



Postponement of General Elections Due to Emergencies: A Comparative Study of Indonesia, Malaysia, Myanmar, and Cambodia

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Article	Abstract
<p>Keywords: Postponement; General Elections; Emergency Situation.</p> <p>Article History: Received: Jan 19, 2025; Reviewed: Feb 02, 2025; Accepted: Apr 6, 2025; Published: Apr 7, 2025.</p>	<p><i>This article examines and analyses the regulations regarding the postponement of elections in various countries, especially those that have postponed elections and countries whose constitutions regulate the postponement of elections. This study employed normative legal research methods with statutory, conceptual, and comparative approaches. Primary legal materials used in this article consist of laws and regulations relating to general elections and the constitutions of various countries, while secondary legal materials were garnered from books and journals on general elections and emergency law. The analysis indicates that in the countries studied, the postponement of elections may occur in emergencies or when the countries are in danger. Several countries like Indonesia and Malaysia do not regulate postponement of elections in their constitutions, but Myanmar and Cambodia do. The findings of this study indicate that postponing the election should be done only in a couple of months (Time-limited postponement) due to external factors (such as natural disasters) and for humanitarian rescue. This research recommends giving the president the authority to propose the postponement of the election on the proposal of the General Election Commission (KPU), which then seeks approval from the People's Consultative Assembly (MPR). Finally, the role of the Constitutional Court is needed to assess whether the reasons for postponing the election align with the idea of the proposed election delay regulation criteria included in the 1945 Constitution.</i></p>



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INTRODUCTION

Postponing elections is essential in implementing democratic parties in Indonesia and other countries (Asmorojati et al., 2024). In recent years, election delays have been common when faced with specific situations, such as the 2019 Coronavirus

Disease (COVID-19) pandemic (Lee, 2024). The pandemic was considered an emergency as it significantly threatened public health and safety (Erdianti & Hidayah, 2020); hence, it became the latest factor in the election postponement (Ode et al., 2022).

The *Institute of Democracy and Electoral Assistance (IDEA)* stated that national and regional elections were postponed in 80 countries and territories worldwide due to the COVID-19 outbreak (Institute Democracy and Electoral Assistance, 2022). Following COVID-19, by continent (February 21, 2020 - 2022), there were some postponements in several countries: 28 in Europe, 18 in Asia Pacific, 18 in the US, 15 in Africa, and three in the Middle East (Katadata, 2022). Europe became the continent with the most postponed elections during the pandemic, involving 26 countries or 32.6% of the total European countries. This number was followed by Asia Pacific and America, which both had 18 countries postponing elections. However, some countries continue to hold elections amidst the COVID-19 outbreak, such as parliamentary elections in Iran (February 21, 2020), presidential elections in Peru (April 11, 2021), and elections in Costa Rica (February 6, 2022) (Katadata, 2022).

Such postponement of the same cause also occurred in Indonesia, where regional elections were postponed from September 2020 to December 2020 (Nashrullah et al., 2022; Siboy & Al-Fatih, 2022). Although the Indonesian 1945 Constitution does not leave room for election postponement, election delays remained. The implementation of elections is strictly regulated under the 1945 Constitution, specifying that elections are held every five years (Al-Fatih et al., 2021). According to Carlson Anyangwe, political and election law scientists often juxtapose the periodic principle in elections with the principle of clean/pure (*genuine*) elections and the principle of free and fair. All these principles are the main characteristics of a multi-party democracy that aims for the common good rather than for personal interests, in which elections take place in an orderly way. This is presumably a public mechanism for regulating seizures and evaluating power through constitutional and peaceful means. Through periodic elections, the community can change, review, or even re-legitimise the community's wishes (Anyangwe, 2012).

In line with this, Michael Smart and Daniel M. Sturm view periodic elections as the main instrument in a democracy because they allow voters to hold politicians/officials accountable (Smart & Sturm, 2013). According to Jimly Asshiddiqie, periodic elections regulated in Article 22e paragraph (1) 1945 serve as the main pillars of the democratic system in Indonesia; people's aspirations are channelled periodically through general elections (Asshiddiqie, 2007). Elections are designed to fulfil vital democratic tasks, such as giving citizens the power to choose and determine their leaders, facilitating the transfer of power, and holding politicians and political parties accountable for the various decisions they make (Ghafur, 2023).

