

Suffrage fails to be universal or equal in many ways all across the world. One way that countries often fall short of this internationally accepted standard for democracy is through the process that they require for a voter to prove his identity. In most countries, an individual who wishes to participate in an election must somehow prove their identity, essentially demonstrating that they are who they say they are, their citizenship and age. The ways in which voters are allowed to demonstrate who they are when registering and voting vary across the globe.

The rationale for this of course is to prevent ineligible voters from casting a ballot and make sure no voter votes twice.

However, while it is critical to the legitimacy of elections that such types of fraud be prevented, there is another side to the voter identification process that has rarely been examined: the disenfranchising effect some voter identification processes have when the resources are not committed to making them work; groups this disproportionately impacts; and whether under a cost-benefit analysis, certain types of ID regimes, particularly those making use of expensive biometric technology, make sense. Having done an extensive study of identification laws and procedures throughout Africa and Latin America, I have found that many countries exclude groups of voters from the elections process by virtue of unmanageably strict or poorly administered voter identification requirements. Yet international and domestic democracy advocates rarely examine this aspect of the process when evaluating elections. In short, we have a serious global challenge to broad enfranchisement that must be addressed and has not been to date in most international or national domestic democracy circles.

Indeed the biggest area of movement in this area of elections has not been on making sure all citizens have what is needed to be able to vote; rather the focus is almost entirely on adding costly biometrics to the voter registration and identification system, an issue I will get into in more depth shortly.

I would be remiss in not mentioning that the issue of requiring voter identification is a huge and very controversial issue in the United States. Some states that are dominated by Republican legislators have started to require voters to present a government issued photo ID in order to vote. In the US, we have no national identity card and never have. Most people have a driver's license but at least 10 percent of the population does not. That 10%, unsurprisingly, is disproportionately poor people, minorities, the very young and the elderly – all populations that overwhelmingly vote for the Democratic party and have been voting for President Barak Obama. In order to get a requisite ID card, citizens would be required to spend money and go through a maze of bureaucracy, just for the ability to exercise the right to vote. Also in the US, it has been shown through an exhaustive number of academic papers, government issued data reports, and surveys of crime data, that voter fraud at polling places is not a problem in the United States. The fraud that occurs comes in other guises. This continues to be an area of extreme dissension and I'm happy to talk about it more in the discussion.

I. HOW CITIZENS ARE BEING DISENFRANCHISED BY CERTAIN KINDS OF VOTER IDENTIFICATION PROCEDURES

LACK OF DOCUMENTATION

Not having any papers at all is one of the biggest problems in the voter registration and identification systems in Africa and South and Central America. Many countries require some documentary evidence of identity and residence, and most of Latin America requires a national ID card – which requires documentation, such as a birth certificate -- to obtain. Many of these countries are impoverished, some have undergone years of armed conflict, and many have large numbers of internally displaced persons (IDPs). These conditions lead to large portions of the population lacking documentation of any kind.

The problem of lack of documentation is not unique to any one group, but it is much more prevalent a problem in certain communities. These include the indigenous, displaced populations, people living in remote rural locations, and those living in poverty

INSUFFICIENT INSTITUTIONAL CAPACITY

Lack of capacity to fully, efficiently and effectively implement a voter identification system, especially one that requires one particular type of document to vote, is widespread among the nations of Africa and Latin America. Many countries start out with ambitions of having a uniform voting document only to find it impossible to effectively provide that document to all eligible voters in the country. Lack of resources, skills, manpower, and environmental and geographical challenges are just some of the barriers governments and elections administrators confront.

Whatever voter identification process a country decides to adhere to, it must first ensure that it has the capacity to implement the process properly so that all eligible voters are able to meet the requirements.

The experiences in Latin America, where most countries require a national ID to register and vote, are instructive.

