



Effective Transitions of Executive Power: The Role of Legal Frameworks

A comparative review of laws, guides and practices





TABLE OF
CONTENTS

EXECUTIVE
SUMMARY

KEY FINDINGS

GLOSSARY OF
TERMS

INTRODUCTION

WHY LEGAL
FRAMEWORKS

TYPES OF LEGAL
INSTRUMENTS

ESSENTIAL
ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative
Frameworks

ANNEX 4:
Additional
Resources

ACKNOWLEDGMENTS

This resource is a product of the National Democratic Institute (NDI or the Institute). It was conceptualized based on the work of NDI's Democratic Governance team, which for years has worked with partners globally to support smooth leadership transitions following democratic elections. It contributes to a growing body of comparative knowledge and experience sharing on good practices in transitions of political power from around the world and is the culmination of the hard work, expertise and insight of many, including NDI's vast network of global partners and stakeholders.

Erin C. Houlihan, NDI Senior Program Director, Democratic Governance, is the primary author of this report. This resource would not have been possible without the extensive research and creative writing contributions of **Adeolu Ade Adewumi**, Catalyst of The Experiential Leadership in Africa (TEL-Africa), International Advisor to notable global institutions, pioneer Member of the Governing Council at the Institute for Peace and Conflict Resolution, Presidency, Nigeria, and Fellow at the Institute of Management Consultants.

NDI also thanks **Allen Sutherland** and the **Office of the Privy Council of Canada** for their long-standing collaboration with NDI's Transitions of Power initiative. Their insights into the Canadian experience and the role of a professional, nonpartisan civil service in supporting effective transitions were invaluable in the development of this resource. Appreciation also extends to the **Innovations for Successful Societies initiative at Princeton University** for their excellent, publicly available case studies on executive transition processes in selected countries.

NDI gratefully acknowledges the substantive review and contributions of **Kristen Sample**, NDI Director of Democratic Governance; **Supun Dahal**, NDI Program Officer, Democratic Governance; **Sophia Moestrup**, NDI Deputy Director for Central and West Africa; **Gemima Barlow**, NDI Regional Director, Southern and East Africa; **Monika Emch**, NDI Resident Country Director, Zambia; **Dennis Omondi**, NDI Resident Country Director, Kenya; **Emma Gausi**, NDI Program Director and Acting Country Representative, Malawi; **Valon Kurhasani**, NDI Senior Deputy Country Director, Kosovo; and **Adem Kassie Abebe**, Senior Advisor, Constitution-Building Processes, International IDEA.

NDI also thanks **Frieda Arenos**, who founded NDI's Transitions of Power Initiative and the Transitions Community of Practice in 2016. She led the development of NDI's flagship guide on executive transitions, [Global Lessons on Managing Executive Transitions](#) (2021) and established the [Transitions of Power](#) online resource center.



TABLE OF
CONTENTS

EXECUTIVE
SUMMARY

KEY FINDINGS

GLOSSARY OF
TERMS

INTRODUCTION

**WHY LEGAL
FRAMEWORKS**

**TYPES OF LEGAL
INSTRUMENTS**

**ESSENTIAL
ELEMENTS**

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative
Frameworks

ANNEX 4:
Additional
Resources

ABOUT THE NATIONAL DEMOCRATIC INSTITUTE

The National Democratic Institute for International Affairs (NDI or the Institute) is a nonprofit, nonpartisan, nongovernmental organization that responds to the aspirations of people around the world to live in democratic societies that recognize and promote basic human rights. Since its founding in 1983, NDI and its local partners have worked to support and strengthen democratic institutions and practices by strengthening political parties, civic organizations and parliaments; safeguarding elections; and promoting citizen participation, openness and accountability in government.

Since the early 2000s, NDI has been working with partners globally to support smooth transitions of executive power. Specifically, the Institute has worked with hundreds of campaigns, parties, government officials, leaders and civil society organizations to support not only smooth processes in the assumption of leadership, but also an empowered civil society capable of motivating and holding accountable a smooth process. In 2016, NDI was awarded generous support from the National Endowment for Democracy to develop knowledge resources and a transitions community of practice to showcase the learning and experience gained from comparative work on transitions of power, which served as the foundation for this resource.

© National Democratic Institute (NDI) Website: www.ndi.org

Copyright © National Democratic Institute for International Affairs (NDI) January 2025. All rights reserved. Portions of this work may be reproduced and/or translated for non-commercial purposes with the prior written permission of NDI provided that NDI is acknowledged as the source of the material and is sent copies of any translation. Please send publication requests to legal@ndi.org.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

TABLE OF CONTENTS

ACKNOWLEDGMENTS.....	1
ABOUT THE NATIONAL DEMOCRATIC INSTITUTE.....	2
EXECUTIVE SUMMARY.....	5
KEY FINDINGS.....	7
GLOSSARY OF TERMS.....	9
INTRODUCTION.....	11
The importance of peaceful transitions in a democracy.....	12
The importance of effective transitions.....	13
I. WHY LEGAL FRAMEWORKS ON EXECUTIVE TRANSITIONS MATTER.....	14
Contextual considerations.....	15
II. TYPES OF LEGAL INSTRUMENTS THAT GUIDE EXECUTIVE TRANSITIONS.....	17
Constitutions.....	18
Legislation.....	18
Executive Decrees.....	19
Administrative Orders Or Regulations.....	21
Written Conventions And Guidelines.....	22
III. ESSENTIAL ELEMENTS OF EFFECTIVE TRANSITION LEGAL FRAMEWORKS.....	23
3.1. Conditions Under Which Transitions May Or Must Take Place.....	25
Section summary.....	25
Rules on succession and matters related to the death of an executive.....	26
Rules to mitigate incumbent advantage and level the transition playing field.....	27
3.2. Transition Timelines.....	28
Section summary.....	28
Identifying key phases of an executive transition and respective durations.....	29
Figure 1: Phases of a Canadian transition.....	30
Figure 2: Comparative transition timelines in Australia, the United Kingdom and the United States.....	32
Examples of preparation timelines in comparative transition frameworks.....	35
3.3 Transition Actors and Institutions.....	37
Section summary.....	37
Candidates for Executive Office/Opposition Leaders.....	38
Winner of Election/Executive-Elect.....	39
Incumbent/Outgoing Executive.....	41
(Ad hoc) Transition teams.....	41
<i>Transition Team Composition.....</i>	<i>42</i>
<i>Ad hoc or standing transition leads or coordinators.....</i>	<i>44</i>
<i>(Ad hoc) Transition Team Responsibilities.....</i>	<i>45</i>
Civil Service Leaders.....	45
<i>Rules on civil service neutrality.....</i>	<i>47</i>
Political Parties.....	48



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

TABLE OF CONTENTS

3.4 Defining powers, constraints, responsibilities and accountability mechanisms in transitions.....	49
Section summary.....	49
Constraints on incumbent executives/government leaders.....	50
Caretaker conventions.....	50
Information preparation and handover responsibilities.....	52
Asset management obligations.....	56
Accountability Mechanisms.....	57
3.5 Transition Coordination Mechanisms.....	58
Section summary.....	58
Establishing an obligation to coordinate in principle.....	59
Coordination through Transition Leads and Teams with Joint Membership.....	60
Access Talks between the Leader of the Opposition and the Civil Service.....	61
Coordination through Memoranda of Understanding.....	62
3.6 National security briefings.....	63
Section summary.....	63
Sharing security briefings with candidates or incoming leaders.....	64
Rules on Security Clearances Prior to and Following Elections.....	65
3.7 Ethics measures.....	68
Rules on Ethical Conduct.....	68
3.8 Transition Resources.....	70
Section summary.....	70
Budget allocations.....	71
Allocation of resources in the pre-election phase.....	72
Post-election period.....	74
CONCLUSION.....	77
ANNEX 1: TRANSITION CASE STUDY: GHANA.....	79
ANNEX 2: OVERVIEWS OF SELECTED TRANSITION FRAMEWORKS.....	83
1. BRAZIL.....	83
2. CANADA.....	83
3. FRANCE.....	84
4. GHANA.....	84
5. KENYA.....	85
6. REPUBLIC OF KOREA.....	85
7. LIBERIA.....	86
8. UNITED STATES.....	87
ANNEX 3: COMPARATIVE TABLE OF SELECTED TRANSITION FRAMEWORKS.....	88
ANNEX 4: ADDITIONAL COMPARATIVE RESOURCES.....	94



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

EXECUTIVE SUMMARY

“Before the enactment of the Law [on presidential transition], transitions in the Country had been characterized by administrative lapses, forced evictions and seizure of vehicles which left in their wake, acrimony, tension, ill-feeling and interparty hostility.”

Report of the **Committee on Constitutional, Legal and Parliamentary Affairs** on the Presidential (Transition) (Amendment) Bill, 2016, Ghana, Sec. 3.¹

“The national interest requires that such transitions in the office of President be accomplished so as to assure continuity in the faithful execution of the laws and in the conduct of the affairs of the government in both domestic and foreign affairs.”

Kenyan Prime Cabinet Secretary, **Musalia Mudavadi**, speaking in 2023 about the need to amend the Assumption of the Office of President Act of 2012²

A smooth and effective transfer of executive power from one administration to another is crucial to sustainable and resilient democratic governance. When outgoing and incoming leaders take adequate preparations and cooperate in the exchange and preservation of government information and assets during a transition, they are more likely to be effective in ensuring the continuation of service delivery for citizens and responding to their priorities during and following transitional periods. Smooth and effective transitions are therefore in the national interest of any democratic country.

Yet *effective* transitions are not guaranteed simply because election winners and losers recognize and respect the will of the voters or obey constitutionally mandated term limit rules, where they exist. Transfers of power are multiphased processes, not singular events marked by an inauguration ceremony. Rather, effective transitions involve a myriad of decisions, preparations and activities by elected officials, political appointees, candidates for office and the professional civil service, as well as civil society and media.

While virtually all countries have established rules on the conditions under which transfers of power may or must take place – in the constitution, electoral laws and other legal instruments – these frameworks alone are often insufficient to guide the range of actions and actors involved in a transition and to ensure predictability and regularity in the mechanics of transitions across time. To address these gaps, countries around the world develop various combinations of traditions, practices, rules and laws to guide both the principles and procedures of executive transitions. These frameworks may be more or less institutionalized and formalized, and their nature and status often depend on the political system and institutional structure of the state.