The regulation regarding elections in the 1945 Constitution is enshrined in Article 22e, paragraph (1), implying that elections are held periodically or regularly every five years. It also states that elections must be held directly, publicly, freely, secretly, honestly, and fairly. These provisions indicate that election postponement cannot happen. The absence of regulation in the constitution related to the postponement of elections will certainly lead to a constitutional deadlock (Ayon Diniyanto, 2022). The constitution does not provide a solution to a constitutional event during an emergency, such as the pandemic that caused election postponement, and this situation urges the government to take steps to avoid a vacuum in government administration.

Democracy is manifested through elections that underlie democracy (Okthariza, 2020). The absence of elections will only lead to defective democracy. Democracy asserts that the state belongs to the people and is run by the people. Thus, an understanding of the essence of democracy becomes very relevant when discussing elections (Putra Ahmad et al., 2023). In a democratic nation, elections are the central aspect that continues to be held. Through the elections, citizens can participate directly in the sovereignty process (Fitriana & Budyatmojo, 2022). However, a dilemma arises when a state is obliged to conduct elections to represent the people's will in electing leaders, while people's health is at risk should the elections continue to run. For example, the regional elections held in Sabah, Malaysia, during the COVID-19 outbreak led to a spike in cases (CNBC, 2020).

In Indonesia, COVID-19 has been cited as a justification for issuing emergency regulations in the form of Government Regulations in Lieu of Laws. However, regional head elections continued to take place (after several months of delay) during the pandemic. If the COVID-19 crisis was truly regarded as a state emergency, the regional elections should have been postponed until the situation was fully resolved (Siboy & Al-Fatih, 2022; Siboy, et. al, 2023). In other practice, Indonesia postponed the regional elections initially scheduled for 2022 and 2023, rescheduling them for 2024 to facilitate simultaneous voting. This postponement has led to vacancies in approximately 271 regional leadership positions. Legal provisions have been established to address this issue, as outlined in Article 201, paragraph (9) of Law No. 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 on the Stipulation of Government Regulation In Lieu of Law Number 1 of 2014 on The Election of Governor, Regent, and Mayor to Become a Law. These provisions stipulate that officials will be appointed as acting Governors, Regents, and Mayors to temporarily fill these roles until the official elections take place in 2024.

According to Ridwan HR, the above provisions are not appropriate because the regional head should be voted by the people in the region, not through appointment (*aanstelling*). In addition, the values of democracy and autonomy are disregarded when regional leaders are appointed. The appointment of the current regional head office,

which has functioned relatively long term, raises problems in government financing and staffing (Ridwan HR, 2023).

Departing from this background, this article aims to review and analyse the arrangements regarding postponement of elections in Indonesia, Malaysia, Myanmar and Cambodia. The results of this comparative study will provide input on which policies and regulations would be best to adopt and put into practice in Indonesia. The formulation of the problems to be examined are as follows: how is the postponement of elections regulated in various countries, and what is the ideal concept for arranging the postponement of elections.

METHOD

This study utilised normative legal research methods conceptualised or developed based on certain legal principles and doctrines. The main legal materials in this study include laws and regulations relating to general elections and the constitutions of various countries, while secondary legal materials come from books and journals related to general elections and emergency law. This study employed a statutory approach, which involves analysing relevant laws and regulations concerning the legal issue under consideration (Marzuki, 2014). This study also utilises a comparative approach to compare the Law of a country with that of another or the Law in place at a particular time with that of another time concerning the same matter (Siboy, 2024). This study compares Indonesia, Malaysia, Myanmar and Cambodia, which have postponed elections following emergencies or regulated the postponement of elections in their constitutions. This comparison is made to countries with both presidential and parliamentary government systems because the postponement of elections is not only done in one system of government, but all systems of government could postpone elections in emergencies.

RESULTS AND DISCUSSION

Arrangements for Postponement of Elections in Four Countries

A. Indonesia

1. The Postponement of General Elections

The provisions for election postponement in Indonesia are solely governed by Law No. 7/2017 concerning General Elections. The terms used in this Law are Postponed and Delayed Elections. Under the Election Law, a postponed election occurs when voting cannot take place in certain regions or across the entire Unitary State of the Republic of Indonesia due to riots, security threats, natural disasters, or other disruptions. The implementation of postponed elections starts from the stage that cannot be conducted, while the delayed election is held if it results in all stages of

the election being unable to be performed. Postponed elections are implemented at all stages of election implementation.

