered to vote for the November 2010 local elections. Greece nationals are allowed for absentee voting through their diplomatic missions if they are registered in the municipality.
- 26. Hungary:** In 1990, permanent residents were allowed to vote in local elections. This was revised in 2004 to limit non-citizen voting to EU nationals. Absentee voting in Hungary is allowed.
- 27. Iceland:** Voting and eligibility rights were granted to Nordic Passport Union country citizens with a 3 years residence condition for municipal elections in 1986. These rights were extended to all foreign residents in 2002 with a 5 years residence condition.
- 28. Ireland:** Ireland currently denies its citizens living abroad the right to vote. Public officials employed at diplomatic missions and members of the armed forces are the only categories of elector permitted to vote while abroad. On April 18, 2008, Conor Lenihan, the Minister for Integration, announced that full voting rights including for the President and Dáil Éireann would be extended to all EU migrants. This has yet to come in to force.
- 29. Italy:** EU residents have voting and eligibility rights for municipal (and infra-municipal) and European elections. The debate about the extension of local voting rights to non-EU residents (extra comunitari) resurfaces from time to time. A proposition included in the program of the Prodi I Cabinet in 1997 had to be withdrawn because of the opposition from the Commission for Constitutional Affairs.

Although the parties that support the Berlusconi governments oppose this extension, Gianfranco Fini, leader of the post-fascist National Alliance, supported it e.g. in 2004 and 2008, when he was president of the Chamber of Deputies. There are some elective local consultative councils for foreigners, notably in Rome, and since 2005 several municipal councils voted motions asking for the extension of voting rights to non-EU residents.
- 30. Jersey:** The right to vote in Jersey is determined by residency, not citizenship, citizens of any state may vote in Jersey elections provided they fulfill the other requirements for electoral registration. A person is entitled to have his or her name included on the electoral register for an electoral district if the person has been ordinarily resident in Jersey for a period of at least 2 years, or ordinarily resident in Jersey for a period of at least 6 months, as well as having been ordinarily resident in Jersey at any time for an additional period or for additional periods that total, at least 5 years.
- 31. Lithuania:** In 2002, EU nationals were granted local voting rights. In order to achieve this, an amendment to the constitution was adopted in June 2002 and an amendment of the Law

on elections to municipal councils was adopted in September 2002. A Law on elections to the European Parliament was adopted by the parliament in November 2003.

- 32. Luxembourg:** In 2003: local voting was granted with no nationality restrictions. Absentee voting is allowed in Luxembourg.
- 33. Malta:** Since 1993, United Kingdom residents in Malta enjoy the same voting and eligibility rights as Maltese citizens at the local and regional council elections. A Bill to make provision for participation of EU citizens to local elections and a Bill to make provision for holding of elections to the European Parliament were adopted in November 2003.
- 34. Netherlands:** In 1979 non-citizens were allowed to vote in local elections in Rotterdam. This was expanded nationwide in 1985 (though necessary reforms meant aliens did not vote in local elections until 1986).

The Dutch citizens who live abroad (and have deregistered themselves as a Dutch resident) are allowed vote for the House of Representatives and for the European Parliament, but not for municipal or provincial elections. The voters should be register with the municipality of The Hague. After registering voters receive a ballot at home. Then they can mark their choice with a red pencil on the ballot and send it by mail or give it by hand at the embassy on time. The embassy will then cast votes directly to the Netherlands. Dutch in an EU country can only sent their ballot by mail to The Hague. The red pencil is required when voting from abroad.

- 35. Norway:** Voting and eligibility rights were granted to Nordic Passport Union country citizens with a 3 years residence condition for municipal and county elections in 1978. These rights were extended to all foreign residents in 1983. The voter's enrollment is automatic. As a consequence of the 1983 extension, a 1990 bilateral treaty between Norway and Spain granted voting rights in Spain for Norwegian citizens. Currently, residing citizens of Nordic Passport Union countries may vote in local elections on the same basis as Norwegian citizens without any length of residence condition.

