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Holding Elections during Future Pandemics and Other Emergencies: Evidence-Based Recommendations

This briefing paper provides evidence-based recommendations for how countries can best plan for holding elections in the event of future pandemics and other emergencies. It is principally aimed at electoral management bodies (EMBs) and legislators at the country level, and external donors who fund democracy programmes in low- and middle-income countries (LMICs).



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Introduction

The outbreak of SARS-CoV-2 (the virus that causes COVID-19) has highlighted a range of vulnerabilities across the globe, many of which are exacerbated by inequality.¹ Epidemic diseases have broken out periodically throughout human history,² and, as John Nkengasong of the Africa Centres for Disease Control and Prevention has argued, 'COVID-19 will not be the final pandemic to challenge the world'.³ Therefore, it is imperative that planning occurs to ensure greater preparedness for the next outbreak, particularly as scientists have warned that pandemics are likely to be more frequent in the future as a result of the environmental damage caused by human activity.⁴ At a smaller scale, viral outbreaks that lead to health crises are also likely to become more common at the regional, national, and subnational levels. Beyond health crises, the COVID emergency has acted as a reminder of the need to prepare for other possible unexpected disruptions. Other emergencies may arise as a result of: natural disasters or extreme weather events; malicious foreign interference in sovereign democratic elections; terrorist threats; and the deliberate exploitation of future crises by authoritarian leaders to undermine democratic institutions and processes.⁵

Elections have been impacted by the COVID-19 pandemic. The Universal Declaration of Human Rights (Article 21.3) states: 'The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.'⁶ Citizens' rights and states' obligations are further expanded in various United Nations and regional instruments. However, evidence from during the COVID-19 pandemic has shown that viral outbreaks can result in elections being postponed or cancelled,⁷ and they can also lead to restrictions

being placed on citizens' ability to freely participate in political processes.⁸ Elections that do take place during health crises also create additional risks of viral transmission. In a study conducted in Liberia during the Ebola outbreak, the International Foundation for Electoral Systems (IFES) found that there are more than 40 stages during the electoral cycle where people assemble or objects are transferred.⁹ This briefing paper makes recommendations for ensuring risks can be addressed more effectively during future pandemics and other crises. It is structured into two sections: the first contains measures that should be taken in advance of the next crisis, and the second contains recommendations for how to react after the next crisis begins.

These recommendations are based on research for the UKRI GCRF/Newton Fund 'African Elections during the COVID-19 Pandemic' project. The project is a collaboration between researchers from the University of Edinburgh, the Open University of Tanzania, the Ghana Centre for Democratic Development, and the Harvard Humanitarian Initiative (who work with the NGO Echelle). We followed each stage of three national elections that were held towards the end of 2020: in Tanzania, Ghana, and the Central African Republic, as well as a series of by-elections in Kenya in early 2021. The research involved a convergent mixed-methods study design that included nationally representative population-based surveys on a range of COVID-19-related attitudes and experiences, observation of the electoral process, and qualitative interviews with government employees, political parties, civil society actors and electoral management body (EMB) staff. Our COVID-19-specific recommendations, and our series of country case study papers, are at <https://aecp.sps.ed.ac.uk/>.

Measures that can be taken now

Holding elections during a pandemic, or a smaller-scale health emergency that affects either a whole country or certain areas within a country, adds an additional layer of complexity to what is an intricate task under ordinary circumstances. Therefore, it should be regarded as best practice if some measures are taken to ensure that countries are prepared before such a crisis emerges. Contingency planning is particularly important as, once a crisis begins, other elements of the response may distract from making provisions for elections. Furthermore, any measures that need to be rushed through at the last minute are less likely to receive appropriate oversight and may be more vulnerable to political instrumentalization.

Electoral laws should be updated to better cover all contingencies relating to pandemics and other emergencies

During any emergency, a number of decisions must be made regarding elections. Most prominently, a judgement on whether upcoming elections need to be postponed or cancelled has to be made. A decision to postpone or call off an election can certainly be justified in some circumstances. For example, an election might be rescheduled if participation would involve substantial risks for citizens. Similarly, an election might be postponed if there is uncertainty concerning the exact mode of a virus's transmission, which would make the introduction of safety measures difficult. Where elections do go ahead, safety protocols need to be put into place, and this involves further decisions about who is responsible for drafting and enforcing them.

There is a clear risk that these decisions can become instrumentalised for political gain. This may involve incumbents deciding to postpone elections that could be held relatively safely, in order to stay in power. Conversely, incumbents may decide to go ahead with elections at the expense of public health concerns because they think that they will win or because they believe

that they can manipulate the safety protocols in their favour. Either way, any decisions regarding the electoral timetable may be exploited by those seeking to erode public trust in the management of the elections, and this can include actors that are not overtly political, such as violent extremist organisations. Even if political considerations are not that significant a factor in whether the electoral timetable is adjusted or not in the event of a health emergency, unrest may follow if there are suspicions of political meddling in the decision-making process.