Law No. 7/2017 explains that a postponed and delayed elections can only be held following an official decision postponing the election. This postponement decision can be made by several authorities, depending on the scope of the affected area. The law implies that the General Election Commission at the Regency/Municipal Level (henceforth referred to as Regency/City KPU) has the authority to authorise an election postponement based on recommendations from the PPK if the postponement covers one or several villages or sub-districts. Meanwhile, the Provincial KPU can decide based on the Regency/City KPU proposal if the postponement covers one or several districts/cities. On a broader scale, the Central KPU is authorised to determine the postponement based on the proposal of the General Election Commission at the provincial level (henceforth referred to as Provincial KPU) if the postponement covers one or several provinces. Meanwhile, if elections cannot be conducted in 40% of the provinces, and 50% of registered voters nationwide are unable to cast their votes, the determination of postponed elections or late elections is made by the president at the proposal of the General Election Commission (henceforth referred to as KPU).

Arrangements regarding late and postponed elections above have some normative issues. First, the regulation does not have a solid constitutional basis. The 1945 Constitution does not include provisions for election postponement, as Article 22E mandates that elections be conducted regularly. Second, the regulation also does not clarify the anticipated impact caused by the delay in the election, especially the impact of the vacancy of positions elected through the election. Third, there are no technical regulations in the form of KPU regulations regarding procedures or mechanisms for implementing late and postponed elections. Fourth, the regulation is only sporadic because it can only be applied in certain regions and cannot apply nationally to the entire region.

According to Januari Sihotang, the regulation outlined in Article 433 of Law Number 7 of 2017, which regulates the mechanism and procedure for determining election postponement, are too pragmatic and fail to uphold the principle of checks and balances, making them susceptible to misuse by the ruling government (Sihotang, 2022). It is vital to note that the election embodies the will of the people and the implementation of the principle of people's sovereignty. Therefore, the postponement of elections should also be based on this principle so that certain institutions do not monopolise policies in postponing elections if the institution fails to represent the will of the people as a whole.

The 1945 Constitution has normatively regulated several emergency conditions and regulations regarding vacancies in office with several provisions. The 1945 Constitution, particularly Article 12, grants the president the authority to proclaim a

state of danger with legally specified conditions and consequences. Furthermore, in circumstances of urgent necessity, the president may establish government rules in lieu of laws. Concerning office vacancies, Article 8(1) of the 1945 Constitution states that if the president cannot fulfil his duties due to death, resignation, dismissal, or incapacity during his term, the Vice President will assume the role until the term concludes. Meanwhile, Article 8(2) addresses the vacancy of the Vice President's position, requiring the MPR to convene and elect a replacement from two candidates nominated by the president within sixty days.

Lastly, Article 8(3) of the 1945 Constitution addresses the simultaneous vacancy of the President and Vice President positions. In such a situation, presidential duties will be temporarily assumed by three ministers: the Minister of Foreign Affairs, the Minister of Home Affairs, and the Minister of Defence. Additionally, the MPR must convene to elect a new President and Vice President from two candidate pairs nominated by a political party or coalition, based on the previous general election results, within a maximum of thirty days. When referring to the 1945 Constitution's provision above, it can be seen that the 1945 Constitution has regulated what is considered a state of emergency and a state of danger. Article 12 of the 1945 Constitution explicitly defines conditions for a state of danger. This article then set the basis for the application of emergency administrative law. The 1945 Constitution also grants the president the power to declare a state of emergency.

The 1945 Constitution also regulates a legal product when needed to overcome urgent and compelling circumstances, as stipulated in Article 22(1) of the 1945 Constitution, which outlines the president's power to enact Government Regulations in Lieu of Laws. Regarding this authority, The Constitutional Court, through Decision No. 138/PUU-VII/2009, has set specific criteria that must be fulfilled for issuing a Government Regulation in Lieu of Law (henceforth referred to as Perpu). The decision states that a Perpu can be issued in cases where there is an urgent necessity for a swift resolution of legal issues that have not been regulated in existing laws (Amiludin et al., 2024).