In some contexts, transition rules are elucidated in legal frameworks and written protocols of varying detail. In others, there are no formal rules governing transitions of power. In some of

¹ Committee on Constitutional, Legal and Parliamentary Affairs, Report of the Committee on Constitutional, Legal and Parliamentary Affairs on the Presidential (Transition) (Amendment) Bill, 2016 (Parliament of Ghana, July 2016), <https://drive.google.com/file/d/15whqsvKhuTc5SAk0eYNoslO4Mhg0h6jQ/view?usp=sharing>.

² Anne Mwale, “State Working on Draft Transition Executive Authority Bill,” Kenya News Agency, September 28, 2023, <https://www.kenyanews.go.ke/state-working-on-draft-transition-executive-authority-bill/>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

these contexts, unwritten habits and conventions have, over time, become relatively predictable and are seen as informal rules. In others, processes rely on goodwill between outgoing and incoming leaders, ad hoc decisions and a patchwork of approaches.

Though no universal model exists for effectively transitioning leadership power, research and experience show that when democratic principles are applied through legal precedents, governments are more prepared for and effective at maintaining good governance during a transition. They are also better able to deliver quickly on campaign commitments following a leadership shift.

This resource provides an analysis of selected comparative legal frameworks, regulations and other protocols on executive transitions from countries with different political systems, situated in different regions of the world, and with different democratic trajectories. Surveyed countries include: **Brazil, Cabo Verde, Canada, France, Ghana, Kenya, Republic of Korea, Liberia, Malawi, Mexico, the Netherlands, Nigeria, the Philippines, the United States, the United Kingdom and Zambia.**

This resource aims to:

1. Support political decision-makers, civil service leaders and civil society actors to understand the role and importance of legal frameworks in advancing effective leadership transitions;
2. Provide examples of good practices and lessons learned with respect to the content of these instruments; and
3. Identify factors that can contribute to their effective operationalization and enforcement across transitions in different contexts over time.

Armed with this comparative perspective, NDI hopes to assist domestic actors in making more informed decisions about how to better approach and structure future transitions in their own countries.

More broadly, the resource contributes to a global effort to build international standards and a community of practice on smooth and effective transitions of power. It builds on NDI's guide on executive transitions, [Global Lessons on Managing Executive Transitions](#), and the [Transitions of Power](#) online resource center, which contains a comprehensive library of resources from global practitioners and officials who have been involved in or studied executive transitions around the world.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

KEY FINDINGS

- ◆ **The establishment of clear principles, rules and procedures on executive transition processes, which are known by all transition actors, is in the national interest of all democratic states.** They are crucial for effective and efficient transfers of power across time and for the continuation of key services and administrative governance between executive administrations.
- ◆ While most countries have constitutional provisions that address the conditions under which a transition may or must take place, **only a minority of states have elaborated legal frameworks (of various types) to regulate the mechanics of transition processes.** Among those that do, most have presidential systems of government. In parliamentary and semi-presidential systems, the mechanics of transition processes are more typically developed through written and unwritten guides, protocols and conventional practices.
- ◆ Among countries that do have legal frameworks or written protocols in place, **there is a degree of borrowing, particularly from other countries within the region.**
- ◆ There are both advantages and drawbacks to codified transition frameworks. **Codification can help ensure predictability, clarity and accountability,** but may limit the ability of leaders to respond to changing circumstances over time. There are also advantages and disadvantages to relying on less rigid frameworks. **Conventions and protocols enable flexibility and adaptability** but are more easily flouted in contentious circumstances. Decisions about the status of transition rules must be made in light of contextual realities.
- ◆ **Effective transitions are a multiphased process, not an event; they involve significant planning and preparations in the months before an election and continue through the first few months of the new government taking power.** The ways in which transitions are prepared for, how the steps are sequenced and the actors involved vary from country to country depending on a range of intersecting factors, including the system of government, institutional and political culture, the existence of a professional and impartial civil service, the time window between election results and the transfer of power, and whether an incoming government is in the majority, minority or part of a coalition, among others.
- ◆ **Most written transition frameworks, where they exist, do not address all of the relevant aspects of transition processes that are necessary to ensure a smooth and effective transfer of power.** In some cases, the elements not detailed in written frameworks are addressed through conventional practice, in others, through ad hoc measures. In some countries, challenges have been noted across transitions with respect to the insufficient regulation, preparation or resourcing of key transition elements, such as early planning, the effective empowerment of transition leads or the timely allocation of information and materials. Common gaps in transition frameworks include, among others:
 - Regulation of specific mechanisms for cooperation between incoming and outgoing administrations and among the institutions, agencies and departments of the government;
 - Guidance on early planning requirements, including specific timelines, activities and assignments of responsibility;
 - Details on ensuring the ethical behavior of transition actors and the security of materials, information and communications;
 - Allocation of specific resources for the transition and rules on management and auditing of those resources;



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

- Clarification on the use or return of allocated resources and transition infrastructures in situations where an incumbent is re-elected; and
- Limited accountability mechanisms for failures to adhere to specified transition procedures.

- ◆ **The politics around establishing written transition frameworks are often complex, particularly in newer democracies.** Incumbent leaders who will stand for re-election, or political parties that have held power through successive governments, may see the codification of transition rules as a sign of electoral weakness. In some countries, difficulties across successive transitions, as in Ghana, highlighted the need to regulate the process for future handovers. In others, like Kenya, the establishment of a transition legal framework is a constitutional obligation. In still others, like Kosovo, Liberia and Nigeria, where transition laws are in various stages of development, they are seen as part of a leader's or party's legacy for the nation. **In all cases, for transition frameworks to succeed in supporting more effective transfers of power, they should enjoy broad cross-partisan consensus and civil society support, and be tailored to the particular institutions, practices and context of the country.**



TABLE OF
CONTENTS

EXECUTIVE
SUMMARY

KEY FINDINGS

GLOSSARY OF
TERMS

INTRODUCTION

WHY LEGAL
FRAMEWORKS

TYPES OF LEGAL
INSTRUMENTS

ESSENTIAL
ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative
Frameworks

ANNEX 4:
Additional
Resources

GLOSSARY OF TERMS

Cabinet: The executive leadership of the government, consisting of officials appointed by the leader.

Caretaker period (or convention): Period of time between shifts in administrations, often beginning in the pre-election period when a government assumes a “caretaker” role. During this period, the day-to-day business of government continues, but, through a series of recognized practices known as a “caretaker convention,” the government refrains from making decisions or taking actions that would bind an incoming government or limit its freedom of action, such as making significant appointments or entering into major contracts. Constraints on government action during the caretaker period also aim to protect the apolitical nature of the civil service and to avoid the use of state resources in a manner that would advantage a particular political party or leader.

Civil service (or public service): The body consists of career government employees, ranging from entry level to senior, who are apolitical subject matter experts sworn to serve executives and political appointees equally, regardless of party affiliation. They typically remain in government to support successive executives.

Classified information: Information a government controls that is not releasable to the public. Effective control of classified information includes having tiers of sensitivity of the information, standards for access, release and storage. Much national security information, for example, is classified.

Coalition: A coalition refers to a situation where two or more parties join together to form a collective party authority in government under a negotiated policy agenda and agreement. There are many reasons parties may choose to form a coalition, including as a result of mandates by a nation's constitution, or in the event no single party has a clear working majority following a general election.

Confidence: The support of more than half of the members of the legislature for a government, which may be shown by voting on a particular major issue or for the executive in power.

Continuity in government: Plans, processes, capabilities and procedures for ensuring governments have the means to maintain operations during transitions or events that impact the health and security of a nation and its senior leaders. Readiness includes succession planning, government relocation preparedness, and ensuring government documents and communications are retained, archived and, as appropriate, shared with incoming officials.

Dissolution: The official term for the end of a parliament before a general election. When parliament is dissolved, every seat in the legislature becomes vacant. Members of parliament immediately revert to being members of the general public, and those who wish to become members again must stand for election as candidates. In parliamentary systems, the “caretaker” period (defined above) typically begins with the dissolution of the legislative assembly in recognition of the fact that the executive can no longer be held accountable by the assembly in the normal manner.

Executive, as used in some jurisdictions, describes the branch of government that controls departments, agencies, and ministries and carries out or administers laws. Also referred to as “**the administration.**”

The executive means the elected (or appointed) leader of a country, who serves as the ultimate overseer of government or parliament, depending on the system of government. In states with a presidential-type system, the executive is generally both the head of state and the head of government, and typically (though not always) directly elected by the people. In parliamentary-type systems, the executive is typically the head of government, while the head of state is a separate office with distinct and primarily ceremonial powers, though there is wide variation across countries. In mixed or hybrid systems



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

(sometimes called semi-presidential), the constitution establishes both a popularly elected president and a prime minister as well as a cabinet accountable to the parliament. A key characteristic of hybrid systems is the dual executive, wherein powers are distributed in various ways to the head of state and the head of government, though there is wide variation.³ Some countries, like Switzerland and Bosnia and Herzegovina, have a collegial executive wherein power is shared between several actors.⁴ Frameworks that guide executive transition processes may therefore be useful for heads of state, heads of government and other forms of executive office, depending on context. Common terms for the executive include: president, prime minister, head of government, chairman of the government, president of the council of ministers, premier, chief minister, minister-president, governor, chancellor, excellency, right honorable, Grand Vizier (Pakistan) and Taoiseach (Ireland).

Executive orders: Directives issued by a president that establish official executive branch policy. They may carry the weight of law but are not permanent or validated by the legislative branch. Executive orders (typically) do not supersede law and can be rescinded by the next president.

Executive secretariat: Coordinating bodies in an office of the executive and in all government ministries, departments and agencies designed to receive taskings; issue lead and coordinating response assignments; track for timeliness, completeness and format; and submit taskings to senior leaders or requesting government entities.

Government: The government runs the country and is responsible for developing and implementing policy. It is also known as the executive. Government departments (ministries) and their agencies are responsible for implementing government policy.

