



Legal Considerations When Delaying or Adapting Elections

“Tough decisions are being made around the world regarding electoral processes, but none should be made disregarding international standards and best practices. During a global health crisis that demands coordinated action for the protection of fundamental rights, close monitoring and international cooperation are acutely in demand.”

-Justice José Luis Vargas Valdez

Electoral Tribunal of the Federal Judiciary of Mexico and Founder of the Global Network on Electoral Justice

Democracies thrive on assembly, transparency and confidence in elections and government institutions – all of which are put at risk by the COVID-19 pandemic. The global health crisis erupted during a troubling global decline in democracy. Already more than 57 countries and five territories have postponed or canceled elections, while others have used the crisis as a pretext to quickly consolidate power and erode individual rights.

The International Foundation for Electoral Systems’ (IFES) new [COVID-19 Briefing Series](#) tackles seven fundamental areas of concern for democracy and governance in the wake of the pandemic.

As democratic rights and governance are undermined, so is the ability of governments to adequately meet the needs of people suffering from the COVID-19 crisis, including already marginalized individuals who may be disproportionately harmed. Stable democracies with good governance provide the best chance for coping with viral outbreaks and the far-reaching impacts of the pandemic. This makes the role of elections and public participation even more vital during the time of COVID-19.

How can democratic rights and electoral integrity be safeguarded when elections are altered during a crisis like COVID-19?

[Legal Considerations When Delaying or Adapting Elections](#), the second paper in the series, looks closely at this question and offers guidance for public officials, including lawmakers, judges and election management bodies. It also should be of interest to other democracy and governance practitioners, policymakers and supporters.

Many countries around the world are grappling with a gravely important decision: whether to delay elections as a result of the COVID-19 pandemic, or to modify election processes to minimize the risk of transmission. These decisions are far from simple and could have far-reaching implications. Changes to elections might open the door for democratic rights to be undermined, the rule of law threatened or emergency power abused for personal or political gain. Conversely, there might be opportunities to strengthen enfranchisement – particularly of vulnerable or marginalized groups.

Legal Considerations When Delaying or Adapting Elections:

- Identifies international principles and legal issues relevant to election postponements, including rules on term limits, deadlines for transfers of power and legal authority
- Discusses international principles and legal issues relevant to election modifications, including flexibility in the law, timelines and statutory authority
- Provides guidance for decision-making by policymakers, judges and election officials

Because countries are just starting to grapple with the legal challenges related to elections and the current health crisis, there may be no established precedent to guide decision-making by public officials and for judges to determine reasonable and fair remedies that protect both democracy and public health.

IFES recommends that policymakers, judges and election officials:

- Communicate and coordinate with all relevant stakeholders prior to making constitutional, legal or regulatory changes, and then fully communicate any changes
- Where possible, schedule a new date or timeline for elections at the time of postponement
- Make new measures that facilitate enfranchisement permanent whenever possible
- Consider or clarify sources of authority for setting or changing election dates or developing new procedures
- Make or invoke provisions for temporary continuity of power beyond the end of a term, if necessary
- Consider the operational impacts – including cost, capacity to organize new elections and the need for consultation and public education – of decisions to postpone or modify elections

Read and download *Legal Considerations When Delaying or Adapting Elections* on www.IFES.org.

Find the [IFES COVID-19 Briefing Series](#).

Learn more at [IFES' COVID-19 Survival Guide for Democracies](#).

Follow [#COVIDxDemocracy](#) for new analysis and innovative solutions during the pandemic.

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