



# Elections and COVID-19

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The global spread of COVID-19 (the novel coronavirus disease) has profoundly impacted on the delivery of public services and routine events that are integral to inclusive societies. Electoral processes are one such event.

The opportunity for a society to confirm officials in elected office or remove them, within a constitutionally defined timeframe, is a pillar of democratic values and standards. The process of doing this is a communal one, and communal events intrinsically bring people together—a process that is contrary to the informed advice for limiting the transmission of a virus, such as the one that causes COVID-19.

Decisions must be made to ensure democratic institutions function as they ordinarily would do, during extraordinary times, such as the outbreak of a global health pandemic. This Technical Paper offers an initial overview of key points for electoral administrators, governments and civil society organizations on administering elections amid the continued spread of COVID-19.

## Introduction

The spread of communicable diseases such as COVID-19, and the measures to contain the virus imposed by governments and state agencies, have both constitutional and technical implications for the timing and administration of elections.

Electoral processes held under normal circumstances entail a degree of risk to both voters and poll workers. During extraordinary times, such as responding to a new and unfamiliar pandemic, the guidance issued by national public health authorities on the movement of people should inform the decisions taken by governments and electoral management bodies (EMBs) to either postpone or hold an election. Consideration should also be given to the safe conduct of activities throughout the entire electoral cycle (voter registration, staff recruitment and training, candidate nomination, political campaigning, procurement and electoral dispute resolution).

Restrictions placed on free movement will naturally affect an electoral process. Revised health and safety guidance can be incorporated into the administration of an election to protect election staff and voters, but the extent to which it is possible is dependent on the financial resources of the EMB and the time between the introduction of the new health and safety routines and the election.

EMBs must identify and assess the feasibility of implementing any new requirements without compromising the integrity or legitimacy of an election. Cooperation between different state agencies should take place and the consultation outcome should inform any decisions taken. Decisions must balance the risk of holding an election through voting in person in a polling station with the potential health implications of bringing people together in a confined space, against alternative voting methods, and the impact postponing an election would have on democratic standards. New and untried logistical arrangements will pose increased challenges in addition to existing arrangements, such as EMB mandates expiring, new procedures not complying with existing regulations or contracts with vendors, or an allocated budget being withdrawn.

Legislative elections were held during the Ebola epidemic in Liberia in 2014, with some urban areas exempt from participating. Similarly, conflict-affected countries, such as Pakistan in 2018, have not held elections in certain regions because of insecurity. In March 2020, Italy, Spain and then France restricted citizens' movement as a result of the COVID-19 pandemic. Local elections in France were held, but with a much lower turnout than predicted or in previous elections, while a referendum on constitutional reform in Italy was indefinitely postponed.

## Key considerations for planning an election

### *The constitutional significance of an election*

Elections are held at national, subnational and supranational levels. Some elections are constitutionally or politically critical, serving as a ‘mechanism’ in a sequence of events, such as a step in a peace process or a legal reform process or in securing a national budget. Some elections require a voter turnout threshold to be reached. For local elections, certain areas of a country may not be as vulnerable to public health threats as other areas, therefore less likely to experience the impact of COVID-19.

### *Alternative mechanisms of campaigning*

Campaign rallies, door-to-door canvassing and town hall meetings are an important part of a vibrant and inclusive democracy. Electoral campaigns are, however, increasingly conducted on the Internet and through social media platforms. This medium offers an alternative option when electorates and political contestants have their movement restricted or are required to maintain a recommended physical distance between each other.

### *Alternative remote voting methods*

Special voting arrangements that allow citizens to cast their votes remotely (i.e. not in person at a polling station)—by post, or online through a computer or mobile phone application—could mitigate health or security hazards presented by voting in person. However, financial costs may be prohibitive, implementation timeframes may be insufficient for adequate preparation, procurement and training, and legal frameworks may prohibit their introduction. Political distrust may also undermine confidence in any alternatives, while possible threats to the integrity of elections can undermine the feasibility of alternative voting options.

Existing remote voting arrangements are designed to complement, not replace, in person voting at a polling station. Remote voting methods are largely uncontrolled and, in some contexts, known to undermine the integrity of an election. From an electoral management perspective, voting in a polling station is optimal to safeguard the integrity of an election. It reduces the opportunity for irregularities, such as vote buying and coercion or family voting, while guaranteeing the secrecy and integrity of an election. Voting at a polling station can further protect and strengthen the societal value of political engagement that elections provide.