Government assets: Property and services funded by the government and used for official purposes only. Government assets are issued to political and career government officials and must be returned when a person is no longer in government service. Government assets range from official residences, vehicles, computers, phones and office supplies.

Head of civil service: In some systems, also known as secretary general, cabinet secretary, clerk of the privy council and minister of state. This individual is the most senior civil service adviser to the executive. Their formal role is to support and advise on the running of the cabinet and cabinet committees, and to support the government in reaching a collective agreement on policies. In parliamentary systems, they often act as one of the prime minister's senior advisers on the working of government and on major policy decisions. They also work closely with the most senior ministers in government, advising the head of government on priority issues and ensuring that the rest of the civil service works to deliver those priorities.

Inauguration or swearing-in: The event at which the next executive leader is sworn into office and assumes control of government.

Political service: A general term for non-career staff and leaders who hold their position within the administration at the pleasure of the executive (or minister) and who must transition out of office alongside the executive.

Transition legal frameworks: Binding laws or regulations that define specific transition rules, intent and requirements. May also include nonbinding guidelines, manuals, standard operating procedures and other materials that structure transition rules and procedures.

³ There is no universally agreed definition of semi-presidentialism, and there is extensive variation across parliamentary and semi-presidential systems in how presidents come to power and in how power is distributed between the head of state and the head of government. For a discussion on various characteristics of these systems, see Thomas Sedelius and Jonas Linde, "Unravelling Semi-Presidentialism: Democracy and Government Performance in Four Distinct Regime Types," *Democratization* 25, no. 1 (2018): 126–57, <https://www.diva-portal.org/smash/get/diva2:1097266/FULLTEXT02.pdf>.

⁴ See National Democratic Institute, *Global Lessons on Managing Executive Transitions* (NDI, 2021), 5, <https://www.ndi.org/publications/executive-transitions-guide>, and Markus Böckenförde, Nora Hedling, and Winluck Wahiu, *A Practical Guide to Constitution Building* (International IDEA, 2011), <https://www.idea.int/publications/catalogue/practical-guide-constitution-building>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

INTRODUCTION

Tonight, as we acknowledge the results, let us also recognize that the true winners of these elections are the people of Liberia. Through your peaceful and orderly exercise of your constitutional right to vote, you have once again demonstrated your commitment to the democratic principles that bind us together as a nation.

President George Weah (2023), after his election loss to Joseph Boakai, Liberia

We came to certain offices and even curtains were not there. . . . The problem is that there are no formal instructions.

Rodrigo Egaña (1990), director of the civil service department tasked with recruiting high-level managers, during the transition from President Augusto Pinochet to Patricio Aylwin, Chile⁵

We have lost these elections overwhelmingly . . . I am proud of our democratic processes. . . . Although I wanted to stay on as your president, I respect the will of the people and I congratulate the president-elect. . . . I will step aside and I will participate in a smooth transition process and will support the new administration. . . . We are quite happy to retreat into being a loyal opposition and to hold the government accountable. . . . We need to give the new leaders space and support the new administration. . . . The public service is apolitical and serves the government of the day. . . . So I expect all focus to shift and stand ready to take instruction and subscribe to the dictates of the new administration. . . . We are Botswana and we will continue and God is always with us.

President Mokgweetsi Masisi (2024), upon his electoral defeat, which marked the first time in 58 years that the ruling Botswana Democratic

“We are not going to give up our country for a mere X on a ballot. How can a ballpoint [pen] fight with a gun?”

President Robert Mugabe (2008), ahead of the presidential election against challenger Morgan Tsvangirai, Zimbabwe

⁵ Robert Joyce, “Transferring Power in a Crisis: Presidential Transition in Chile, 2010,” Princeton University, Innovations for Successful Societies, November 2014, <https://successfulsocieties.princeton.edu/sites/g/files/toruqf5601/files/documents/Transferring%20Power%20Chile%20SPIA.pdf>.

⁶ Relief Web, “ZANU-PF Deadly Serious About Retaining Power,” June 20, 2008, <https://reliefweb.int/report/zimbabwe/zimbabwe-zanu-pf-deadly-serious-about-retaining-power>; “Mugabe Threatens to Arrest Opposition Leaders,” The New York Times, June 16, 2008, <https://www.nytimes.com/2008/06/16/world/africa/16iht-zimbabwe.4.13747406.html#>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

THE IMPORTANCE OF PEACEFUL TRANSITIONS IN A DEMOCRACY

The regular and peaceful transfer of power from one executive administration to another is a critical moment in a democratic society. It signifies respect for the will of the people as exercised through the ballot box and of the supremacy of the law rather than an individual leader. It signals the finality of electoral decisions and enables political actors and parties to direct their energies toward earning or maintaining public support rather than overthrowing the governing regime. Democratic governance principles applied to leadership transitions, particularly those of accountability and transparency, are therefore central to the national interest.

Scholars of democracy have long viewed the peaceful turnover of executive power as a key signifier of consolidation in new and transitioning democracies.⁷ For some, a key criterion for measuring progress toward democratic consolidation has been whether a country has had at least two peaceful *partisan* transfers of power.⁸ While a country's first transition of executive power has symbolic significance, subsequent transitions are crucial for democratic sustainability because they indicate and reinforce the notion that both political leaders and the broader public accept the change of *rulers* and not the *political regime*.

The 2024 Botswana presidential election offers a contemporary case in point. Following elections that were widely perceived as credible, the political opposition coalition, the Umbrella for Democratic Change, unseated the Botswana Democratic Party (BDP), which had held majority power since the country's independence in 1966. Incumbent President Mokgweetsi Masisi not only conceded defeat but, in a speech to the nation, also emphasized his support for the new administration, the neutrality of the civil service and the new role of BDP as the loyal opposition.

Since the rise of modern nation-states, peaceful partisan alterations of power have been a relatively rare phenomenon.⁹ The rarity of such peaceful transitions is unsurprising when one considers that, for many incumbents, the stakes of an electoral loss and subsequent transfer of power are exceedingly high: a defeat may mean the loss of life, freedom or fortune – and sometimes all three.

Yet evidence shows that peaceful transfers of power are habit-forming. Once one alternation has occurred, the next one tends to follow, in part because uncertainty about the former leader's life after ceding power is reduced with each successful transition. The democratic habit of changing rulers through elections can therefore become “self-institutionalizing” across a range of constitutional and political contexts – barring

Effective transitions signify respect for the will of the people as exercised through the ballot box and of the supremacy of the law rather than an individual leader. It signals the finality of electoral decisions and enables political actors and parties to direct their energies toward earning or maintaining public support rather than overthrowing the governing regime.

⁷ Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (University of Oklahoma Press, 1991); Adam Przeworski, “Acquiring the Habit of Changing Governments through Elections,” *Comparative Political Studies*, *Comparative Political Studies* 48, no. 1 (2018): 101–29, <https://doi.org/10.1177/0010414014543614>.

⁸ Meaning, that the party or group that rises to power through the initial election or other means at the time of democratic transition subsequently loses an election and turns over power to those who won the election, and then those election winners subsequently turn over power to the winners of a later election. Samuel Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (University of Oklahoma Press, 1991).

⁹ A study of almost all national-level elections from across all countries that have existed in the world between 1788 and 2008 showed that 81 out of the 204 that existed at any time after 1918, and 68 out of 188 observed as of 2008, never experienced a peaceful alternation of power between parties as a result of an election where an incumbent had competed; this includes China and Russia. The study further showed that countries that experienced at least one electoral partisan alternation of power subsequently repeated the “habit” of peaceful transitions – barring shock events or constitutional breakdowns. Countries that developed the habit early in history are familiar (the United States starting in 1800; the United Kingdom in 1835; and Australia, Costa Rica, Belgium, Denmark, Finland, France, Ireland, the Netherlands, New Zealand and Sweden in the late 19th and early 20th centuries). While these transitions were successful, they were not without resistance. After 1988, 57 countries experienced their first alternation, with 49 of them self-institutionalizing transition “habits” that continued through at least 2008. Notably, peaceful partisan alternations of power and transitions to democratic forms of governance do not necessarily coincide in time. Adam Przeworski, “Acquiring the Habit of Changing Governments Through Elections,” *Comparative Political Studies* 48, no. 1 (2018): 101–29, <https://doi.org/10.1177/0010414014543614>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

exogenous shocks or constitutional breakdowns.¹⁰ Even regions that commonly experience succession crises, as in parts of Africa, have seen an increase in the number of peaceful transitions resulting from election losses since 1990, with democracies and semi-democracies (anocracies) experiencing more leadership turnovers than authoritarian regimes.¹¹

THE IMPORTANCE OF EFFECTIVE TRANSITIONS

Research has found that peaceful and *effective* alternations of power through democratic means have substantial political and instrumental benefits. They reinforce norms around peaceful *non-electoral* executive transitions of power, such as upon the death, incapacitation or impeachment of an incumbent leader, and therefore guard against a power vacuum and the potential deterioration of the political, security or economic environment. More broadly, they also contribute to increased public confidence in and support for democracy, increased public goods and strengthened quality of governance.¹²

Accordingly, democratic governments in the 21st century must go beyond the minimum threshold of *peaceful transfers of power* and instead strive to establish *effective and efficient transfers* to ensure that incoming administrations – whether new or returning to power – have the knowledge and support necessary to effectively launch their new mandate from Day One. In this modern age of polycrisis,¹³ misinformation and disinformation, effective and efficient executive transitions are necessary to strengthen national stability and security, deepen public trust in democratic norms and practices, and enhance domestic and international credibility.

Yet an efficient and effective transfer of power is not automatic even where all parties agree that new leadership has earned the mandate to govern. It requires intention, preparation, detailed work planning and a commitment among all transition actors – from the political service to the civil service – to cooperate for the greater good of the country.

Legal frameworks, along with nonbinding written protocols and other guidelines and tools, can facilitate the mechanics of effective transitions by clarifying and managing the powers, responsibilities and constraints that operate on incumbent leaders, candidates, the civil service and the incoming and outgoing political staff.

Legal frameworks, along with nonbinding written protocols and other guidelines and tools, can facilitate the mechanics of effective transitions by clarifying and managing the powers, responsibilities and constraints that operate on incumbent leaders, candidates, the civil service and the incoming and outgoing political staff.