A second potential problem is that current legislation regarding elections may not be flexible enough to allow for officials to make the appropriate decisions about how to proceed in a future pandemic. In some countries, constitutions do not allow for delays to the end of government mandates, or for the creation of an interim government during an extension period. Furthermore, many constitutions forbid the passage of constitutional amendments during emergencies.¹⁰ Depending on the country, the rules governing elections are further established in a range of other documents, which can include specific electoral laws, codes of conduct, and EMB operating guidelines. These rules often contain few or no provisions relating to health emergencies, the circumstances in which elections can be postponed, or who exactly should be creating and enforcing safety protocols. If these elements are not in place before a crisis is underway, there may be undesirable delays in decision-making where new legislation needs to be passed or changes to electoral arrangements are made without legal basis. Additionally, the process may be rushed and not subjected to adequate scrutiny, leaving clear potential for manipulation and undesired consequences.

It is therefore important that countries update their relevant electoral laws, to ensure that sensible and transparent processes for responding to future crises are established

in advance, and properly cross-referenced in all relevant documents. In the main, new laws should be agreed typically between six months to one year before elections take place, in order to uphold the principle of electoral law stability.¹¹ Any updates or new laws should be created through a process of consultation involving actors from across the country's political spectrum, and should be worded in a way that reduces any opportunity for political instrumentalization. The updated legislation may also include a means of external validation for electoral decision-making, through which the advice of carefully selected international or regional organisations may be required before decisions about postponements and cancellations are made.

Funding for elections that take place during health crises should be considered in advance

The measures designed to reduce the risks of viral transmission during elections come at a financial cost. If elections are to take place in relative safety during future health crises, plans should be put in place now to ensure that additional costs can be covered. High-income countries are far better equipped to absorb these costs than low- and middle-income countries (LMICs), even once it is appreciated that the measures applied in high-income countries are likely to be more expensive. Some simple measures to prevent transmission, such as introducing handwashing buckets and sanitising electoral materials, are relatively inexpensive. However, once these measures are rolled out nationwide, which can often involve supplying tens of thousands of polling stations, the costs accumulate, eventually becoming substantial. In a context where there are also other demands on EMBs, there is a need to provide additional budgetary support for the effective administration of elections.¹² The reality is that, in many cases, LMIC governments cannot meet this requirement. Therefore, a mechanism that ensures that adequate resources are provided for LMICs should be introduced.

This could take the form of emergency budgetary support for electoral management bodies, potentially provided by the donor community.¹³ Such a funding arrangement would be difficult to put in place at short notice, so a better way of organising them may be to put them in place before an emergency emerges. As the budgets of EMBs tend to be fungible, this money could be specifically ringfenced, and only released if an election is taking place during unusually challenging circumstances. One major advantage of such an arrangement is that it could be used in other emergency conditions, such as when elections are scheduled to take place in countries recently effected by natural disasters. This mechanism could also be designed to release the financial support early in the electoral cycle, to avoid the problems associated with funding arriving late in the electoral process after some stages of the election are already underway.

A shift towards electronically-based voting systems may be deemed desirable in some countries

In recent years, electronic devices have been introduced in many countries' electoral systems. They are designed to improve accuracy and speed up some stages of the electoral process, such as vote counting and tallying. However, digital technology can be very expensive to implement and may therefore not be a realistic option for some LMICs. Issues have also been raised regarding the potential for these systems to be manipulated, and the associated difficulties of ensuring that electoral transparency is not undermined by their use.¹⁴ As a result, electronic systems may only be suitable for countries where there is strong trust in the electoral system and credible methods of oversight.

Nonetheless, in some cases it may be advantageous to put these systems in place before a new pandemic or other health crisis. This is because digital technology can remove some of the requirements for physical

objects to be transferred between people during elections, hence reducing the chances that electoral materials act as a vector of viral transmission. Depending on the nature of the new outbreak, this could be a very important consideration. As it may be difficult to implement electronic systems at short notice and once a crisis is underway, a shift to digital technology is a change that should be considered in those countries where it is feasible.

Measures should be taken to reduce the number of voters who travel long distances to vote

In many countries, voters will either choose to vote in an area where they do not live, or they may find themselves registered in a different place. This issue particularly affects citizens who have migrated within their own countries - something that is often, but not exclusively, related to patterns of urbanisation. These voters may have difficulty in changing their registration details, or they may forget to do so. Alternatively, they may decide that they prefer to remain registered in a different constituency, either because they view their move as temporary, or because they have a cultural attachment to voting in another area. In some contexts, voters may also be worried about electoral violence in the area in which they reside, leading to a preference for voting elsewhere.