Honduras represents a rather dramatic example. The process of obtaining an ID card can take between four to six months.<sup>1</sup> The National Registry of Persons (RNP) reportedly has one million ID cards that have not been distributed as people have tired of continually returning to RNP offices to find the card not yet available and therefore have stopped trying. The problem is that the RNP only prints cards one day a week; the printer is so old that this is all it is capable of.<sup>2</sup>

In Guatemala, the plan in 2007 to re-register the entire population was badly mismanaged, a fact that was compounded by outright corruption. In 2011, many Guatemalans did not have the new ID card before the vote took place. Some people did not pick them up, some went only to find the card not ready, and some found that the cards contained mistakes. As a result, the Congress was compelled to amend the law to extend the validity of the old identity cards through January 2013.<sup>3</sup>

Before the 2010 election in Colombia, the Consejo Nacional Electoral (CNE) reported that 1.2 million citizens had applied for identity cards but had not picked them up.<sup>4</sup> One of the difficulties is that the government sends out mobile units to register people -- but often then the people must travel on their own to an urban center to get the ID. In some areas the only way to travel is on the river by boat and this is complicated and expensive, too expensive for many. There have not been enough efforts to distribute the cards in remote areas. Moreover, it can be dangerous to travel in some areas given the ongoing conflict. In some cases people are not even aware that they need to pick up the cards because there is no mode of communication.

In Nicaragua, the failure of the election management body to deliver identity cards in 2011 resulted in protests and violence in some areas.<sup>5</sup>

#### DIRECT AND INDIRECT COSTS TO VOTERS

One significant issue impeding voter registration among the poor is the direct and indirect costs associated with registering and obtaining documents. In Ecuador, where 37 percent of the population lives on \$2 per day, ID cards cost approximate \$2. In one province, the ID costs \$10.<sup>6</sup> Similarly, in Brazil many poor, rural people do not have the money to get to the county seat to register.<sup>7</sup> As referenced, in Colombia, the government has sent out mobile units to register people, but with a few exceptions they must travel on their own to an urban center to pick up the finalized ID. In some areas the only way to travel is on the river by boat, a complicated and expensive means of transport.<sup>8</sup> In El Salvador, the ID costs more than \$10 USD. With respect to Peru, The Ministry of Economics and Finance found just a few years ago that

The population living in poverty or extreme poverty is not in a position to assume the costs that are really necessary when completing all the processes to have personal documents issued. In this sense, getting a birth certificate is free, but it is impossible for this population to afford the expenses involved to travel to the nearest health post and request a birth certificate.<sup>9</sup>

In Peru, as in most countries, a birth certificate is required to get the ID card needed to vote.

#### I. HOW SOME COUNTRIES ENSURE INCLUSIVENESS AND IMPLEMENT EFFECTIVE IDENTIFICATION PROGRAMS

There are a handful of countries that have largely managed to address the problem of ensuring that all citizens have the identification documents they will need in order to vote; others have, by necessity, created an alternative avenue for registering and voting without documentation. The successful programs acknowledge the problem, put in a great deal of concentrated work, and invest a significant amount of government resources.

For example, Peru is leading the way in demonstrating how a country where numerous people are poor and may be in remote areas and have no documents can be reached and provided with the power of the vote.

[The election commission] RENIEC has expanded the reach of its services to get closer to the denizens, not only by setting up more offices but by travelling to and providing services to the most remote areas of Peru and by offering services using the internet and other communication methods. As these actions have helped RENIEC reach the neediest and most marginalized populations, public confidence for the institution has grown over time.<sup>10</sup>

One of the reasons I have opposed states individually requiring a standardized ID to vote in the United States is that I cannot envision the United States government, with the current mantra of slashing government spending even in the most crucial programs, undertaking this kind of a government led effort to provide ID to each and every citizen. I have read reports of election administrators in Peru travelling to the remotest parts of the Amazon to make sure a small handful of citizens got the ID they needed. At the present time I cannot see the US doing something similar. When and if that should change, then the discussion of requiring ID in the US to vote should commence.