¹⁰ Adam Przeworski, “Acquiring the Habit of Changing Governments Through Elections,” *Comparative Political Studies*, 48, no. 1 (2018): 101–29, 118, <https://doi.org/10.1177/0010414014543614>.

¹¹ David F. Damore and Michelle Kuenzi, “Executive Turnovers in sub-Saharan Africa,” *International Area Studies Review* 22, no. 1 (2019): 21–40, <https://doi.org/10.1177/2233865918822260>.

¹² Donna Bahry and Young Hun Kim, “Executive Turnover and the Investigation of Former Leaders in New Democracies,” *Political Science Research Quarterly* 74, no. 1 (2020): 199–211, <https://doi.org/10.1177/1065912920905640>; Michael Bratton, “The ‘Alteration Effect’ in Africa,” *Journal of Democracy* 15, no. 4 (2004): 147–58, <https://www.journalofdemocracy.org/articles/the-alteration-effect-in-africa/>; Devra C. Moehler and Staffan I. Lindberg, “Narrowing the Legitimacy Gap: Turnovers as a Cause of Democratic Consolidation,” *The Journal of Politics* 71, no. 4 (2009): 1448–66, <https://www.journals.uchicago.edu/doi/abs/10.1017/S0022381609990120?journalCode=jop>.

¹³ The term “polycrisis” is increasingly used in politics, scholarship, media and philosophy to describe the current global context in which the totality of political, economic, ecological, energy and other crises currently confronting humanity is more dangerous than the sum of its parts. See, e.g., Adam Tooze, “Welcome to the World of the Polycrisis,” *Financial Times*, October, 29, 2022, <https://www.ft.com/content/498398e7-11b1-494b-9cd3-6d669dc3de33>, archived at <https://perma.cc/UG85-UNAF>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

Contextual Considerations

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

I. WHY LEGAL FRAMEWORKS ON EXECUTIVE TRANSITIONS MATTER

“If that was the way that outgoing governments were going to be treated in Africa, no African government would give up power.”

Kwamena Ahowi, former minister, speaking about Ghana's tumultuous presidential transition in 2001. Subsequent challenges with the 2009 transition led to the development of Ghana's 2012 Presidential (Transition) Act.¹⁴

All transfers of power face a two-fold challenge that transition preparations, decisions and actions must address: *the incoming government must be in a position to implement its policies as soon as possible, while at the same time, there needs to be continuity in the affairs of state despite the change in government that is taking place.*¹⁵

Legal frameworks help to balance the need to maintain continuity while facilitating change. They provide a framework for interface among political actors from both incoming and outgoing administrations around joint planning, information sharing and consultations. In so doing, they reinforce the rule of law and principles around the democratic alternation of power.

Broadly speaking, transition frameworks support effectiveness by:

- ◆ **Ensuring predictability, regularity and accountability** in transition processes across time, particularly in situations that are, by their nature, potentially complex, patently discretionary and unpredictable;
- ◆ **Depoliticizing transitions** by mitigating or removing the need to rely on goodwill or negotiation between outgoing and incoming leadership; and
- ◆ **Clarifying the roles and responsibilities of, constraints on and resources available to each actor and institution** involved in a transition.

At a more granular level, transition frameworks can:

- Help ensure the continuity of governance and the provision of government services between administrations;
- Avoid costly mistakes;
- Leverage the window of public goodwill;
- Provide the winning candidate with the information, tools and resources needed to rapidly and effectively take on the mantle of leadership;
- Ensure that information is effectively managed and shared;
- Help put in place effective working relationships between incoming political actors and permanent civil service staff to support the operationalization of the new governance agenda; and
- Demonstrate mutual commitments to the national interest among outgoing and incoming leaders, and thereby help to cultivate the new leader's reputation and to secure the outgoing leader's legacy.

¹⁴ Robert Joyce, “More than Good Elections: Ghana's Presidential Transition Handover, 2007–2009,” Princeton University, 2015, <https://successfulsocieties.princeton.edu/publications/more-good-elections-ghanas-presidential-handover-2007-2009>

¹⁵ OECD, “Management Challenges at the Centre of Government: Coalition Situations and Government Transitions,” SIGMA Papers, no. 22 (OECD Publishing, 1998), <https://doi.org/10.1787/5kml614vl4wh-en>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

Contextual Considerations

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

CONTEXTUAL CONSIDERATIONS

For any country, the development of a framework to guide transitions must be accompanied by a broader acknowledgment of the importance or imperatives of the instruments. Sometimes, the *need* for a transition framework may be triggered by challenging or contentious partisan transitions, as Ghana experienced in 2001 and 2009.¹⁶ Sometimes, the push is generated by prevailing political conditions and constitutional requirements, as in Kenya.¹⁷

There may also be a sense of urgency by an administration to leave an enduring legacy, as leaders in Kosovo, Liberia, Malawi and Nigeria have contemplated. In his first State of the Nation address following his inauguration in January 2024, for instance, President Joseph Boakai of Liberia said that one of his top legislative priorities was to enact a Presidential Transition Act “to provide the appropriate legal framework for the seamless transition from one democratically elected president to the other.”¹⁸

Strong political will with an overriding national interest, broad engagement and bipartisanship are key ingredients for developing and adopting executive transition legal instruments and supporting guidance. These ingredients are also key for the effective operability of transition frameworks for unbroken effective governance over time.

Preliminary research into the universe of transition frameworks indicates that only a minority of countries codify transition processes into specific legislation. Notably, most of these have a presidential system of government. Many other countries, and particularly those with parliamentary or hybrid systems, embrace a range of written and unwritten procedures and conventions that effectively operate as transition rules, even without a binding legal basis. Still others – particularly but not exclusively newer democracies – rely on more ad hoc approaches or have yet to see the need for written protocols or binding legalization.

Across the world, transition experiences and approaches to transition frameworks vary widely along several dimensions. These include:

Type of political system

Transition processes and practices vary extensively among presidential, parliamentary and hybrid (or semi-presidential) systems of government. In parliamentary systems, transitions can occur quite quickly, which changes the calculus for how various actors prepare for and execute transition activities. In presidential systems, there is more often a set schedule for a transition related to periodic elections. In hybrid systems, both the head of state and the head of government may undergo periodic transition, each with its own dynamics. In all systems, electoral transitions may look quite different from non-electoral transitions.

Length of the transition period

The duration of a transition varies by the type of political system and structure of the government in a country. In strictly parliamentary systems, the government is typically formed soon after legislative elections by the winning majority, though the need to form a governing coalition (see below) can add to the duration of government formation. This looks different in semi-presidential or hybrid systems where a separate head of state is directly elected by universal suffrage (as in France). The structure of the government also shapes the transition timeline. In countries where the government structure is more indeterminate and the structure of the cabinet and number of positions can vary significantly, a longer and more politicized period of change is likely, whereas transitions in countries where the government structure is relatively fixed

¹⁶ Robert Joyce, “More Than Good Elections: Ghana’s Presidential Transition Handover, 2007–2009,” Princeton University, 2015, <https://successfulsocieties.princeton.edu/publications/more-good-elections-ghanas-presidential-handover-2007-2009>

¹⁷ The adoption of Kenya’s new constitution in 2010 followed a failed constitutional reform process in 2005 that contributed to extensive violence following the 2007 election. Legislation for the assumption of the office of the president is required by Article 141 of the new constitution, along with a host of other enabling laws.

¹⁸ “President Joseph Nyumah Boakai Addresses the Nation,” Embassy of the Republic of Liberia in the United States, January 31, 2024, <https://www.liberianembassyus.org/in-the-news/president-joseph-nyumah-boakai-addresses-the-nation>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

Contextual Considerations

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

may be shorter (or at least administratively smoother). At the same time, the length of a transition period also varies by the nature of the transition. Where the timing is known well in advance, months of planning are not only possible but a useful practice. In a context of snap elections, actors may have just a few weeks to prepare. In non-electoral transitions, such as upon the death, incapacitation or removal of a leader, a transition is much faster and narrower.

Majority/minority/coalition government

The dynamics of a transition and the roles of various transition actors depend on whether the incoming government has an outright majority, is a minority government, or governs as part of a coalition. Where coalition governments are common, for example, there may be particular roles for the civil service to support coalition negotiations, and progress on these negotiations can impact the duration of the transition more broadly. In presidential systems, the size of an incoming administration's majority in the legislature (if one exists) will also impact the practicalities of a transition, e.g., how quickly the cabinet may be confirmed and the level of policy ambitions of the incoming administration.

Existence of a nonpartisan and professional civil service

Transitions of power are both *political* and *administrative* in nature. Accordingly, the existence of a nonpartisan, professional civil service that is both empowered and capacitated to effectively support a transition is crucial for upholding the institutional memory of government and, in many contexts, for facilitating all aspects of the administrative transition. It is also crucial for ensuring the continuation of governance between administrations regardless of partisan affiliation or leadership priorities, and for the successful launch of the new administration's mandate. Generally, this requires a clear legal foundation and mandate.



II. TYPES OF LEGAL INSTRUMENTS THAT GUIDE EXECUTIVE TRANSITIONS

TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

Constitutions

Legislation

Executive Decrees

Administrative Orders or Regulations

Written Conventions and guidelines

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

“We should make a law that clarifies what information the old government should give to the new government.”

Felipe Solís, former subsecretary of legislative relations in the Secretariat of Governance, Mexico, in a 2015 interview reflecting on the 2012 transition from President Calderón to President Peña Nieto¹⁹

This section provides a brief overview of the types of instruments that structure transition frameworks and examples for each, recognizing that there is wide variation across jurisdictions and that no particular approach may be optimal in a particular country.