Norwegian citizens turned 18 by the end of the election year and who are, or at some time have been, registered in the National Population Register as resident in Norway, and who have not lost their right to vote according to Section 53 of the Constitution. If you live abroad, but have been registered in the National Population Register as resident in Norway at any time during the last 10 years, you will automatically be entered as an elector in the municipality in which you were registered as residing when you moved from Norway. If you have not been registered as resident in Norway for the last 10 years, you must apply to be registered as an elector.

You apply by signing the cover envelope that is used for voting in advance abroad. If you vote in advance in Norway, or do not use this cover envelope, you must apply separately. You can do this in a separate letter or by using a special form. The application must contain a statement that you are still a Norwegian citizen. The application must be in the hands of the electoral committee of the municipality where you were last registered in the National Population Register as resident by 9 p.m. on 14 September.

- 36. Poland:** Citizens living abroad and holding a valid Polish passport may apply to be entered on the register of electors and can vote from abroad.

37. Portugal: In 1971, Brazilian residents were granted voting and eligibility rights in Portugal for municipal elections with a 2 years residency requirement and 4 years for eligibility. In 1982, this provision was extended to Cape Verde residents in the frame of reciprocity between Community of Portuguese Language Countries. It was again extended in 1997, under a general rule of reciprocity but with a 4 years residency requirement, to Peruvian and Uruguayan residents with eligibility (after 5 years of residency) and to residents from Argentina, Chile, Estonia, Israel, Norway and Venezuela without eligibility.

However, in 2005 this list of countries was reduced to voting rights: the EU countries (now including Estonia), Brazil, Cape Verde, Norway, Uruguay, Venezuela, Chile and Argentina, plus Iceland, thus minus Israel and Peru.

Eligibility: the EU countries, Brazil and Cape Verde, thus minus Peru and Uruguay. Some Brazilian residents "with special status" (cidadãosbrasileiros com estatuto especial de igualdade de direitospolíticos) enjoy voting rights, but not eligibility rights, even for parliamentary and regional elections.

There is a political debate going on as to whether voting rights should be extended to all noncitizen residents, as the reciprocity clause excludes 50% of noncitizen residents. In May 2007, the High Commissioner of Migrations and Ethnic Minorities publicly advocated the abolition of the reciprocity clause and the extension of voting rights for foreign residents to all elections, including parliamentary and presidential elections.

38. Romania : The 27-article bill stipulates the ballots in which Romanian citizens domiciled or resident abroad can express their votes from Romanian Embassies or Consulate offices in respective countries :

- elections for the Chamber of Deputies and the Senate,
- election of the President of Romania, and
- elections for the European Parliament.
-

Likewise, the bill describes the specific procedure for exercising the right to vote. The Romanian Ministry of Foreign Affairs initiated this law since it has the experience of organizing the vote abroad.

39. Saint Vincent and the Grenadines: Commonwealth citizens able to speak and read the English language may vote and are eligible for parliamentary elections, if born in the country before independence; "allegiance to a foreign State" is a criterion for voting rights disqualification.

40. Slovakia: In 2002, local voting rights were granted for 3-year residents. Absentee voting is granted in Slovakia.

41. Slovenia: On May 29, 2002, the Slovenian Parliament passed amendments to the Law on Local Elections which gave voting rights in local elections to all foreigners with a permanent residence in Slovenia. In addition to electing local council representatives and mayors, foreigners with a permanent residence are also able to run for the position of local councilor. The voting rights of foreigners are based on Article 43 of the Constitution of Slovenia which states that a law may be used to determine the cases and conditions in which foreigners may vote.

The persons who are entitled to vote and to be elected as members of the National Council (upper house of the Slovenian Parliament) as a representative of employers, employees, farmers, small businesses and independent professionals, and non-profit making activities (functional interests) are those who perform a corresponding activity or who are employed. National Council members belonging to these interest groups may be elected by foreigners under the same conditions as the citizens of Slovenia, i.e. that they are performing a corresponding activity or are employed in Slovenia. However, they may not be elected as National Council members. People with permanent residence in a constituency are entitled to vote and to be elected as members of the National Council, representing local interests.