Panama provides an example of a country in which the problem of lack of documentation is largely avoided because births are almost universally in hospitals where a registrar is consistently employed to provide identity documents to the newborn child on the spot. Finally, there are countries in Africa that allow citizens to prove their identity through means other than physical documentation, such as vouching by witnesses and community leaders.

## II. COMPLICATIONS IN INTRODUCING BIOMETRICS

Many political and election administration leaders in Africa and Latin America have introduced biometrics into the registration and documentation systems. Most commonly this involves fingerprinting the entire eligible voter population and processing and maintaining those prints in an enormous database for comparison.

Although biometrics can help address the problem of multiple registrations and thus in that respect increase trust in the legitimacy of the process, it is unclear what precisely is driving the move toward biometric technologies in registration and ID cards. It appears on the surface that the rationale is “everyone is doing it” and international donors are providing the means for countries to acquire the demanded technology.

Biometric technology is expensive, requires training and sufficient staff to implement, and necessitates that all the citizens at some point re-register and/or get the new card. At the same time it addresses only that one aspect of potential fraud: multiple registrations. It does not even deal with

other problems in the voter registration list such as noncitizen and under-age registration. Multiple registrations may or may not be the gravest problem confronting a country's electoral system. In most places it is, comparatively speaking, unlikely to be so. Moreover, multiple voting, which is the true concern, can be addressed through low tech alternatives such as use of indelible finger ink on Election Day and greater transparency and wider spread publication of the registration list in advance of elections.

Moreover, launching a new biometric system, because it can be so complex and vulnerable to so many different variables, such as environmental and geographical challenges, lack of training and skills, mechanical breakdowns, delays, and usually necessitates re-registration of every citizen in the country within a finite period of time, can cause disenfranchisement. As Michael Yard of IFES has pointed out, "A new way of doing things should not be judged either as good or bad simply because it is new, but should instead be evaluated upon the basis of whether it helps to make elections more or less democratic given the resources, risks, and alternative solutions available."<sup>11</sup>

Are politicians truly moved by the desire to address duplicate registration and voting or is there some other political interest that drives them? What outside pressures exist? Perhaps technology companies or the international donor community have taken action that is facilitating or accelerating the race to biometrics? There does not seem to be any strategy, cost/benefit analysis or long term thinking when it comes to this subject among most of the parties involved. It is still unclear whether biometric technologies are the most efficient use of resources given the particular problems emerging democracies confront. In some cases increased use of biometrics may make sense; in others it may address a less than urgent problem and only make the process more complicated. These issues require further exploration. Although there have been a small handful of technical studies of biometric systems, little research has been done on the advantages and disadvantages of deploying such a system in the first place. It appears that the only work that has addressed this issue head on is the report *Voter Registration in Africa*, an edited volume published by the Electoral Institute for the Sustainability of Democracy in Africa (EISA).

Richard Atwood, writing for the European Parliament, has stated, "EMBs and donors like the EU should... take care that new technologies adopted to prevent registration fraud – like biometric technology – do not themselves lead to citizens' disenfranchisement...For example, due to the cost of biometric kits, countries may purchase fewer and rotate them round the country, which can reduce the time available for communities to vote and may increase the distance they have to travel to do so. Note also that biometrics – if they work -only resolve multiple registration. They can't resolve issues of identity... Any erosion in the EMB's integrity through its procurement of costly equipment will increase risks of conflict and outweigh any of technology's potential benefits."<sup>12</sup>

Moreover, no matter how sophisticated a system is used, if there is lack of faith in the management body responsible for implementing it, it will not help increase trust in the integrity of the elections.