Section summary:

- Executive transitions are guided by a combination of instruments, including constitutions, legislation, regulations, and written or unwritten conventions. There is extensive variation across countries.
- Constitutions typically guide when and why transitions may (or must) occur, and how leaders are selected, through provisions on electoral matters, succession, term limits, and others, but do not provide details on transition procedures.
- Where legal instruments are adopted to regulate transitions, legislation is preferable. The United States' Presidential Transition Act (1963) and Ghana's Presidential (Transition) Act (2012, rev. 2016) are key examples; each is periodically updated in response to lessons learned.
- Executive decrees are used by some countries, like Nigeria and Liberia, to regulate transitions, typically as ad hoc measures.
- Administrative (regulatory) orders are also used. They give effect to policies in other legal instruments. In some countries, like the Philippines and Mexico, they are the primary means for regulating transitions.
- Written and unwritten conventions and guidelines, common in parliamentary systems like Australia, New Zealand, Canada and the United Kingdom, as well as in semi-presidential systems like France and Cabo Verde, are typically nonbinding but carry significant weight due to long-standing practice and public expectation.
- There is no “one-size-fits-all” approach to executive transition frameworks; the most effective frameworks are rooted in a country's context and provide clear roadmaps for all stakeholders to safeguard democratic principles.

Transitions of power are rarely guided by a single legal instrument. Rather, they are structured by a combination of constitutional provisions, legislation, regulations and other agency rules, written guidelines or standard operating procedures, practices and conventions that have developed over time, and ad hoc activities. Among countries that have enacted formalized frameworks, the types of

¹⁹ Robert Joyce, “Mexico's Moment: The 2012 Presidential Transition,” Princeton University, 2015, <https://successfulsocieties.princeton.edu/publications/mexicos-moment-2012-presidential-transition>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

Constitutions

Legislation

Executive Decrees

Administrative Orders or Regulations

Written Conventions and guidelines

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

instruments used depend on the country's context, system of governance, legal-institutional culture and political dynamics.

To ensure a robust framework for effective transitions, a combination of binding and nonbinding rules may be advisable. Ideally, transition frameworks would include instruments enacted by the legislative branch of government. This is because, in a democracy, legislatures are deliberative institutions that serve as a check on the authority of the executive branch. They have both the writ and the responsibility to establish transition requirements and procedures in the national interest. This ideal, however, is not always feasible or practicable.

CONSTITUTIONS

At a basic level, most countries' constitutions address both regular and irregular executive leadership succession. Depending on the system of government, these rules typically regulate electoral succession matters, often with respect to the timing or circumstances under which elections must or may be held, candidate qualification criteria, the powers of and constraints on executive office holders and their relationships with other parts of government and the legislature, and term durations or limits, which signify the timing of leadership change.

Constitutions also commonly address questions about who takes the reins of power upon the death, incapacitation or removal of a sitting executive power holder. But beyond these broad rules and principles, the nuts and bolts of executive transitions, as well as the powers and constraints that operate on elected and appointed officials and the civil service during the various phases of a transition, are not commonly found in constitutional texts. Rather, they are defined through a wide range of legal and sublegal instruments and binding or nonbinding conventions and practices that have developed over time.

Occasionally, newer constitutions can require implementing legislation to regulate the transfer of power, as under Article 141 of the **Kenya** Constitution of 2010.

LEGISLATION

As noted above, legal instruments on executive transition should ideally be developed and enacted by the legislative branch of government. The **United States** was a pioneer in this respect, adopting one of the oldest executive transition laws – the **Presidential Transition Act** – in 1963. The act has been updated multiple times since, in response to lessons learned over time and an evolving understanding of the needs of effective transitions and the proper role of the government and the civil service in transition processes.²⁰

In 2008, for example, the nonprofit, nonpartisan civil society organization, the Center for Presidential Transition, began organizing a series of conferences to bring together members of major presidential campaigns, former transition leaders and representatives from government agencies to discuss the need for earlier and more thorough transition planning.

These engagements, combined with analysis reports on previous transitions and a systematic advocacy campaign, led to the 2010 enactment of the **Pre-Election Presidential Transition Act**, which authorizes additional support to eligible candidates for the presidency in the pre-election period,²¹ and to the **Presidential Transition Improvement Act of 2015**, which requires reporting on transition activities and obligates the

²⁰ The 1963 Act has been updated most recently by the Presidential Transition Act of 2000 (Public Law 106–293), the Pre-Election Presidential Act of 2010 (Public Law 111–283), the Edward “Ted” Kaufman and Michael Leavitt Presidential Transition Act of 2015 (Public Law 114–136), and the Presidential Transition Enhancement Act of 2019 (Public Law 116–121). See Center for Presidential Transition, “Presidential Transition Act Summary,” <https://presidentialtransition.org/wp-content/uploads/sites/6/2024/03/Presidential-Transition-Act-Summary.pdf>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

Constitutions

Legislation

Executive Decrees

Administrative Orders or Regulations

Written Conventions and guidelines

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

executive branch to establish two transition panels – one for the office of the president and one for federal agencies – at least six months before the scheduled election, and in which major candidates are entitled to representation.

A separate law, the **2004 Intelligence Reform and Terrorism Prevention Act**, addresses rights and obligations related to expediting security clearances for the prospective transition team members of qualified presidential candidates. These laws are buttressed by a series of administrative regulations and guidance materials.

In **Ghana**, the civil society organization the Institute of Economic Affairs played a similar role to the Center for Presidential Transition in the United States in spearheading political dialogues and analysis to develop what would become **the Presidential (Transition) Act** of (No. 845) of 2012 (rev. 2016).

Other countries have also adopted legislation on executive transitions, primarily but not exclusively those with presidential systems. **Brazil**, for example, enacted **Law No. 10.609 in 2022**. It provides for the establishment of a transition team by the president-elect consisting of up to 50 persons; establishes the right of the transition team to access data, documents and systems from public administrative entities and obligates government agencies to cooperate with transition team requests; allocates transition resources covered by the federal budget; mandates logistic support for transition activities; and clarifies timelines, among other provisions. Law No. 10.609 is buttressed by a **series of regulatory decrees** to facilitate the mechanics of transitions, particularly related to institutional information sharing, financial and resource management, transition team operations and transition-related activities of the public service.

Other examples include **Kenya** (Assumption of the Office of President Act, 2012, and a 2025 bill that would replace the 2012 Act), the **Republic of Korea** (Presidential Transition Act, 2003), and **Zambia** (the Transitional Period and Inauguration of President Act, 2016).

In **Nigeria**, legislators had worked since 2015 to enact legislation to guide presidential transitions, with various bills passing the House and Senate in 2015, 2019, 2020 and 2022²² However, none were enacted into law. Instead, in 2023, President Buhari issued a substantially similar executive decree to guide the pending transition (see below). **Malawi** also developed a draft Assumption of Office of President (Transitional Arrangements) bill in 2017, but this was blocked in parliament following a motion for a second reading and has not been taken up again.²³

EXECUTIVE DECREES

Some countries use executive decrees or executive orders as the primary legal instrument to guide the transference of executive power. Executive decrees are legal proclamations issued by a chief executive in a presidential system or by a head of state in a semi-presidential or hybrid system (as in France). They may be regulatory (or quasi-legislative) in character, or in some countries, they can have the force of primary legislation. The power to issue executive decrees and the legal force of such rules are typically, but not always, set out in a country's constitution.²⁴

The choice of using an executive decree to guide transitions rather than legislation adopted by the elected legislature often depends on several issues, ranging from expedience to the country's legal-political culture,

²¹ Center for Presidential Transition, accessed December 18, 2024, <https://presidentialtransition.org/about-the-center/our-history/>.

²² Nigeria, HB 1149: Transition and Assumption of Office Bill, 2020, passed on the third reading on December 22, 2022, and referred to the Committee of the Whole, <https://p.placbillstrack.org/9th/view.php?getid=9806>, accessed November 3, 2024; <https://drive.google.com/file/d/143MPZKkES7CmGq5R9pPJHJvSl5vcm0Op/view?usp=sharing>.

²³ “50+1 bill rejected,” Malawi24, December 15, 2017, <https://malawi24.com/2017/12/15/501-bill-rejected/>.

²⁴ For more information on the legislative powers of executive leaders, see Elliot Bulmer, Constitution-Building Primer 15: Presidential Legislative Powers (International IDEA, 2015), <https://www.idea.int/publications/catalogue/presidential-legislative-powers>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

Constitutions

Legislation

Executive Decrees

Administrative Orders or Regulations

Written Conventions and guidelines

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources



Pictured: The skyline of Nairobi, Kenya. Credit: Antony Trivet Photography - Shutterstock

to rules and norms around the allocation and use of constitutional powers across the branches of government. In practice, executive orders have typically been issued on an ad hoc basis to guide particular transitions, and not as a standing framework to guide transitions over time, with some exceptions.

In **Liberia**, for example, separate executive decrees²⁵ were issued to guide presidential transitions following the 2017²⁶ and 2023 elections.²⁷ Both orders were substantially similar, indicating a degree of consistency as a conventional practice. The transition report that was required to be developed under the second order (2023) was intended to review and compare both the 2018 and 2024 transitions for future reference. This report, however, has not been made public at the time of writing. As noted above, President Boakai in 2024 called for the enactment by the legislature of a standing Act on Presidential Transition that would guide future transitions and support the institutionalization and predictability of transitions over time.²⁸

A further example is **Nigeria** where, as noted above, President Buhari issued Executive Order No. 14 of 2023 on the Facilitation and Management of Presidential Transition ahead of the election, to guide the pending transition.²⁹ The executive order also, reportedly, aims to institutionalize future transition processes in the absence of legislation.³⁰ President Buhari was term-limited from contesting. In **Brazil**, where presidential decree powers are defined in the constitution and must pertain to the organization and functioning of the federal administration,³¹ several standing decrees have been issued since the early 2000s that directly relate to transition processes and which buttress the country's 2002 law on presidential transitions.³²

²⁵ Under Article 5(c) of the Liberian Constitution, a president may issue executive orders to, among other aims, mitigate the misuse of power and corruption. While orders are subject to the constitution and judicial review, they are presumptively legal and remain in force until revoked or modified by the president. The power has generally been broadly interpreted and widely used; orders hold significant weight and are typically binding.

²⁶ Government of Liberia, Executive Order No. 91, Establishing the Joint Presidential Transition Team of 2017, https://drive.google.com/file/d/1pS_eNe5OAU5_V9dsikrQhCBz62f1bGM9/view?usp=sharing.

²⁷ Government of Liberia, Executive Order No. 123, Establishing the Joint Presidential Transition Team 2023, <https://drive.google.com/file/d/1DE5uCKVh1D2j97lCaaFKy7MHrhQEnMKs/view?usp=sharing>.