Additionally, the Constitutional Court emphasised that a Perpu may be issued if there is a legal vacuum or existing laws are insufficient to handle the urgent situation. Furthermore, the decision explains that the issuance of a Perpu can happen if the process of making laws through ordinary procedures cannot promptly overcome the legal vacuum, considering that the urgent situation requires immediate resolution (Zainudin et al., 2025). The 1945 Constitution also outlines the conditions for vacancies in the offices of the President and Vice President, as stipulated in Article 8. However, the 1945 Constitution did not regulate the vacancies caused by delays in implementing elections. If the election is postponed, many political positions filled through the election will experience vacancies.

2. Postponement of Regional Head Elections

In an emergency, one of Indonesia's experiences in postponing elections is delaying regional head elections that were initially scheduled for September 23, 2020, to December 9, 2020 (Institute Democracy and Electoral Assistance, 2022). In response to COVID-19, the president issued a Government Regulation in Lieu of Law (Perpu) No. 2 of 2020, which was later enacted as Law No. 6 of 2020. This law established Perpu No. 2 of 2020 as the Third Amendment to Law No. 1 of 2015, which originally amended Law No. 1 of 2014 concerning the Election of Governors, Regents, and Mayors.

The Government Regulation in Lieu of Law was enacted to curb the spread of COVID-19, which was classified as a national disaster. Consequently, exceptional policies and measures were necessary at both the regional and central levels, including postponing the stages of the 2020 simultaneous elections for governors, regents, and mayors. This delay aimed to ensure that the elections were conducted democratically and with high quality while maintaining political stability within the country (Setiadi, 2020). The Perpu amends the Regional Head Election Law, particularly Article 120, paragraphs (1) and (2). These revisions state that if disruptions such as natural and non-natural disasters, riots, security threats, or other obstacles hinder certain election stages or simultaneous elections in some or all electoral areas, a postponed election or a postponed simultaneous election will be conducted. This provision applies to affected regions, whether partially or entirely. Additionally, the Perpu mandates that the postponed election process will resume from the stage where it was previously halted.

In addition, the Perpu adds Article 122A between Article 122 and Article 123 in the Regional Head Election Law. This new article regulates that the postponed simultaneous elections will be held after the KPU issues an official decision regarding postponing the stages of simultaneous elections. Furthermore, this article mandates that any decision to postpone election stages or conduct postponed simultaneous elections must be jointly approved by the government, the House of Representatives, and the KPU. It also specifies that detailed provisions regarding the procedures and timing of these postponed simultaneous elections will be outlined in KPU Regulations.

The regulation also introduces Article 201A, positioned between Articles 201 and 202 in the Regional Head Election Law. This new article states that the simultaneous voting outlined in Article 201(6) is delayed due to a non-natural disaster, as mentioned in Article 120(1). It further stipulates that the rescheduled simultaneous voting was set for December 2020. However, if holding the election at that time was not feasible, the voting would be postponed until the non-natural disaster had ended, following the procedure established in Article 122A. The government's decision is based on the principle that public safety is higher than law, justifying the legal framework for postponing regional elections through a government regulation issuance. During the pandemic, the regional head elections were delayed to lessen the

possibility that the virus might infect more individuals. Concerns arise that the number of infections would escalate if the elections are held since they need many gatherings and interpersonal encounters. Mass assemblies undermine attempts to disrupt the transmission of COVID-19 (Siboy & Al-Fatih, 2022).

The scheme for postponing regional head elections regulated by the Perpu has similarities with the regulations in Law No.7/2017 concerning General Elections, particularly in the clause on postponed regional head elections, which essentially states that if there is an emergency, regional head elections can be postponed and will be continued when the situation allows. However, there is a difference in the mechanism. In Law 7 of 2017, the mechanism for determining postponed and delayed elections is the authority of the KPU, while the Perpu involves the KPU, the government, and the DPR. This is undoubtedly more advanced as it reflects the application of the checks and balances principle in policymaking that significantly impacts democracy and the safety of the wider community.

B. Malaysia

Malaysia runs under a federal government and conducts elections at both the state and federal levels. The federal elections determine the 222 members of the Dewan Rakyat (House of Representatives), the lower chamber of parliament. In contrast, the Dewan Negara (Senate), the upper chamber, does not hold elections for its 70 members. Instead, appointments are made, with 26 senators nominated by state legislative assemblies—two per state—and 44 selected by the Yang di-Pertuan Agong (the King) based on government recommendations, including four representatives from federal territories. Members of the Dewan Rakyat are elected through single-member constituencies using the First-Past-The-Post (FPTP) system. Traditionally, the party securing the most seats in the House of Representatives forms the federal government. However, since the formation of the Perikatan Nasional (PN) administration in March 2020, a government can be established by Members of Parliament (MPs) as long as they secure a majority of 112 seats. The PN administration, for instance, held 113 MPs.