Postal voting typically requires a large-scale logistical effort, from procuring reliable postal services to recruiting ballot-counting staff, and requiring numerous counting officers to cooperate under close supervision. Such an exercise would also be challenging to conduct safely during a viral pandemic, such as COVID-19.

Elections that are held in an area of a country with a greater number of people with an increased health risk, such as older people, remote voting may be an effective option to encourage their participation and maintain voter turnout, while limiting contagion and protecting citizens’ and poll workers’ health. Proxy voting within a clear legal framework could offer a further option for older people and vulnerable groups to participate in an election without being required to visit a polling station.

Voters will need to be informed about any new voting methods that have been adopted. During a period when citizens’ movements are restricted, such as in response to COVID-19 in some countries, a media campaign must be tailored to reach voters through the most popular means of communication used by citizens restricted to their homes. This would include traditional channels, such as national TV and radio, but also the Internet and social media platforms.

### **Case study: New Zealand considers alternative voting methods ahead of its general election and two national referendums**

The New Zealand Electoral Commission is considering extending existing alternative voting arrangements, designed for voters unable to attend a polling station to vote in person, to all voters for its general election scheduled for 19 September 2020. Alternative voting arrangements being considered are extending the online service for voting that is currently offered to overseas voters, who can download and upload their voting papers; extending the telephone dictation voting service, which is available for people who are blind, partially blind or have a physical disability (although this method prevents voters from casting their voting paper without assistance); offering proxy voting and postal voting, neither of which is currently provided for in electoral legislation; and expanding the use of mobile ballot boxes.

*Source:* Vote NZ: New Zealand Electoral Commission website.

## Will postponing or continuing to hold an election affect its legitimacy?

The type and constitutional significance of an election, as well as the original date scheduled, will be a factor in the decision to postpone or continue to hold an election. The advantages and disadvantages of postponing also need to be compared to the advantages and disadvantages of continuing, as holding an election may also see reduced legitimacy.

### *Loss of voice*

Elections are the opportunity for citizens to remove and replace a representative or government. This opportunity is lost for a period of time if an election is postponed.

### *Claims of political opportunism*

Postponement could—and ideally should—be agreed through consensus between all political parties. The risk that incumbent governments may act unilaterally for political advantage, or at least perceived political advantage, should be considered, to avoid undermining confidence in the process and the legitimacy of the result.

### *Effect on turnout*

Democratic elections, at their best, are characterised by high turnout and equal levels of participation across different groups in a society. Without this, the result of an election may be shaped by some groups more than others. Holding an election during a pandemic could undermine, or be perceived as undermining, this aspect of democracy by reducing turnout. Citizens might be less likely to vote if they are concerned for their health and the health of their family members. The legitimacy of the contest may therefore be undermined by uneven participation. Those with underlying health conditions who could be more affected by COVID-19 might be especially less likely to vote. Continuing with elections could therefore make the electoral process less inclusive (James and Garnett 2020).

### *Effect on political debate*

Democratic elections should feature a wide political campaign and broad public debate on public policy issues, which may be curtailed if citizens are restricted from moving freely. Moreover, any election campaign may be dominated by the current pandemic, preventing a comprehensive discussion on wider public policy issues from taking place.

## Case study: Chile postpones constitutional referendum for six months

Chile had set a national plebiscite on whether or not to draft a new constitution for 26 April 2020. On 19 March 2020, following a broad political agreement among 15 political parties, it was rescheduled for 25 October 2020. The decision came after Sebastián Piñera, Chile's President, declared a 90-day state of catastrophe in the country, with the objective of strengthening the government's ability to contain the virus. This is an important decision, especially since the demand for a new constitution has been at the heart of the large-scale protests engulfing the country since October 2019. In order to bring into effect this new date for the plebiscite, a constitutional reform bill was presented and required the approval of two thirds of parliamentarians.

Source: McGowan 2020.