²⁸ Embassy of the Republic of Liberia in the United States, "President Joseph Nyumah Boakai Addresses the Nation," January 31, 2024, <https://drive.google.com/file/d/1jB1o5d5yDXUXiP23YwGbsEuGSGTZ9MGJ/view?usp=sharing>.

²⁹ A copy of Executive Order No. 14 of 2023 on the Facilitation and Management of Presidential Transition is not available online. Rather, President Buhari issued a social media post about the document, <https://x.com/MBuhari/status/1623689934254096384>. Subsequently, media associations reported on its contents. See, e.g., Ibrahim Mansaray, "President Buhari Signs Executive Order No. 14 to Facilitate Peaceful Transition of Power," Swit Salone News, February 14, 2023, <https://www.switsalome.com/43780-president-buhari-signs-executive-order-no-14-to-facilitate-peaceful-transition-of-power/>; Donatus Anichukwueze, "Buhari Approves Transition Council, Signs Executive Order No 14," Channels TV, February 9, 2023, .

³⁰ In Nigeria, the power of a president to issue executive orders is not expressly addressed in the constitution, and there is significant debate as to the legal status and binding nature of executive orders on future administrations. While all such orders are subject to the constitution and judicial review, the 2023 executive order regulating presidential transitions appears intended to bind subsequent administrations until such time as parliament may enact primary legislation. See Sam Amadi, "Executive Orders and Presidential Power in Nigeria: Comparative Lessons from the United States of America," NILDS Journal of Law Review 2, no. 1 (2019), <https://ir.nilds.gov.ng/handle/123456789/407>; and Iquo Essien, "The Binding Nature of Executive Orders on Successive Governments in Nigeria," Firma Advisory, April 17, 2024, <https://thefirmaadvisory.com/new-blog/2024/4/17/the-binding-nature-of-executive-orders-on-successive-governments>

³¹ Constitution of Brazil, Article 84 (VI)(a) (2018), https://constitutionproject.org/constitution/Brazil_2017.

³² Relevant decrees include, among others: Decreto No. 4.199, de 16 abril de 2002, <https://www2.camara.leg.br/legin/fed/decret/2002/decreto-4199-16-abril-2002-380769-publicacaooriginal-1-pe.html>; Directo No. 7.221, de 29 de junho de 2010, <https://www2.camara.leg.br/legin/fed/decret/2010/decreto-7221-29-junho-2010-606999-publicacaooriginal-127813-pe.html>; and Directo No. 4.298, de 11 julho de 2002, <https://www2.camara.leg.br/legin/fed/decret/2002/decreto-4298-11-julho-2002-458605-publicacaooriginal-1-pe.html>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

Constitutions

Legislation

Executive Decrees

Administrative Orders or Regulations

Written Conventions and guidelines

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

ADMINISTRATIVE ORDERS OR REGULATIONS

Administrative orders are typically regulatory in nature and made under delegated authority, as compared to executive orders, which are executive directives rooted in constitutional or statutory powers. However, the scope and authority of administrative orders vary by jurisdiction. They are primarily used to give effect to policy choices prescribed in other legal instruments, such as laws or decrees. When used to regulate executive transitions, administrative orders typically apply to individual transitions and are not generally broadly applicable to transitions across time. Notably, some countries use administrative orders as the primary means of regulating successive transitions.

In the **Philippines**, for example, administrative orders have been used by outgoing presidents since at least the 1990s to guide transitions to their successors, each with varying degrees of detail. Orders issued in 1992³³ and 1998,³⁴ for example, were extremely brief and provided only limited guidance as to the specific responsibilities of transition actors or the elements of handover processes. Reflecting on challenges stemming from this lack of guidance, the order in 2010 more intentionally aimed to structure the planning and implementation process by requiring the development of a comprehensive transition “blueprint” and setting out specific aims for governance continuity.³⁵ The blueprint approach was not used in either 2016³⁶ or 2022.³⁷

In **Mexico**, the 2024 Agreement Establishing the Basis for the Transition of the Federal Public Administration was the first of its kind to guide a transition process. It was issued following certification of the presidential election results, which returned the incumbent Morena party to power through the election of the country’s first woman president, Claudia Sheinbaum. Among other provisions, the agreement guided the formation of a transition team (Mesa de Coordinación para la Transición) composed of civil servant department heads and persons appointed by the president-elect to coordinate and facilitate the exchange of information, mandated the establishment of coordination bodies within each department and entity of the Federal Public Administration composed of senior leaders and representatives of the incoming administration, and set timelines.³⁸ Mexico’s budget law for fiscal year 2024, issued ahead of the election, had already designated a transition budget.

In **Kosovo**, by comparison, the Office of the Prime Minister and the Office of the President have developed (draft) regulatory frameworks to guide the administrative transition of their respective offices over time in furtherance of transition-related provisions in the Law on Government and the Law on the Office of the President of the Republic of Kosovo, respectively. Both drafts remain under review at the time of writing.

³³ The Philippines, Administrative Order No. 277, April 13, 1992, Creating a National Committee to Take Charge of the Presidential Inaugural Ceremonies on June 30, 1992, https://lawphil.net/executive/ao/ao1992/ao_277_1992.html.

³⁴ The Philippines, Administrative Order No. 386, March 17, 1998, Constituting a Transition Committee in the Office of the President, https://lawphil.net/executive/ao/ao1998/ao_386_1998.html.

³⁵ Robert Joyce, “A Tense Handover: The 2010 Presidential Transition in the Philippines,” *Innovations for Successful Societies*, Princeton University, 2015, <https://successfulsocieties.princeton.edu/publications/tense-handover-2010-presidential-transition-philippines>; The Philippines, Administrative Order No. 285, May 09, 2010, Setting up a Transition Cooperation Team and Introducing the Transition Blueprint, https://lawphil.net/executive/ao/ao2010/ao_285_2010.html.

³⁶ The Philippines, Administrative Order No. 49, 2016, Creation of a Presidential Transition Committee and Other Agency Transition Committees, https://lawphil.net/executive/ao/ao2016/ao_49_2016.html.

³⁷ The Philippines, Administrative Order No. 47, May 10, 2022, Creating a Presidential Transition Committee and Internal Transition Committees in Departments and Agencies in the Executive Branch, <https://drive.google.com/file/d/1zLzKt2nO7rre7-Ni49yEX-heAzw6wf1Ki/view>. In the Philippines, Administrative Orders are defined under the law as “Acts of the President which relate to [a] particular aspect of governmental operations, . . . whereas executive orders relate to the execution of constitutional or statutory powers.” See The Philippines, Executive Order No. 292 Instituting the Administrative Code of 1987, <https://elibrary.judiciary.gov.ph/thebooks-helf/showdocs/5/53270/>.

³⁸ Government of the United Mexican States, Agreement establishing the bases for the transition of the Federal Public Administration, due to the change of government for the period 2024–2030, which will take office on October 1, 2024, https://dof.gob.mx/nota_detalle.php?codigo=5736865&fecha=21/08/2024#gsc.tab=0; unofficial English translation, https://drive.google.com/file/d/1DMxUF62TQ5hSQ1YcG-3_XWJRVWOiro/view. Mexico’s transition legal framework is specific to the 2024 transition, under the President’s constitutional authority to execute the laws enacted by Congress – in this case, a series of administrative laws.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

Constitutions

Legislation

Executive Decrees

Administrative Orders or Regulations

Written Conventions and guidelines

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

WRITTEN CONVENTIONS AND GUIDELINES

Written conventions and guidelines are more commonly used in parliamentary systems and are typically nonbinding. In many cases, however, such guidelines carry significant weight because they have been practiced and upheld as norms for many years and through multiple transitions, generating strong institutional culture and public expectations about how transitions should work. These types of instruments, or protocols, are often set out in several different documents that may be regularly reviewed and updated and, like laws, are made publicly available to ensure transparency and accountability both within the government and among civil society, media and the public.

In **Australia**³⁹ and **New Zealand**,⁴⁰ for example, cabinet manuals provide rules and guidance on the principles and procedures that apply to elections, transitions and government formation. New Zealand's manual is quite detailed, and addresses the impact of the electoral cycle on government decision-making, the principles and procedures that apply to transitions between administrations, the operation of the “caretaker” convention (which requires restraint in government decision-making during a transition period as a matter of principle), laws and procedures concerning both outgoing and incoming ministers and staff, and public communications by the public sector during transitions, among other matters. These materials not only guide the transition process but also help orient new officials on how to perform their jobs as executive leaders.

Canada and the **United Kingdom** similarly provide written guidance on transition processes, including but not limited to Canada's highly detailed caretaker convention.⁴¹ In the **Netherlands**, the official government website provides an outline of the process of government formation and limitations on the “caretaker” government to ensure transparency and accountability for public review.⁴²

Transitions of power are rarely guided by a single legal instrument. Rather, they are structured by a combination of constitutional provisions, legislation, regulations and other agency rules, written guidelines or standard operating procedures, practices and conventions that have developed over time, and ad hoc activities.



The wide range of instruments that countries use to guide executive transitions underscores that there is no “one size fits all” approach. Ultimately, executive transition frameworks provide a roadmap for the actions and decisions of relevant players and must therefore be rooted in the context of the country. The most useful frameworks ensure that everyone involved in the transition and externally knows what will happen and what is expected of them so that democratic principles may be safeguarded.

³⁹ Government of Australia, *Cabinet Handbook: 15th Edition – Department of the Prime Minister and Cabinet* (Commonwealth of Australia, 2023), https://www.pmc.gov.au/sites/default/files/resource/download/cabinet-handbook-15th-edn-august-2024_1.pdf

⁴⁰ Government of New Zealand, *Cabinet Manual 2023 – Cabinet Office, Department of the Prime Minister and Cabinet* (Cabinet Office, New Zealand, 2023), Chapter 6, <https://www.dpmc.govt.nz/sites/default/files/2023-06/cabinet-manual-2023-v2.pdf>.