42. Spain: Municipal voting rights are granted to citizens of countries which reciprocate by granting voting rights to Spanish citizens when reciprocity is enshrined in a bilateral treaty ratified by Spain, i.e. since 1997 the EU member states and Norway, but already since 1989-1990 Denmark, the Netherlands, Sweden and Norway. Bilateral treaties with Argentina (1988), Chile (1990) and Uruguay (1992) have never been enacted as voting rights are not enshrined in a specific law in Chile, and for the two other countries the instruments of ratification have never been exchanged, there are also similar "friendship treaties" with Colombia and Venezuela. There is an ongoing debate in Spain about either ratifying existing bilateral treaties or changing the constitution in order to grant all residents voting rights without reciprocity, but some Catalan parties are opposed to it. Absentee voting is allowed in Spain.

43. Sweden: Voting and eligibility rights were granted to all foreign residents with a 3 years residence condition for municipal and county elections in 1975. The 3 years reside condition was suppressed in 1997 for residents from EU (in conformity with the European legislation) and the Nordic Passport Union. The voter's enrolment is automatic.

Citizens residing abroad are included on the electoral register and remain entitled to vote if they left Sweden within the previous ten years; after an absence of longer than ten years they must notify the relevant authority if they wish to remain on the electoral register.

44. Switzerland: Some voting rights have been granted to non-citizens by sub-national governments, the first being Neuchâtel in 1849, then Jura in 1978 and several others afterwards. Absentee voting is allowed in Switzerland.

Because Switzerland is a federal state with three different levels – the Confederation, the 26 cantons and their local communes – non-citizen voting rights vary greatly depending on the individual entity. Foreigners may not cast ballots on the national level, but they may be entitled to vote and, in some cases, to run for office on the cantonal or communal level. Five cantons have already recognized the right of foreigners to vote (Neuchâtel, Jura, Vaud in 2003, Fribourg in 2004, Geneva in 2005), plus three, Appenzell Ausserrhoden (1995), Graubünden (2003) and Basel-Stadt (2005) which accord to each municipality the authority to decide on the subject. Some referendums were unsuccessfully in other cantons.

45. Ukraine: No voting rights to foreigners as well as absentee voting.

46. United Kingdom: (CN and EU member) Since 1949, the United Kingdom, citizens of the Commonwealth countries and of the Republic of Ireland have had full voting rights at all levels and can be candidates, as they could before 1949 as British subjects; they are not regarded in law as foreigners.

For local, supralocal (Greater London Authority) and regional (Scottish Parliament, National Assembly for Wales, Northern Ireland Assembly) elections EU citizens enjoy the same rights as Commonwealth citizens.

Under Elected Authorities (Northern Ireland) Act 1989, local electors in Northern Ireland were either Commonwealth citizens or citizens of the Republic of Ireland, the Representation of the People Act 2000 replaced that section by "a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union". The Representation of the People Act 2000 also introduced a new system of electoral registration, with 2 electoral registers, one for parliamentary elections and one for local elections:

"A person is entitled to vote as an elector at a parliamentary election in any constituency if on the date of the poll he (...) (c) is either a Commonwealth citizen or a citizen of the Republic of Ireland"; "A person is entitled to be registered in the register of parliamentary electors for any constituency or part of a constituency if on the relevant date he (...) (c) is either a qualifying Commonwealth citizen or a citizen of the Republic of Ireland"

"A person is entitled to vote as an elector at a local government election in any electoral area if on the date of the poll he (...) (c) is a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union"; "A person is entitled to be registered in the register of local government electors for any electoral area if on the relevant date he (...) (c) is a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union"

"In this section "qualifying Commonwealth citizen" means a Commonwealth citizen who either"

(a) is not a person who requires leave under the [1971 c. 77.] Immigration Act 1971 to enter or remain in the United Kingdom, or

(b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave"

Africa:

47. Kenya: Those Kenyan citizens who are residing abroad and eligible to vote can vote from the Kenyan embassy in respective countries. Kenyan born foreign citizens but who have dual citizenship (Kenya has provision for dual citizenship) can also vote in the same way as foreign residing Kenyan citizens.