In high-income countries, arrangements such as postal voting can be effective in addressing this issue. However, many LMICs lack the resources and infrastructure to implement similar solutions. As a result, in some countries, many citizens will travel to another area in order to vote. This creates clear risks in the event of a health crisis, as mobile voters may increase the geographical spread of viral infections by carrying them to or from their place of residence. The journeys that mobile voters are required to make, which often take place on public transport, may also lead to greater risks of transmission for them and other passengers.

Therefore, reducing the number of voters who travel during elections can lessen some of the risks associated with holding an election during a future pandemic. This can be addressed now through initiatives that facilitate the re-registration of voters who have moved. In some countries, it may also be possible to either encourage or require voters to vote in the constituency in which they reside. This would not be straightforward, as various context-specific factors and political sensitivities can be involved in creating these voting patterns. However, it is a goal that country-level electoral experts may choose to work towards.

Arrangements should be made to ensure election observation can still occur

A future pandemic is likely to impact the work of election observers for several reasons. International observation groups will encounter difficulties relating to travel restrictions and quarantine periods, and many seasoned observers may not want to offer their expertise away from home due to the risks to their health. Specific observation missions may also suffer from reduced or delayed funding when the bodies that normally support international observation are faced with other priorities. They will also need to follow the specific protocols relating to the pandemic that have been put in place in the country hosting the election. In these situations, it may be prudent to increase the ties between international and domestic observation missions, or to further develop emerging virtual monitoring technology.¹⁵ However, neither of these measures are straightforward.

Creating observation partnerships would be beneficial during future pandemics as it would reduce the number of people travelling internationally. It has several other possible benefits such as helping to build the capacity of domestic observation groups, potentially allowing them more access and media coverage, and giving a greater sense of ownership over the observation process to the citizens of the

country hosting the elections. However, in many countries, domestic observers have limited levels of independence, and their methods and findings are susceptible to manipulation, generally by incumbents. This route is, therefore, only desirable in those countries that have domestic observation initiatives with a high level of independence from political interference. Putting meaningful partnerships in place, and ensuring that adequate capacity building has taken place, would be difficult to undertake at short notice, particularly during a health crisis. Therefore, these links, which are desirable even under normal circumstances, should be developed now.¹⁶

Virtual election observation, which often takes the form of online citizen reporting mechanisms, has clear advantages of providing a wide geographical spread and making every citizen with access to the relevant technology a potential observer. Such initiatives can even collect data on election quality when professional observers are unable to deploy. However, the ways in which they collect information during an election may be less systematic than traditional observation missions, and can be susceptible to manipulation by those seeking to disrupt the process. Furthermore, many citizens will be excluded from participation due to issues regarding access to technology and digital literacy, particularly in LMICs. Virtual observation initiatives also require considerable planning and would be difficult to establish at short notice during a crisis. Therefore, in contexts where they are considered desirable, putting arrangements in place for either of these solutions is something that policymakers should be considering now.

Measures that can be introduced in the event of new pandemic outbreaks

As there is great uncertainty regarding the nature of any future pandemic or other emergency, much of the preparation for holding elections cannot be undertaken in advance. This section, therefore, contains suggestions for a range of actors on how they might best proceed in the event of a new health crisis.

Advice on how to deal with specific pandemics should be tailored to context

When a new pandemic emerges, a range of academics and international elections experts may offer advice on how best to mitigate the risk of holding elections. When doing so, there should be an awareness that the contexts in which elections take place, and the resources available to electoral management bodies, can vary from country to country. As these guides are often written by experts in high-income countries, they tend to contain assumptions about possible responses that are unrealistic for most LMICs where there will be financial and structural limitations on the measures that can be implemented. Any new recommendations must be clear about the contexts in which they are designed to be applied, and should ideally offer a range of solutions so as to be relevant in different contexts.

Safety measures should be established early in the electoral process

It takes time to put risk mitigation measures in place for an election. As detailed above, it would be desirable to have already established appropriate legal frameworks before a new pandemic or other crisis emerges. Even if this is the case, holding elections will involve ordering and distributing a range of supplies and may also require additional processes of consultation, both of which take time. Therefore, ensuring that adequate mitigation measures are in place is

something that is ideally done early in every electoral cycle, rather than imposed as an afterthought in the event of an emergency.