⁴¹ Government of Canada, *Guidelines on the Conduct of Ministers, Ministers of State, Exempt Staff and Public Servants During an Election* (Government of Canada, August 2021), <https://www.canada.ca/en/privy-council/services/publications/guidelines-conduct-ministers-state-exempt-staff-public-servants-election.html>

⁴² Government of the Netherlands, “Forming a New Government,” <https://www.government.nl/government/about-the-government/forming-a-new-government>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

III. ESSENTIAL ELEMENTS OF EFFECTIVE TRANSITION LEGAL FRAMEWORKS

“When you have a government of four years, you cannot take a whole year to get the experience. You have to get that in weeks.”

Ignacio Rivadeneira, longtime political aide to President Sebastián Piñera, on the challenges of transitioning to power after many years in opposition, Chile, 2010⁴³

This section addresses the elements of effective transition frameworks. The rules and guidance that regulate each of these may be set out in different instruments, documents and conventional practices. In all countries, transition frameworks and practices should be periodically reviewed and updated over time.

Effective transitions involve preparations that begin well before a scheduled election and culminate several weeks or even months following the new administration formally taking power. They involve a range of actors and institutions, decision points, paperwork, coordination mechanisms, checklists, and financial and material resources – all of which must be organized, sequenced and managed.

These various pieces may be broadly categorized into the following elements:

- ◆ **Conditions** under which a transfer of power may or must take place;
- ◆ **Timelines** to guide the initiation and conclusion of activities during each part of the transition process, covering periods prior to and following an election, to ensure sufficient time for planning and implementing critical tasks;
- ◆ Rules defining the **key actors and institutions** involved during various phases of a transition and their responsibilities;
- ◆ Delineated **powers of and constraints operating** on the various actors and institutions involved in a transition – such as caretaker principles that apply to the outgoing administration, the rights and privileges of the newly elected (but not yet inaugurated) leadership, and the principles of neutrality and nonpartisanship that apply to the professional civil service – along with **defined responsibilities and accountability mechanisms**;
- ◆ Rules for the **allocation and management of funding, material and human resources** for transition activities, such as governmental budget sources and rules about the use of public versus campaign funding for the transition, or the provision of equipment and remuneration for transition teams;
- ◆ Mechanisms to facilitate **cooperation and coordination** between outgoing and incoming officials and between the incoming administration and the civil service for the purpose of information transfer and, in the latter case, onboarding;
- ◆ **Mechanisms for maintaining national security** during the vulnerable transition period, such as rules on the provision of security briefings for qualified candidates or executives-elect; and
- ◆ **Ethics measures** to ensure the ethical behavior of transition actors, that sensitive materials and handover documents are transferred appropriately, and that actors who should (or should not) have access are regulated.⁴⁴

⁴³ Robert Joyce, “Transferring Power in a Crisis: Presidential Transition in Chile, 2010,” Innovations for Successful Societies, Princeton University, November 2014, <https://successfulsocieties.princeton.edu/sites/g/files/toruqf5601/files/documents/Transferring%20Power%20Chile%20SPLA.pdf>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Many of these elements intersect and are crosscutting, and not all transition frameworks address all elements. Still, comparative practice indicates that all transitions involve all of these elements in one way or another.

The remainder of this section examines the various ways that transition legal frameworks, complementary guidelines, protocols and practices address each of these core elements (or not) and provides examples from selected countries.



Pictured: (USA) "Attendees wave flags at the National Mall during a presidential inauguration ceremony in Washington, D.C., United States. Photo credit: Rawpixel.com - Shutterstock

⁴⁴ See Allen Sutherland, *Facilitating Executive Transition in Kosovo* (National Democratic Institute, 2024), on file with author; David Zussman, *Off and Running, The Prospects and Pitfalls of Government Transitions in Canada* (University of Toronto Press, 2023), <https://utorontopress.com/9781442667273/off-and-running/>; National Democratic Institute, *Global Lessons on Managing Executive Transitions* (NDI, 2021), <https://www.ndi.org/sites/default/files/NDI%20Executive%20Transition%20Guide%20%282021%29.pdf>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

3. 1. CONDITIONS UNDER WHICH TRANSITIONS MAY OR MUST TAKE PLACE

“Democracy is the only system that persists in asking the powers that be whether they are the powers that ought to be.”

Sydney J. Harris, American journalist, (1917–1986)

Section summary:

Clear rules on whether transitions must or must not take place under particular conditions are essential for peaceful and democratic power transfers, especially in non-electoral transitions, to prevent power vacuums and instability.

- While most constitutions specify rules on elections, term limits, removal mechanisms and succession, some countries expand upon these to address specific or niche issues, such as:
 - Succession rules upon death, incapacitation or removal of an incumbent executive (Zambia);
 - Succession rules upon the death of a presidential candidate in a two-round electoral system, after the first election and before the runoff (Brazil);
 - Succession rules upon the death of the president-elect prior to swearing-in (United States); and
 - Rules to mitigate incumbent advantage and level the electoral playing field ahead of a potential transition (Madagascar; Republic of North Macedonia).

Legal frameworks need to delineate when and how transitions may or must occur. In particular, they should:

- Define situations in which elections may or must be held;
- Clarify situations of non-electoral succession, lines of succession and, potentially, related public notification and administrative obligations should such situations arise; and
- Provide mechanisms to mitigate undue incumbency advantages ahead of an election.

While it may be self-evident, clarity as to the conditions under which a transition may or must take place is a prerequisite for the peaceful and democratic transfer of power. For non-electoral transitions in particular, clear rules avoid the risk of a power vacuum and potentially violent destabilization in situations where the executive office is suddenly vacated, such as upon the death, incapacitation or removal of a leader.

As noted above, rules on when and why elections may be called, when they cannot be held, term durations and limits, removal mechanisms and related matters are almost always set out in a country's constitution.

In addition, some countries clarify and expand upon these rules to address a range of context-specific or niche issues that can contribute to supporting predictability, transparency and the rule of law in potentially complex transition circumstances.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Rules on succession and matters related to the death of an executive

In **Zambia**, the Transitional Period and Inauguration of President Act of 2016⁴⁵ provides special rules to regulate the obligations of the state in situations where an incumbent president dies in office. It requires that a public announcement be made about the death and the constitutional succession within 12 hours. The law also prescribes the planning and funding of a state funeral and the development of a report on the death, the state funeral and related expenditures to be submitted to the National Assembly at its next sitting.

Zambia's need for a legal framework to regulate transparency requirements upon the death of a president, as part of a transition process, arose in 2014 upon the death of President Michael Sata. At the time, there had been limited public awareness that Sata was ill and had gone abroad to seek medical attention.

This lack of public awareness exacerbated subsequent challenges with constitutional succession rules. Upon leaving the country for medical care, Sata had appointed the minister of defense, rather than his vice president as acting president during his absence. Upon his death, however, the constitution specifies that the vice president succeeds. This rule was complicated by the fact that Zambia's 1991 constitution, as amended at the time, contained a "parentage clause" which required that a president's parents both be Zambians by birth or descent.⁴⁶ This gave rise to a legal lacuna because then-Vice President and successor Guy Scott did not meet the parentage criteria.⁴⁷ Zambia's constitution was subsequently amended in 2016 to, among other matters, remove the restrictive parentage clause and clarify lines of presidential succession. Zambia's presidential transition law, enacted the same year as the constitutional amendment, reflects this experience and seeks to mitigate such transition challenges for the future.

Rules that guide succession upon the death of an executive-elect should also be made clear to ensure the legitimacy of the transitioning successor with respect to electoral outcomes. In **Brazil**, for example, which uses a two-round electoral system if no single candidate for the presidency earns an absolute majority of votes, the constitution specifies that, should one of the two second-round candidates die before the runoff election, the remaining candidate claims the presidency.⁴⁸

In **the United States**, constitutional provisions on succession upon the death or vacancy of a sitting president have been interpreted to apply to presidents-elect who die, resign or otherwise vacate the position prior to inauguration.⁴⁹ In these cases, the vice president-elect succeeds to the presidency. If no person qualifies as the president or vice president between the election and Inauguration Day, however, a separate law – the Presidential Succession Act of 1947 – applies.⁵⁰ Since 2009, there are also special rules requiring a constitutionally

In the United States, constitutional provisions on succession upon the death or vacancy of a sitting president have been interpreted to apply to presidents-elect who die, resign or otherwise vacate the position prior to inauguration.

⁴⁵ Government of Zambia, The Transitional Period and Inauguration of President Act, 2016, Law No. 32 of 2016, Part V, <https://drive.google.com/file/d/1sijhy9IZ-lMYqQHjof2zDHkqDHLMP-6/view?usp=sharing>.

⁴⁶ Constitution of the Republic of Zambia, 1991, as amended through 2009, Art. 34(3)(b), https://www.constituteproject.org/constitution/Zambia_2009.

⁴⁷ Mwangi S. Kimenyi and Amy Copley, "The Death of President Michael Sata and Issues of the Health of African Leaders," Brookings Institution, October 30, 2014, <https://www.brookings.edu/articles/the-death-of-president-michael-sata-and-issues-of-the-health-of-african-leaders/>; "Guy Scott's Rise to Zambia's Presidency," BBC, October 29, 2014, <https://www.bbc.com/news/world-africa-29816559>.

⁴⁸ Constitution of Brazil, 1988 (rev. 2017), Article 77(4), https://www.constituteproject.org/constitution/Brazil_2017.

⁴⁹ Congressional Research Service, United States, "Presidential Elections: Vacancies in Major Party Candidacies and the Position of President-Elect," October 9, 2020, <https://crsreports.congress.gov/product/pdf/R/R44648>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

eligible official, dubbed a “designated survivor,” to stay away from the inauguration ceremony itself to ensure that, in the event of a disaster or attack, a successor to the Office of the Presidency would be ensured and a transition would take place.

Rules to mitigate incumbent advantage and level the transition playing field

Many countries also adopt special rules to mitigate the electoral advantage of incumbents.⁵¹ These rules can help ensure a more level playing field for a potential transition process and support the real and perceived neutrality of the public service.

In **Madagascar**, which has a semi-presidential or hybrid system, Article 46 of the Constitution (2010) requires an incumbent president who will stand as a candidate for re-election to resign the presidency sixty days before the date of the presidential ballot, whereupon executive power transfers to the president of the Senate until the investiture of the newly elected president. The Constitution further designates that, where the sitting president of the Senate will also stand as a presidential candidate, “Head of State functions are exercised by the Government, jointly.”⁵² Where a sitting president will not stand for re-election, she remains in office until the investiture of her successor.