48. Morocco: On 17 December 2008, after a Spanish-Moroccan summit, the Moroccan Prime Minister Abbas El Fassi declared that his government was "studying" the possibility to grant voting rights for municipal elections to foreign residents in Morocco. The new Moroccan Constitution adopted in July 2011 includes in its article 30 this possibility: "Foreigners enjoy the fundamental freedoms recognized to the Moroccan citizens, according to the law. Those who reside in Morocco can take part at local elections according to law, application of international conventions or reciprocity practices.

49. Malawi: Non-citizens who have been ordinarily resident in Malawi for seven years may vote for parliamentary elections, but only Malawi citizens are eligible to stand.

- 50. Namibia:** Voting and eligibility requirements include citizenship of Namibia (by birth) or child of at least one parent born in Namibia or residence in the country for at least 4 years prior to the date of registration as elector. Any holders of a valid voter registration card are eligible to vote, including citizens resident abroad.
- 51. South Africa:** Only South African citizens may vote in elections, whether national or local. Article 19(3) of the 1996 South African Constitution states that "Every adult citizen has the right - a) to vote in elections for any legislative body established in terms of the Constitution..." No law provides voting rights for non-citizens but absentee voting is approved by the constitution.
- Up to 1996 article 6 of the 1993 South African Constitution stated that "Every person who is- (a)(i) a South African citizen; or (ii) not such a citizen but who in terms of an Act of Parliament has been accorded the right to exercise the franchise; (b) of or over the age of 18 years; and (c) not subject to any disqualifications as may be prescribed by law, shall be entitled to vote in elections of the National Assembly, a provincial legislature or a local government and in referenda or plebiscites contemplated in this Constitution, in accordance with and subject to the laws regulating such elections, referenda and plebiscites".
- 52. Uganda:** The 1967 constitution provided for citizenship on the basis of birth in Uganda to a parent (or grandparent) who was a citizen or birth outside Uganda to a father who was a citizen. It also recognized citizenship acquired prior to this constitution, and it gave the right to register for citizenship to women married to Ugandan citizens. According to the 1967 constitution, Ugandan nationals holding dual citizenship who failed to renounce their other citizenship would lose their Ugandan citizenship. The most important purpose of these provisions was to deprive Indians whose applications for Ugandan citizenship had not been approved by 1967, and those who had dual citizenship, of any claim to be Ugandan nationals, and thus it allowed the government to treat them as non-nationals. Citizenship was also the basic criterion for the right to vote, although a voter also had to be twenty-one and a resident in Uganda for six months.
- 53. Zambia:** Zambia citizens residing abroad do not have any provisions to vote from abroad. Now the GRZ is trying to address these issues.

Americas:

- 54. Antigua and Barbuda:** Commonwealth citizens may vote and are eligible for parliamentary elections, but "allegiance to a foreign State" is a criterion for ineligibility.
- 55. Argentina:** Article 61 of the Constitution of the city of Buenos Aires states that "Suffrage is free, equal, secret, universal, compulsory and not accumulative. The foreign residents enjoy this right, with the correlative obligations, on equal terms with Argentine citizens registered in this district, in the terms established by the law."
- 56. Barbados:** As of 1990, Commonwealth citizens may vote for parliamentary elections with a 3 years residency requirement.
- 57. Belize:** Commonwealth citizens who are domiciled or have resided in the country for at least one year immediately before polling day are qualified as electors, but not for eligibility to the House of Representatives, which requires Belize citizenship.

58. Bolivia: In 1994, the constitution was changed to allow non-citizens to vote in local elections. As of 2007, this has not been implemented.