### *Is postponing an election constitutional?*

Many constitutions provide for the postponement of elections during emergencies. Holding an election during emergency conditions can be difficult. Holding an election during an emergency might divert resources from more urgent life-saving work. There is also a risk that an unscrupulous government could use emergency restrictions on rights (e.g. the power of administrative detention) to repress opposition candidates or critical media, which may make elections held under emergency conditions less free and fair than they should be. Alternatively, postponing elections may be decoupled from the declaration of a state of emergency, making it possible to declare a state of emergency without postponing elections, or to postpone elections without necessarily declaring a state of emergency.

Some constitutions forbid the passage of constitutional amendments during emergencies. The rationale behind this is fourfold: (a) during an emergency, hasty decisions may be made that address current fears and concerns but neglect longer-term interests in ways that may ultimately be harmful for democracy; (b) the enhanced powers of the executive and the restrictions on rights during an emergency may make it easier for the government to unfairly influence the amendment process; (c) amendment processes sometimes require an intervening general election or referendum to allow the people to express their approval or disapproval of a constitutional change, and that might be difficult to arrange during an emergency; and (d) it prevents the constitutional provisions regulating states of emergency (in terms of their effects, duration

and safeguards) from being changed while the state of emergency is in force, thereby preventing changes that could extend a state of emergency or otherwise open the way to a misuse of power. (Bulmer 2018: 27, 31)

### Case study: The German state of Bavaria holds an all-postal vote for the second round of local elections

Bavaria held the first round of local elections on 16 March 2020, offering in person voting at polling stations and postal voting. The second-round run-off, to be held on 29 March 2020, is an all-postal vote. That was decided in response to the COVID-19 pandemic and the health risk it posed of contagion through social contact. The decision and logistical arrangements were made after the first round was held.

Source: Süddeutsche Zeitung 2020.

### Guidelines for operating polling stations during the COVID-19 pandemic

Actions for election officials in advance of election day:

- Voters should be offered voting methods that minimise direct contact with other people and reduce crowd size at polling stations.
- Postal voting should be encouraged if allowed in the jurisdiction.
- Early voting should be encouraged, to reduce crowds throughout the day.
- Voters planning to vote in person on election day should be encouraged to arrive at off-peak times.

Preventive actions polling workers can take for themselves and voters:

- Wash hands frequently with soap and water for at least 20 seconds. If soap and water are not available, use an alcohol-based hand sanitiser that contains at least 60 per cent alcohol. Clearly display instructions inside the polling station.
- Avoid unnecessary handling of voter identification documents.
- Incorporate social distancing strategies, as feasible: more than 1.5 m between voters, and a limited number of voters allowed to enter the polling station at the same time.
- Provide an alcohol-based hand sanitiser with at least 60 per cent alcohol for use before and after using the pencil, the voting machine or the final step in the voting process. Consider placing the alcohol-based

hand sanitiser in visible, frequently used locations such as registration desks and exits.

- Routinely clean frequently touched surfaces with household cleaning spray, including tables, doorknobs, light switches, handles, desks, toilets, taps and sinks.
- Clean and disinfect voting-associated equipment routinely, such as pencils, voting machines, laptops, tablets and keyboards.

### Deciding to postpone or continue with holding an election

Proceeding with an election or postponing an election entails risks for a government, an EMB and health authorities. While postponing elections may be the most feasible and responsible option from the public health perspective, the decision can cause other risks to materialise, for example:

- reputational risks (for an organization that makes decisions, for trust in democratic processes and institutions, for international relations);
- political risks (disturbing the level playing field and undermining the incumbent or opposition);
- financial risks (budgetary implications, e.g. money invested that cannot be recovered);
- operational risks (alternative dates are not feasible because of other risks, e.g. monsoon season, winter, other events); and
- legal risks (the decision can be legally challenged).

### Recommendations

Interagency consultation and communication mechanisms should be sought and include both electoral authorities and public health authorities. International IDEA recommends:

- Careful consideration of staff and public safety, constitutional constraints and procedures, and implications for democracy—inclusion, equality and accountability;
- Logistical considerations for alternative voting arrangements;
- If proceeding with an election, processes for mitigating risks;
- If postponing an election, pathways for addressing the electoral issue at hand and stringent guidelines for caretaker arrangements; and
- Public communication about the issues at stake, the reasons for the decision and the processes in place to safeguard democracy.

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