Malaysia's Federal Constitution mandates a general election every five years. However, before the term ends, the prime minister may ask the Yang di-Pertuan Agong to dissolve the parliament. Besides general and state elections, by-elections are conducted when a parliamentary or state legislature seat becomes vacant due to a member's death, resignation, or disqualification. However, if the vacancy occurs during the first half of the term—within two and a half years after the general election—the seat remains unfilled until the next general election (Sani, 2022).

In Malaysia, elections were postponed during the COVID-19 outbreak. According to data from the Institute of Democracy and Electoral Assistance (IDEA), the affected elections included the parliamentary by-election in Batu Sapi, originally scheduled for December 5, 2020, as well as the parliamentary by-election for Gerik in

Perak and the state by-election for Bugaya in Sabah, both initially set for January 16, 2021 (Institute Democracy and Electoral Assistance, 2022)

The Malaysian King, Yang di-Pertuan Agong Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah, approved the postponement of the general election by the declaration of an emergency in Batu Sapi. The action was taken to prevent Malaysia's fourth wave of COVID-19 cases. (Kompas, 2020) The decision was based on lessons learned from the Sabah state election, a key factor in triggering Malaysia's third wave of COVID-19 (Malay_Mail, 2020).

The Proclamation of Emergency under Article 150(1) of the Federal Constitution was issued after reviewing Prime Minister Tan Sri Muhyiddin Yassin's explanation and recommendation based on a Cabinet decision (Malay_Mail, 2020). While the Malaysian Constitution does not explicitly regulate election postponements, past postponements were carried out under the condition of a declaration of emergency. The Constitution grants the Yang di-Pertuan Agong the authority to declare an emergency. According to Article 150(1), the King may issue a Proclamation of Emergency if he determines that a critical situation threatens Malaysia's security, economic stability, or public order. These provisions suggest that the Constitution of Malaysia does not regulate the postponement of elections. However, if a state of danger is declared, the postponement of elections may take place because it impacts the safety of citizens.

C. Myanmar

Myanmar is a country whose constitution regulates the postponement of elections. Provisions regarding this postponement must be preceded by a Presidential declaration stating a dangerous situation in which the state cannot perform its functions. Myanmar's constitution stipulates a state of emergency in Article 410. The article asserts that the president has the power to enact and issue ordinances and declare a state of emergency after consulting with the National Defence and Security Council. This action can be taken if the president becomes aware or receives a report from a local administrative body indicating that governance cannot be effectively carried out in a Region, State, Union Territory, or Autonomous Region as per the Constitution.

The provisions above explain that in certain circumstances, when the state of the administrative body is unable to carry out its functions, the president may declare a state of danger. The president is required to coordinate with the National Defence and Security Council. The coordination is intended to ensure the president's steps in declaring the State of Emergency are needed. The emergency that will be declared can be in the form of an emergency in the Territory (Region) or State, or it can also be the Union or the Self-Administered Area.

Myanmar's constitution, Article 429, contains provisions regarding the postponement of elections. The article states that the National Defence and Security

Council must hold elections within six months from revoking the state of emergency ordinance, as stipulated in Article 426. As such, the Myanmar Constitution provides a clear election timeframe after the emergency condition ends.

The provisions above explain that in addition to performing duties in an emergency, the National Defence and Security Council is also tasked with conducting elections within six months of the state of emergency stops. This provision implies that when emergency conditions end, the democratisation process, including elections, must follow the principles agreed upon in the Constitution.