59. Brazil: Article 12.1 of the 1988 Brazilian Constitution states that "The rights inherent to Brazilians (before 1994 Constitutional amendment, "born Brazilians") shall be attributed to Portuguese citizens permanently resident in Brazil if Brazilians are afforded reciprocal treatment, except in the events set forth in this Constitution.", article 14 that "Foreigners cannot register as voters", and

"The conditions for eligibility, according to the law, are the following:

Brazilian nationality (...)". A Treaty of friendship, cooperation and consultation between Brazil and Portugal was signed on April 22, 2000 and promulgated in 2001 by Decree nr. 3.927/2001. Practically, the Portuguese citizen regularly residing in Brazil and wishing to enjoy the "Equality Status" (Estatuto de Igualdade) without losing his original citizenship has to apply to the Ministry of Justice. The conditions to enjoy political rights are: to be residing in Brazil for 3 years, to be able to read and write Portuguese and to enjoy political rights in Portugal.

As per the government rule citizenship (above 18 years) have voting rights and can vote even form abroad and they do not voted government fines its citizens within two months.

60. Canada: Citizens who have lived abroad for less than five consecutive years since their last stay in Canada and who intend to resume their residence in Canada may apply for registration on the register of non-resident Canadians, and thereby become entitled to vote while abroad. Canadian members of the armed forces, public servants or employees of other specified organizations, and their families, are eligible to apply for registration on the register of non-resident Canadians regardless of their length of absence from Canada.

Voting rights at the federal level in Canada are exclusively limited to Canadian citizens:

British Columbia : The 1984 Election Amendment Act (Bill 20) put an end to the faculty of inscription on the electoral rolls of British citizens in British Columbia.

New Brunswick: For the 1995 New Brunswick provincial elections, a person qualified to vote had to be a Canadian citizen or a British subject who was resident in the province prior to January 1, 1979. For the 1999 elections, the qualification was limited to Canadian citizens.

Nova Scotia: For the 2003 and 2006 provincial elections in Nova Scotia, to be eligible to vote, a person had still to be either a Canadian citizen or a British subject. On November 25, 2001, an amendment to the Elections Act removed being a British subject as a qualification for registration as an elector but provided that this change would not be effective until the second general election that was to be held after this amendment came into force.

Ontario: The 1985 Equality Rights Statute Law Amendment Act put an end to municipal and scholar elections voting rights for British citizens in Ontario. Those who could vote before the Act kept their voting rights up to July 1, 1988, the legal waiting period for the introduction of a request for naturalization.

Saskatchewan : British subjects (other than Canadian citizens) are entitled to vote if they were qualified electors at the time of the Saskatchewan provincial general election held on June 23, 1971.

- 61. Cape Verde:** Article 24 of the Cape Verde Constitution [28] states that Alinea 3.: "Rights not conferred to foreigners and apartheidists may be attributed to citizens of countries with Portuguese as an official language, except for access to functions of sovereignty organs, service in the armed forces or in the diplomatic career."

Alinea 4: "Active and passive electoral capacity can be attributed by law to foreigners and apartheidists residents on the national territory for the elections of the members of the organs of the local municipalities."

The website of the governmental Institute of Cape Verde Communities states that such a measure was adopted "to stimulate reciprocity from host countries of Cape Verdian migrants". A law nr. 36/V/97 was promulgated on August 25, 1997 regulating the "Statute of Lusophone Citizen", concerning nationals from any country member of the Community of Portuguese Language Countries (article 2), stating in its article 3 that "The lusophone citizen with residence in Cape Verde is recognized as the active and passive electoral capacity for municipal elections, under conditions of the law. The Lusophone citizen with residence in Cape Verde has the right to exercise political activity related to his electoral capacity".

- 62. Chile:** The 1980 Chilean Constitution states in its article 14 that "Foreigners residing in Chile for more than five years and who comply with the requirements prescribed in the first paragraph of Article 13, may exercise the right to vote in the cases and in the manner determined by law.". Article 13 states that "Citizens are those Chileans who have reached the age of eighteen years and who have never been sentenced to afflictive punishment." A 2005 constitutional reform introduced a second line to article 14, by which eligibility rights of naturalized citizens only occur 5 years after being granted a naturalization card.