There are countries that have implemented biometric systems relatively successfully, but at the same time one must ask at what financial cost in the immediate and as important the long term in maintaining and upgrading the systems going forward, at the sacrifice of other needs.

a. Foreign Vendors

Procuring biometric registration technology from foreign vendors can be fraught with potential difficulties, particularly if they then hold the technological expertise and capacity to maintain and improve the systems to the exclusion of the election commission and local technologists. If a government contracts with a foreign vendor, depending on the state's internal capacity, "the system may be difficult to use in future registration exercises when donor participation in the electoral process is likely to dwindle."<sup>13</sup>

b. Implementation Problems

As Astrid Evrensel writes in the EISA publication's introduction,

A registration process that uses sensitive high-tech equipment not only adds significant... costs... but also increases organisational and logistical challenges. These include the increased need for technical training as well as continuous supervision and support for registration staff in the field to ensure that the data is captured, collected and processed to the highest possible standard. If EMBs lack organisational and logistical resources while attempting to organise such a complex task, the resulting voters' roll can be replete with errors. If the voters' roll is too faulty, polling staff may not even use it on election day. Following generally accepted principles, the voters' roll should be as accurate and complete as possible to provide for maximum inclusion of all groups. Voter inclusion and the enfranchisement of disadvantaged groups have to be balanced against the security features of a system, which prevent double registration by technological means...<sup>14</sup>

Echoing Atwood, Evrensel also points out that "Travelling long distances to registration centres [as may be required when deploying biometric kits in low supply] disenfranchises thousands of voters especially women, people with disabilities and others who cannot journey easily for whatever reason."<sup>15</sup>

There is also the problem of the false positive and the false negative. Moreover, there are also those citizens for whom recording a fingerprint is not possible and mechanical failures that lead to an inaccurate or unclear recording. "In Zambia in 2010, for example, a 'failure to acquire' rate of over 10% was observed at field level in the system's attempt to capture the digital fingerprints of voters. In other words, even before any further processing of voters' data, already 10% of voters are excluded from the system's attempts to detect double registrations because of technological registration issues..."<sup>16</sup>

In a sad example in Kenya recently, an 82 year-old man was turned away after a BVR kit failed to detect his fingerprints. IEBC clerks at the station tried their best several times but failed to register Mr Ole Nzuka, even after he washed his hands. Mr Nzuka who had trekked for more than 10

kilometers from Kibiku area to register in Ngong as a voter told The Standard, that he was under medication yet he failed to register.”<sup>17</sup>

EISA concludes that

[T]here are numerous ways in which an election can be stolen, and devoting massive resources to advanced registration techniques – even if they are well implemented and work perfectly – may simply displace fraudulent activities into other areas of the process. Electoral authorities and donors are attracted by the opportunity to make improvements to their systems rather than to address the more sensitive and difficult problems of misconduct by politicians, political parties and voters. These actors may in fact be happy to see the EMB and donors pursue a course of action which, in reality, would not disrupt their entrenched activities...<sup>18</sup>

a. Examples

1. Fiji

Michael Yard writes for IFES that

In 2009 there was a strong push in Fiji to include automated fingerprint identification as a requirement for every person on the voter list. Responses to the question of how this would improve voter registration were wide-ranging, with expectations that it could eliminate impersonation at the polling station, remove deceased persons from the voter register, and prevent registration by non-citizens and underage voters. None of these issues were addressed in any way by the proposed technology. A survey of political party members and field election staff indicated that there was very little concern about persons registering more than once, the one issue that the proposed system could help to address. ...<sup>19</sup>

The biometric registration exercise in Congo reportedly cost \$58 million.<sup>20</sup> And yet it still resulted in disenfranchisement. “[T]he system was not able to capture most people because the number of units acquired was not sufficient to cover the entire country (especially the outskirts), and people who had to travel several kilometres to register either missed the chance or found it too difficult to make the effort.”<sup>21</sup>

In 2007 the election commission in Guatemala (RENAP) decided to completely overhaul the system using biometrics. This overhaul required all Guatemalans to re-register and get new identity cards to replace the old ones. In a report published in advance of the 2011 election, the International Crisis Group (ICG) described this process as having been fairly disastrous:

The exercise was overambitious from the start. Planners misjudged the time required to retrieve and sort old data from municipalities and then collect and verify new data from around fourteen million Guatemalans. The bad design was compounded by corruption. Deputies in Congress and RENAP’s managers, who have since been

replaced, reportedly awarded contracts inappropriately, or at least without sufficient transparency. Ill-qualified cronies were appointed to key positions. The combination of poor design, nepotism and incompetence led, unsurprisingly, to a deficient registration. The exercise has cost far more than originally projected but remains incomplete. Politicians, especially from opposition parties, and some in civil society have accused RENAP of inflating registration numbers so as to benefit the ruling party.<sup>22</sup>

Sierra Leone used a biometric system for the first time in their 2012 election. Yet

... the integrity of the electoral register has still been questioned by opposition parties who accuse the government of covertly registering individuals under the legal voting age and foreign nationals... In Sierra Leone, there is no historical evidence of a deliberate strategy by any political party to rig elections through multiple registrations. All previous electoral registers have erroneously contained names of the deceased, the under-age and foreign nationals. But the most significant type of electoral misdemeanor has been physical stuffing of ballots and false recording of results by temporary election workers. .. Political parties continue to organize and condone the intimidation of voters, often perpetrated by their youth wings. Biometric technology offers little scope to tackle these transgressions.<sup>23</sup>

Kenya started its 30 day process of biometric voter registration exercise on November 19, making it an interesting current case study. Reviews so far have been mixed. There certainly were problems in the past with errors in the voter registration list. The Star newspaper says that the cost of the 15,000 [Biometric Voter Registration] kits was Sh6.1 billion (€56.21 million).”<sup>24</sup>

Some reports focused on the number of Kenyans who did not have the identity cards necessary to register. One press report stated that four million Kenyans lacked ID cards and that only a small percentage of them had even applied for the card.<sup>25</sup>

Early on in the process there were problems with the passwords on the registration kits expiring, the lack of sunlight causing solar power failures in the kits’ batteries, and problems with transportation and logistics.<sup>26</sup> The problems continued, with the kits breaking down in a number of locations. Ultimately, only about 13 million of the targeted 18 million registered to vote due to a variety of factors.

In Ghana, voting actually had to be extended to a second day last year mostly because of difficulties caused by the biometric kits. In several areas of the country the machines simply didn’t work while in others they failed to read voters’ fingerprints.<sup>27</sup> The largest domestic election observation group reported the biometric verification machines failed at some point during voting at 19% of polling stations.<sup>28</sup>

Nepal is also undertaking a biometric voter registration exercise. This too has been reportedly plagued with difficulties in a country that did not obviously need or could afford such a system. One of the very basic issues has been persistently inconsistent electrical power to turn the machines on.



## I. MOVING TOWARD PRINCIPLES FOR INCLUSIVE AND EFFECTIVE VOTER IDENTIFICATION PROCEDURES AND CODES OF CONDUCT

Given the practices identified here as well as international standards that touch upon this part of the voting process, it is possible to identify some areas ripe for inclusion in an exercise in drafting principles and good practices in the area of voter identification. Some preliminary suggestions are as follows:

- a. All parties must recognize the importance of birth registration and commit to ensuring that all citizens have free, timely, and easy access to documents related to birth and citizenship at any age, but ideally at the time of birth.
- b. States and election management bodies commit to assessing capacity to implement a voter identification process honestly and openly, and to conducting effective feasibility reviews
- c. There can be no de jure or de facto discrimination in the identification requirements and procedures
- d. All stakeholders commit to ensuring gender equity in the voter identification process and in access to requisite documents
- e. Required identification documents should be completely cost-free
- f. All stakeholders should be committed to widespread voter education efforts throughout the state with respect to identification requirements and procedures
- g. When contemplating moving to advanced technologies such as biometrics, a rigorous analysis should be conducted as to whether such technology addresses the core problems identified in the voting system. This may include a cost/benefit analysis.
- h. When contemplating moving to advanced technologies such as biometrics, stakeholders should also examine matters related to sustainability and the capacity of the state to maintain systems absent international assistance.
- i. All dealings with vendors and use of technology should be as transparent as possible in a way that is understandable to the general public.