D. Cambodia

Cambodia is a constitutional monarchy with a triad political system. The King serves as the head of state for life and holds the position of supreme commander of the nation's armed forces, the emblem of unity and immortality. The King has the right to announce an amnesty and dissolve the National Assembly based on the Prime Minister's proposal after obtaining the approval of the Chairman of the National Assembly. The Chairman of the Senate will perform the duties of the head of state as long as the King is absent or not in the country. The royal throne is not inherited. After the King's death, the 9-Person Imperial Throne Commission consisting of the prime minister, the leader of the two Buddhist factions, the Chairman and vice-chairman of the Senate, and the National Assembly will elect a new king from the lineage of the King. (Budiana, 2013)

The Constitution of Cambodia provides for the postponement of general elections in Article 78. According to the article, the National Assembly is in charge of extending the term of its legislature for one year upon a proposal from the King. This extension can be made in situations of war or other exceptional circumstances that make it impossible to hold general elections. The Cambodian Constitution also stipulates that this extension can be repeated, each lasting one year (Cambodia's Constitution of 1993 with Amendments through 2008, n.d.).

The provision stipulates that at least two-thirds must approve the King's proposal for the number of members of Parliament. From this provision, the Cambodian constitution regulates the principle of checks and balances so that the decision to postpone the election is not only the authority of one institution but requires the approval of another institution—the Parliament. In other words, the election embodies the will of the people, so election postponement must also be with the approval of the people that the Parliament at least represents. Table 1 compares the countries that regulate the postponement of elections.

Table 1. Comparison of Election Postponement Arrangements in Several Countries

Country	Regulation	Ground for Postponement	Election Postponement Mechanism	Term
Indonesia	Not regulated in the Constitution, but regulated in the Election Law and Regional Head Election Law	Riots, security disruptions, natural calamities, or other forms of disturbances.	With the mechanism of postponed and delayed elections not covering all regions, the postponement follows the KPU's decision.	Unspecified
Malaysia	The postponement of the election is not explicitly regulated in the constitution but due to the Determination of Emergencies	Emergency Conditions	It is based on a declaration of a state of emergency, which may subsequently lead to the postponement of the election.	Unspecified
Myanmar	Regulated in the Constitution	Emergency Conditions	It was preceded by the president's declaration stating that a state of danger exists.	It can be postponed for 6 (six) months from the declaration of the end of the state emergency.
Cambodia	Regulated in the Constitution	War and other extraordinary circumstances declared as a state of emergency	Preceded by the submission of a proposal by the King to the National Assembly to obtain the approval of no less than two-	Unspecified

thirds of the total members of Parliament on the King's proposal to postpone the election.

Source: Author, 2025

Election Postponement Concept

A. Election Postponement Requirements

As outlined in the previous section, the election postponement is unavoidable due to specific reasons, such as emergencies. In this regard, Agus Riewanto stated that a distinction can be drawn between postponing and cancelling elections (Table 2) (Riewanto, 2022b).

Table 2. Characteristics of Postponement and Cancellation of Elections

Characteristics of Election Postponement	Characteristics of Election Cancellation
1. The postponement of the election is only a short period of months (Time-limited postponement)	1. Election delay for an extended period (1-2 Years)
2. External factors (Natural disasters)	2. Internal factors of authorities (fear of losing the election, shutting down the opposition, buying time for incumbents to continue their popularity)
3. Humanitarian rescue efforts	3. A hidden reason (hidden agenda) that is difficult to guess

Source: APHTN-HAN National Webinar entitled Periodic Elections and Institutionalization of Constitutional Democracy, 2022

In line with this, Denny Indrayana said delays were more encouraged due to external factors, including natural or non-natural disasters such as COVID-19. Meanwhile, the cancellation was driven more by the internal appetite of the incumbent to consciously seize state power without going through the electoral contestation process. The reasons for the delay, such as earthquakes and pandemics, are more straightforward to measure and prove because they are visible and perceivable (Indrayana, 2022). Furthermore, Michael T. Morley stated that extending the voting period—whether by adjusting the deadline for absentee ballot submissions or delaying in-person voting—should only be implemented if technical adjustments, like social restrictions at polling stations, fail to mitigate the risks associated with crises such as

COVID-19 (Morley, 2022). In line with this, Toby S. James and Sead Alihodzic argue that there are at least seven types or reasons for election postponement and cancellation (Table 3) (James & Alihodzic, 2020).