- 63. Colombia:** In 1991, the constitution was changed to allow noncitizens to vote in local elections, but the changes were not immediately implemented. On July 31, 2006, Colombia approved voting by foreigners for mayors and city council elections. To vote, foreigners must have been residents of Colombia for 5 years and must register with the electoral authorities. Voting is not compulsory and voting aliens have the same voting-related privileges citizens would.

- 64. Dominica:** Commonwealth citizens may vote for parliamentary elections. They are not eligible for direct elections to the House of Assembly, but may be appointed or elected as senators (9 members of the parliament who may either be appointed by the president or elected by the other members of the House of Assembly). "Allegiance to a foreign State" is a criterion for ineligibility.

- 65. Grenada:** Commonwealth citizens may vote and are eligible for parliamentary elections, but "allegiance to a foreign State" is a criterion for ineligibility.

- 66. Guyana:** Commonwealth citizens with domicile and residence in Guyana for a period of at least one year (same conditions apply to Guyanese citizens) may vote but the Guyanese citizenship is required for eligibility to the National Assembly.

- 67. Jamaica:** Commonwealth citizens may vote and are eligible for parliamentary elections, with a condition of residency in the country during 12 months prior to the compilation of the register of electors (only for British Commonwealth citizens), but "allegiance to a foreign State" is a criterion for ineligibility.
- 68. Saint Kitts and Nevis:** Commonwealth citizens may vote, but are not eligible, for parliamentary elections, if born in the country before independence; "allegiance to a foreign State" is a criterion for voting rights disqualification.
- 69. Saint Lucia:** Commonwealth citizens may vote, but are only those born in Saint Lucia are eligible, for parliamentary elections, if born in the country before independence; "allegiance to a foreign State" is a criterion for ineligibility.
- 70. Trinidad and Tobago:** A Commonwealth citizen who has resided legally in Trinidad and Tobago for a period of at least one year, and has resided in an electoral district/constituency for a least two months, prior to the qualifying date may vote at all levels in Trinidad and Tobago. Non-Commonwealth Citizen who has resided legally in Trinidad and Tobago for a period of at least five years, and has resided in an electoral district/constituency for at least two months, prior to the qualifying date may also vote, but are only eligible to vote in City or Borough elections within Trinidad. They cannot vote in Parliamentary or Tobago House of Assembly elections. For both Commonwealth and Non-Commonwealth citizens, who meet these requirements can vote if they are over the age of 18.
- 71. Uruguay:** Since 1952, 15-year residents have had national voting rights and absentee voting is allowed if registered with the election commission.
- 72. United States:** More than 20 states or territories, including colonies before the Declaration of Independence, admitted foreigners' right to vote for all elections. As of May 2010, however, most of those foreign voting and office holding rights have been repealed and at present no foreigner may vote at the national or state level in the US and only a handful of local governments allow foreigners to vote. These few foreign voting rights at the local level have been granted to non-citizens by state governments from 1968 onwards.

U.S. citizens residing overseas who would otherwise have the right to vote are guaranteed the right to vote in Federal elections by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986. As a practical matter, individual states implement UOCAVA.

U.S. citizens who reside in Puerto Rico, Guam, Northern Mariana Islands, or the United States Virgin Islands are not allowed to vote in U.S. national and presidential elections as these U.S. territories belong to the United States but are not part of the United States (i.e., they are *unincorporated territories*). The U.S. Constitution requires a voter to be resident in one of the 50 States or in the District of Columbia to vote in Federal elections. To say that the Constitution does not require extension of federal voting rights to U.S. territories residents does not, however, exclude the possibility that the Constitution may permit their enfranchisement under another source of law.^[53] A federal lawsuit in the District Court of the Virgin Islands is currently pending to provide Virgin Islanders with the fundamental right to be represented in Congress and vote for U.S. President. The case is Civil No. 3:11-cv-110, Charles v. U.S. Federal Elections Commission. The case alleges it was racial discrimination present in all-white and segregated Congress of 1917 that was the impetus to deny the right to vote to a majority non-white constituency.

