

Rainer Grote and Tilmann J. Röder: Delays of Elections and the Constitutional Legitimacy of the Wolesi Jirga

Constitutions rarely provide expressly for the circumstances in which elections may be postponed and the implications the postponement has for the legal validity of acts taken by the elected constitutional bodies once their constitutional term has expired. The article examines which constitutional principles, apart from the doctrine of necessity, have to be taken into account in assessing these questions. In particular it analyzes the relevance and the meaning of the principles of democracy, rule of law and separation of powers in this context. It also assesses if, and to which extent, the existence of the circumstances justifying the postponement of elections and the scope of the powers of the elected body during the interim period are subject to independent scrutiny, especially by way of judicial review. The postponement of the elections to the Wolesi Jirga of the Islamic Republic of Afghanistan in 2015 serves as case study to analyze the meaning and the limits of constitutional law in times of crisis.