Table 3. Pending Election Typology (A Typology of Delayed Elections)

Type	Stopped by	Reasons	Time
Cancellations	Incumbent, Military	Power struggle	Pre-election
Crisis postponements	Incumbent, Opposition	Political deadlock, constitutional crisis, violence	Pre-election
Delay due to transition (Transition postponements)	Transitional government	Democratic reform	Pre-election
Technical delay	Election Organiser, Incumbent	Technical issues, violence	Pre-election
Candidate death	Election Organiser, Incumbent	voter choice and contestation equality	Pre-election
Humanitarian postponement	Election Organiser, Incumbent	Life-threatening emergencies	Pre-election
Cancelled (Annulled)	Courts, Incumbents, and Military	Unconstitutional, power struggle, unenforceable	Post-election

Source: Toby S. James and Sead Alihodzic in an article entitled *When Is It Democratic to Postpone an Election? Election During Natural Disasters, COVID-19 and Emergency Situations*, 2020

In Indonesia, an examination of the original intent recorded in the minutes of the discussions on the 1945 Constitution amendment reveals a debate over the scheduling of elections. The discussions concluded that holding elections periodically is essential. However, this principle does not exclude the possibility of elections being delayed or not conducted as scheduled due to developments in national circumstances (Tim Penyusun Revisi Naskah Komprehensif Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, 2010). However, according to Abdul Basit Fuadi, the phrase "*every five years*" can be drawn into the electoral principle, namely the periodic principle. Thus, even if there is a schedule change, the implementation of the election must maintain the periodic principle of the election (Fuadi, 2022).

Therefore, the formulation of the 1945 Constitution also thought that periodic elections could be postponed or advanced under certain conditions. What needs to be

underlined is that there has been no discussion and agreement on the grounds for whether the election may be postponed or advanced. It could be that the discussion did not arise because Indonesia had never faced conditions, such as the COVID-19 outbreak, that required the election postponement. As quoted from Ramlan Surbakti's opinion in the Constitutional Court hearing, postponing the election is unacceptable except in emergencies (*only if necessary*) (Putusan MK Nomor 55/PUU-XVII/2019, 2019).

Referring to other countries described in the preceding section, it can be inferred that elections can be postponed because of a dangerous situation or emergency. For instance, in Malaysia, elections have been postponed due to a state of emergency because it was feared to threaten citizens' safety. Similarly, in Myanmar, the constitution provides that elections can be postponed due to circumstances of danger. Arrangements in Myanmar that include provisions for the postponement of elections in the constitution are also applied in Cambodia. Cambodia's constitution stipulates that elections can be postponed due to emergencies, such as war and other extraordinary circumstances.

In this context, postponing elections in a country is not taboo, and several countries have postponed elections due to the pandemic (Riewanto, 2022a). Delaying the election is not illegal in a democratic country as long as it takes place in an emergency (*only if necessary*). According to Carl Schmitt, an emergency cannot be anticipated or specified (Schmitt, 2005). This underlies Schmitt's famous opinion that "*all law is situational law*" (Schmitt, 2005). However, according to Clinton Rossiter, the application of emergency constitutional law that gives birth to a dictator (constitutional dictatorship) should only be made when the dangers that arise are more significant if emergency constitutional law is not applied (Rossiter, 1848). According to Rossiter, the application of emergency constitutional law must be subject to criteria that must be met to avoid widespread danger and arbitrary actions (Rossiter, 1848). These principles include legality, proclamation, notification or communication, time limitation or temporariness, extraordinary threat, proportionality, non-discrimination, harmony, harmony and complementarity, intangibility, and supervision principles (Ayuni, 2024).

Delaying elections under normal circumstances, not on the grounds of an emergency, contradicts the constitution and undermines democratic principles. (Hidayat & Parvez, 2022). In addition, elections must be postponed only for clear and measurable reasons. At least the postponement of the election must meet three criteria: only in a short time of months (*Time-limited postponement*), external factors (such as natural disasters), and humanitarian rescue such as COVID-19. This is done to avoid abuse of power by using the instrument of postponement of elections as an excuse to extend the incumbent's term of office for the interests of specific groups.

B. Legal Instruments and Procedures for Postponing Elections

Referring to the comparison of several countries described in the previous section, there are at least several regulatory models regarding the postponement of elections. Indonesia does not regulate it in the constitution, but there are regulations regarding postponed and late elections in the Law. Meanwhile, Malaysia's constitution or other laws and regulations do not include provisions for election postponement. Election postponement's basis in Malaysia is the establishment of a state of emergency by the King. In contrast, Myanmar and Cambodia specifically regulate the delay of elections in their Constitutions, regulating the mechanisms and conditions for postponing elections.