In an ongoing health emergency, safety protocols should also be put in place well before the elections so that they can be scrutinised and disseminated. It is particularly important to do this in advance because activities such as voter registration, which carries similar risks to voting, often occur months before election day. These protocols should be regularly re-evaluated and may have to be updated periodically to keep up-to-date with the latest knowledge about the pandemic.

When designing and updating these protocols, it is important that election planners draw upon the best available advice from Ministries of Health and international agencies dealing with public health. This will not only ensure that appropriate practices are developed, but also, if this process is explicit and publicised, it can increase public confidence in the measures by highlighting that they are technical rather than political.

A specific point person should be designated by EMBs

Elections are a complicated and time-consuming process under normal circumstances. Therefore, ensuring that they take place safely during a pandemic or other emergency adds an additional burden to election officials who are often already extremely busy in the months preceding elections. In these conditions, it is easy for considerations relating to the emergency to become secondary as officials focus on their day-to-day roles in delivering elections.

As a result, specific measures need to be taken to ensure that the new pandemic or other crisis receives adequate and timely consideration throughout the electoral cycle. One way of doing this is to select a point person – ideally a dedicated commissioner – who is responsible for ensuring that health-

related issues are accounted for during each stage of the election. This person, who could potentially have a public health background, should not be distracted by other tasks beyond health-related issues. Their authority to ensure adequate health measures are being taken at every point in the electoral cycle should be agreed upon by all parties concerned.

Election officials' health risks need to be minimised

The election officials themselves are likely to fall into a high category of risk during any new pandemic or health crisis. Their ordinary work requirements involve meeting a wide range of people, many of whom are also in high-risk professions. To ensure that the work of EMBs is not disrupted, it is crucial to minimise the risk that their personnel become infected. Examples of potential measures include ensuring that the most recent guidance is followed in their regular working environments, and putting election officials in priority groups for vaccinations if they are available.

A balance needs to be found between safety and political parties' desire to campaign

In a new crisis, political parties may be reluctant to accept preventative measures that affect their ability to directly reach voters. In these situations, measures taken to reduce the risk of transmission during campaigning, which affect, for example, large rallies and door-to-door canvassing, are likely to be among those that encounter the most resistance from political parties. Some parties will see an advantage in continuing these activities if their rivals discontinue, while other parties will fear a significant disadvantage if they stop but their competitors do not. Restrictions on campaigning are likely to be an even larger problem in LMICs where opposition parties tend to have limited resources and often rely on vigorous campaigning in the lead up to elections in order to remain competitive. This is particularly the case in contexts where they

are denied equal access to media outlets such as radio, television and newspapers. In these cases, alternatives, such as guarantees of free time on traditional media or increased public funding to cover associated costs, could also be introduced to counterbalance the loss of face-to-face campaigning.

In these situations, a balance must be struck between the need to protect competitive elections and the need to halt the spread of the pandemic. Where this balance is struck should ultimately depend on the severity of the pandemic and its means of transmission. Political parties should be fully consulted during the process of deciding these protocols, as this may encourage compromise and compliance. It may ultimately be decided that rather than attempting to totally ban elements of the campaign - which has the potential to create an uneven playing field, or to be met with low levels of compliance - in some situations the best solution could be to allow large interpersonal events such as rallies to continue while focusing on methods to make them safer. Examples of this might include mask-wearing mandates and social distancing at rallies. If this route is taken, it is particularly important for politicians to buy into the process, as it is far harder to get citizens to comply with safety protocols when they see politicians ignore them.

Engage an inter-party advisory committee

A useful mechanism may be to establish, where it does not exist, an inter-party advisory committee on elections, comprised of an equal small number of senior representatives (perhaps two individuals from each political party) who have the authority to make key decisions such as those suggested here. Where such a body does already exist, its remit could be extended to engage with the EMB and other legislators to reach a representative consensus on measures relating to holding elections during future pandemics or other emergencies.

Measures should be taken to increase public compliance with safety protocols

Many of the simplest measures for preventing the spread of viruses require a large amount of public compliance (for example, wearing masks and social distancing). Widespread compliance with election-related protocols can be boosted if the public understands the risks associated with the pandemic and why the protocols are important in reducing transmission. This requires continued public education on the health crisis more broadly, which can be particularly effective when explicitly based on Ministry of Health guidelines.¹⁷ Changes should also be made to voter education, so that the new protocols are fully incorporated in standard instructions on how to vote and any alterations to the procedure are explained.¹⁸

Another way that compliance can be improved is to have clearer guidelines on how the protocols can be enforced. Procedures for correcting non-compliance need to be established and they should contain proportionate penalties for serious or repeated breaches. It also needs to be clear who is responsible for undertaking this enforcement. Issues of compliance should not be an afterthought, particularly as new legislation may need to be introduced.

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