A citizen who has never resided in the United States can vote if a parent is eligible to vote in certain states. In some of these states the citizen can vote in local, state and federal elections, in others in federal elections only.

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) guarantees US citizens overseas the right to vote in federal elections in the United States. (Federal elections include primaries, general and special elections for the president, vice-president, senators and representatives to Congress.) The UOCAVA applies only to federal elections. However, many states in the United States have enacted legislation whereby certain categories of citizens residing overseas can vote by absentee ballot for state or local officials. The same procedures for obtaining local election ballots are used for obtaining federal election ballots.

In order to vote in either federal or state elections in the United States, most states require citizens residing abroad to register in the state of their 'voting residence'. A voting residence is the legal residence or domicile in which the elector could vote if present in that state. Military and Merchant Marine members, and their spouses and dependents, may register to vote in the domicile (state) that the member claims as his or her residence. Civilian US Government employees overseas, their spouses and dependents will generally register in the state they claim as their legal residence. In accordance with the UOCAVA, overseas citizens (not affiliated to the US Government) must vote in their last state of residence immediately prior to departure from the United States. This applies even if many years have elapsed and the person maintains no abode and has no intention of returning to that state.

- 73. Venezuela:** In Venezuela, the right to vote in municipal, parish (county), and state elections extends to foreigners over the age of eighteen who have ten years' residency or more in the country. The provision for non-citizen voting appears in Article 64 of the Venezuelan Constitution of 1999, and has its constitutional roots in a 1983 Amendment to the previous Constitution of 1961.

Oceania:

- 74. Australia:** National voting rights were granted to Commonwealth citizens from 1960 to 1984. In 1984, 1947 legislation which had allowed non-citizen voting was repealed, but voters registered before 1984 retained their voting rights. External electors must satisfy the normal requirement for electoral registration in Australia, which means that they must be Australian citizens (or British subjects who were on the electoral register in Australia on 25 January 1984).

Registered electors who leave Australia and intend to return within six years can apply to be registered as 'eligible overseas electors' and retain the right to remain on the electoral register and vote while overseas; eligible overseas electors who are overseas for longer than six years can apply for 12-month extensions indefinitely. Spouses or children of eligible overseas electors who become entitled to register to vote while overseas by turning 18 or becoming Australian citizens may also apply for registration as eligible overseas electors. Eligible overseas electors can lose their right to be registered and to vote if they do not attempt to vote at a national general election held while they are overseas. Registered electors who go abroad but have an intention to return to live at the same address can remain on the electoral register and entitled to vote without having to register as eligible overseas electors. In this case there is no time limit.

Australia allows dual citizenship provisions. This was introduced in current shape nearly a decade ago. Australia offers overseas voting for its nationals residing overseas through its diplomatic missions and postal voting system. Provided they are currently enrolled, electors who are overseas can vote either in person at most Australian overseas embassies or missions, or by applying for a postal vote which entails printing an 'Application for a Postal Vote' form from the website. The Application for a Postal Vote form and list of embassies are only available after the date for a federal election has been officially announced.

75. New Zealand: National voting rights were granted in 1853 to all British subjects who met the other qualifications (e.g. property), to some non-citizens from 1960 to 1974, and to all permanent residents from 1975 onwards, see History of voting in New Zealand. One cannot, however, gain election to parliament unless one holds New Zealand citizenship. One party-list candidate in the 2002 election, Kelly Chal, could not assume her position as a member of parliament because she did not meet that criterion.

Citizens overseas are qualified to register and vote if they have been in New Zealand within the past three years; permanent residents are qualified to register and vote if they have been in New Zealand within the past 12 months; New Zealand public servants and defense personnel and their spouses and children over 18 years of age are qualified to register and vote regardless of length of time overseas.

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