This article suggests that arrangements regarding the postponement of elections must be rigidly regulated in the 1945 Constitution, which is essential for several reasons. First, the 1945 Constitution is the highest legal instrument, and it is not easy to tinker with. If the regulation regarding the election postponement is only stipulated by the law, then the potential will continue to change, and dynamics will occur. Moreover, the Election Law is one of the laws whose records are often changed by lawmakers. As described above, the election must be postponed in emergency conditions only, while the rest should not be allowed. Therefore, the primary condition for postponing the election is the declaration of a state of emergency. Additionally, elections must be postponed for a short period (*Time-limited postponement*).

Second, postponing elections is closely related to the power vacuum due to postponed elections resulting from an empty term of office. So far, laws and regulations have not regulated the vacuum of state power caused by the postponement of elections (Ghafur, 2020). The two must be intertwined because the election postponement impacts the power vacuum, which must be filled. Arrangements regarding power vacuum due to election postponement are not regulated in the 1945 Constitution. This includes arrangements regarding election postponement. Therefore, regulating them in the 1945 Constitution is necessary to create a harmonious arrangement.

Furthermore, in this article, the author suggests that the postponement of the election is not enough to be determined only by the election organisers, as embraced by Election Law and the Regional Head Election Law, considering that the election organiser is the technical organ of the election. Postponing elections is fundamental in a democratic country because it embodies the principle of people's sovereignty. Therefore, other organs given the authority to postpone the election are needed.

In this case, the author offers the idea of authorising the president to propose an election postponement based on a recommendation from the KPU, which then seeks approval to postpone the election to the People's Consultative Assembly (MPR) because this conceptually constitutional organ is an embodiment of the will of the people. This is in line with the opinion of Marew Abebe Salemot and Mequanent Dube, stating that if a force majeure situation necessitates extending the election

through extra-constitutional means, the decision must be made by an independent body with the consensus of all competing political forces or the inclusive participation of all political parties (Salemot & Getu, 2020). Compared with other countries, the Cambodian constitution implements checks and balances in the context of the postponement of elections. Postponement of elections must be preceded by the submission of proposals by the King to the National Assembly to obtain approval of no less than two-thirds of the number of members of Parliament on the King's proposal to postpone the election.

In the context of checks and balances and to avoid politicisation in the MPR in postponing the election, the role of the Constitutional Court is needed to assess whether specific reasons or conditions that are happening meet the requirements stipulated by the 1945 Constitution to postpone the election. As a court that preserves the legal rights of citizens (Al-Fatih, S. & Nur, A. I., 2023), the Constitutional Court has a strategic role in measuring and testing it against the conditions for postponement of elections in the 1945 Constitution, as stated in this article. This is based on the opinion of Elliot Bulmer, who states that checks and balances in applying emergency constitutional law are intended to help protect the constitution from abuse of emergency power. Checks and balances fall into two categories: First, oversight that strengthens legislative oversight. Second, oversight involves the judiciary and fourth-branch institutions to safeguard the integrity of constitutional bodies during emergencies (Bulmer, 2018).

CONCLUSION

The results revealed that in the countries included in this study, postponement of elections could be carried out in emergency conditions or when the countries are in a state of danger. Arrangements regarding the postponement of elections in these countries vary. In Malaysia, it is not regulated in the constitution; the delay is based on determining the state of danger. Meanwhile, in Myanmar and Cambodia, the constitution regulates the postponement of elections, which regulates the mechanism and conditions for postponing elections. Therefore, postponing the election should only be due to emergency conditions (only if necessary) with three criteria: only in a short time of months (Time-limited postponement), due to external factors (such as natural disasters), and for humanitarian rescue (Humanitarian). The ideal concept regarding the postponement of elections in Indonesia is that arrangements must be regulated in the 1945 Constitution. The 1945 Constitution holds the highest authority and is not easily modified. If election postponement were only governed by law, continuous changes and shifting circumstances might occur. To uphold the principle of checks and balances, the President, following a proposal from the KPU, can suggest delaying elections in the event of a predefined emergency. This proposal must then be approved by the MPR, which reflects the people's will. Ultimately, the Constitutional

Court is crucial in determining whether the reasons for postponing the election are consistent with the criteria for such delays specified in the 1945 Constitution.

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