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<sup>1</sup> Interview with David Fleischer, Political Science Institute, University of Brasília, June 1, 2012.

<sup>2</sup> Interview with Salvador Romero, NDI Honduras, June 5, 2012.

<sup>3</sup> International Crisis Group, Guatemala's Elections: Clean Polls, Dirty Politics, June 16, 2011 p. 10.

<sup>4</sup> Organization of American States, INFORME DE LA MISIÓN DE OBSERVACIÓN ELECTORAL: ELECCIONES LOCALES EN LA REPÚBLICA DE COLOMBIA 28 DE OCTUBRE DE 2007, April 8, 2008, p. 20.

<sup>5</sup> The November 2011 Elections in Nicaragua: A Study Mission Report of the Carter Center, pp. 8-9.

<sup>6</sup> European Union Election Observation Mission Constituent Assembly, Ecuador, 2007, p. 28.

<sup>7</sup> Interview with David Fleischer, Political Science Institute, University of Brasília, June 1, 2012.

<sup>8</sup> Interview with Francisco Herrero, Pablo León, NDI, June 19, 2012.

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<sup>9</sup> [http://www.mef.gob.pe/contenidos/presu\\_public/documentacion/programa\\_estart/Programas\\_Estrategicos\\_Identidad\\_acceso\\_poblacion\\_identidad.pdf](http://www.mef.gob.pe/contenidos/presu_public/documentacion/programa_estart/Programas_Estrategicos_Identidad_acceso_poblacion_identidad.pdf), p.5, as translated.

<sup>10</sup> Mia Harbitz and Bettina Boekle-Giuffrida, *Democratic Governance, Citizenship, and Legal Identity: Linking Theoretical Discussion and Operational Reality*, Inter-American Development Bank, May, 2009, p.p. 32-33.

<sup>11</sup> Michael Yard, *Direct Democracy: Progress and Pitfalls of Election Technology*, IFES, 2010, p. 9

<sup>12</sup> Richard Atwood, *How The EU Can Support Peaceful Post-Election Transitions Of Power: Lessons From Africa*, DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION, DIRECTORATE B , POLICY DEPARTMENT, BRIEFING PAPER, P. 19

<sup>13</sup> Astrid Evrensel, Ed., *Voter Registration in Africa*, EISA, 2011, EISA, p. 98

<sup>14</sup> Astrid Evrensel, Ed., *Voter Registration in Africa*, EISA, 2011, p. 2.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> “Hitches slow down the registration of voters,” *The Standard Digital News*, November 22 2012

<sup>18</sup> EISA at 50

<sup>19</sup> Michael Yard, *Direct Democracy: Progress and Pitfalls of Election Technology*, IFES, 2010, p. 20

<sup>20</sup> EISA at 58

<sup>21</sup> Id

<sup>22</sup> International Crisis Group, *Guatemala’s Elections: Clean Polls, Dirty Politics*, June 16, 2011, p. 9.

<sup>23</sup> Jonathan Bhalla, “Can tech revolutionize African elections?” *CNN*, November 17, 2012, <http://edition.cnn.com/2012/11/17/opinion/sierra-leone-election-biometric/index.html?eref=edition>

<sup>24</sup> Walter Menya, *Kenya: Government Loses Billions in BVR Deal*, *The Star*, November 3, 2012

<sup>25</sup> Moses Njagih, “IEBC starts off race to register 20 million voters,” *The Standard Digital Review*, November 17, 2012

<sup>26</sup> “Hitches slow down the registration of voters,” *The Standard Digital News*, November 22 2012

<sup>27</sup> Faith Karimi, “Ghana extends voting in some areas after glitches, delays,” *CNN*, December 8, 2012

<sup>28</sup> CODEO Post-Election Statement, December 8, 2012 at

[http://www.cddghana.org/\\_upload/general/file/CODEO%20Post-Election%20Statement%2014%20Dec%2012.pdf](http://www.cddghana.org/_upload/general/file/CODEO%20Post-Election%20Statement%2014%20Dec%2012.pdf).