The **Republic of North Macedonia**, a parliamentary republic, has taken the remarkable step of requiring the formation of a new caretaker cabinet government 100 days before parliamentary elections. The process was established under the 2015 Pržino agreement, a political settlement between the main parties in the country with the mediation of the European Union following a political and institutional crisis. The agreement aimed to mitigate past abuses of the basic conventions of good governance during the caretaker period (see Section 3.4 below) and to ensure public service neutrality during an election.⁵³

Clear rules avoid the risk of a power vacuum and potentially violent destabilization in situations where the executive office is suddenly vacated, such as upon the death, incapacitation or removal of a leader.

⁵⁰ United States, Presidential Succession Act (3 U.S.C. 19), <https://www.congress.gov/108/chrq/CHRG-108hrg96287/CHRG-108hrg96287.pdf>; <https://www.usa.gov/presidential-succession>.

⁵¹ Adem Kassie Abebe, “Taming the Incumbency Advantage: Innovative Constitutional Designs From the South,” (International IDEA, 2021), <https://doi.org/10.31752/idea.2021.87>.

⁵² Constitution of Madagascar (2010), Art. 46, https://www.constituteproject.org/constitution/Madagascar_2010.

⁵³ In North Macedonia, the Law on Government requires that a caretaker government consisting of ministers from the ruling majority and the largest opposition party take office 100 days before the holding of parliamentary elections.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

3. 2. TRANSITION TIMELINES

“Happy to announce that in Belgium we finally have a new government.”

Belgian Prime Minister **Alexander de Croo** speaking in 2020 at the European Union’s parliament in Brussels following over 500 days of coalition negotiations among seven parties on forming a government⁵⁴

Section summary:

Effective transitions are multiphased processes that begin well before an election and continue into the weeks and months after a new administration takes office.

- Depending on a country’s electoral and governance systems, transitions typically have three to four distinct phases: the pre-election period, election campaign window, the period between the election and swearing-in, and government formation/agenda launch.
- Mapping out a phased approach, based on the timelines of key transition events in a given country, aids planning, logical sequencing of tasks, predictability and accountability.
- Key variations influencing timelines across countries include the campaign window, the duration of time between election and swearing-in, and the potential need for coalition negotiations, among others.
- Effective transitions often begin 3 to 12 months before a scheduled election; legal frameworks and conventions in countries like Canada, Ghana and the United States mandate that specified activities commence (and conclude) at defined times relative to an upcoming election/or an inauguration.
- In other systems, like Brazil and Liberia, regulated preparations begin after election results are certified, with less emphasis on pre-election activities. There are calls in some countries, like Kenya, to amend transition laws to require earlier preparations.

Legal frameworks should define important timelines and deadlines to ensure that key decisions are made and actions are undertaken promptly and efficiently.

In particular, legal frameworks should:

- Establish or clarify the length of the regulated transition process, where possible, in line with relevant constitutional and other legal provisions; and
- Establish timelines for starting and completing defined activities to support the transition during the pre-election, election, post-election and post-swearing-in periods, as appropriate for the context.
- Ensure timelines for defined activities are both feasible and adequate.

⁵⁴ Raf Casert, “De Croo Sworn in as Belgian Premier, Rushes to EU Summit,” AP News, October 1, 2020, <https://apnews.com/general-news-fc8e52dd6db4e9fad1726cebd1e12f6c>.

⁵⁵ National Democratic Institute, *Global Lessons on Managing Executive Transitions* (NDI, 2021), 59, <https://www.ndi.org/sites/default/files/NDI%20Executive%20Transition%20Guide%20%282021%29.pdf>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Transition frameworks should define the actions that need to be taken by key actors and institutions at different points in a transition process. This can help ensure that such actions are sequenced logically, that they are effectively prepared for and that their outputs are timely. To support effective work planning and to bolster accountability, transition frameworks ideally provide succinct **timelines** for prioritized activities – such as specifying initiation and conclusion periods for ad hoc transition institutions or the provision of services, due dates for the development or submission of materials or inventories, and deadlines for reporting on transition activities and expenditures to the legislature, auditing agencies and other oversight institutions.⁵⁵

To map out appropriate initiation and conclusion timelines for particular activities across a transition process, it is necessary to understand the phases and duration of a typical transition within a particular country. These differ from one country to another and sometimes from one transition to another in the same country, depending on several context-specific factors.

Identifying key phases of an executive transition and respective durations

It is helpful to think about an executive transition as a series of intersecting phases occurring both within and outside the public service that commence well before the election, gain intensity during the campaign and election periods, and continue through swearing-in to the launch of the new administration's agenda.

As a rule of thumb, executive transitions can typically be organized into three to four distinct phases, depending on the country.

1. Pre-election period (during which the timing of elections may be more or less predictable);
2. Election campaign (or writ) period to the start of the vote (sometimes defined by law);
3. Period between voting/certification of election results and the swearing-in of the new leader or government (varies significantly by country, system of government and electoral system; often defined by law and may vary across transitions within the same country); and
4. Government formation/launch of the agenda period (from the swearing-in of the new leader or government or signing of the coalition agreement, to implementation of its initial decisions and pronouncements).⁵⁶

Canada's transition timeline and core activities in each phase are detailed in **Figure 1** below. The figure notes the crosscutting timelines during which the caretaker convention applies to constrain government action, and highlights the specific tasks undertaken by the civil service (which manages the overall transition process) during each of these phases.

⁵⁶ Allen Sutherland, Facilitating Executive Transition in Kosovo (National Democratic Institute, September 2024), on file with author.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Figure 1: Phases of a Canadian transition



Source: A 4-phase approach to executive transitions in Canada, Allen Sutherland and Frederique Lefort, Privy Council Office of the Government of Canada, 2024.⁵⁷

A Canadian approach to transition planning

In Canada, tasks are clearly defined for each phase of the transition. Throughout a government's tenure (in the pre-writ period), the Assistant Deputy Minister (a civil service role) at the Privy Council Office leads monthly meetings with all department heads who serve ministers directly. Meetings are held more frequently as the campaign and election period looms. Participants discuss their organizations' degree of transition readiness and update transition task planning in a highly detailed checklist (called the Master Transition Task List), which is organized by transition phase.

In the writ (campaign and election) period, civil service leaders finalize briefing books for a potential incoming administration. They also track campaign speeches to learn about the proposed governing program of a potential new administration, depending on the outcome of elections. The caretaker convention applies during this phase, in which key authorities are delegated from ministers to the civil service to ensure decisions are not politicized; it is a sensitive and challenging time.

After an election, depending on results, there may be a period of coalition building. In Canada (as in Germany and New Zealand, among others), the civil service plays a limited supporting role in coalition talks by providing background information on government organization, cabinet construction, and other details as needed. They also provide administration and logistics support. When a coalition framework is developed, the civil service may be asked to weigh in on the (legal or fiscal) feasibility of proposed policy agendas.

Finally, during the government formation phase, the civil service plays a crucial but sensitive role to onboard new leaders. Key activities during this phase include preparing new leaders for welcome calls with leaders in other countries, and offering key briefings focused on the leader or party's campaign policy commitments and how to proceed with implementation. National security and state-of-the-economy briefings are prioritized.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

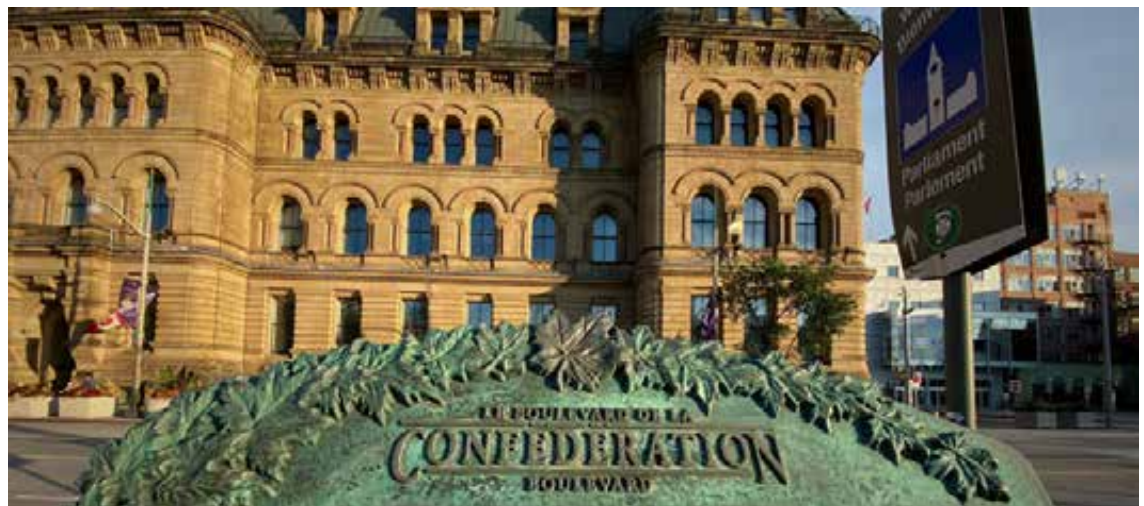
ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

In the **United Kingdom**, by comparison to Canada's approach, it is possible to define six phases of a transition:

1. Pre-election opposition assessment (of how long the party has been out of office and how quickly its leaders think it will win office again);
2. Pre-election civil service preparation (to develop traditional briefs on policy for alternative governments);
3. Pre-election contact between the civil service and opposition ("Douglas-Holme rule") (ranging from a few months to 16 months before an election, and often seen as the formal start of preparations for the transition by the government, but with substantial variation on the timing, nature, content and usefulness),⁵⁸
4. Election campaign period (during which politicians are focused on elections and suspend transition preparations (for logistic and public perception reasons), and the caretaker convention operates);
5. Election result and handover period (around 24 hours with substantial logistic activities); and
6. The first few days, weeks and months of a new administration (during which new ministers and advisors learn their day-to-day functions and build relationships with the civil service, test pre-election policies and establish the government's trajectory).⁵⁹

Figure 2, below, shows the comparative windows of permitted and mandatory transition activities from the pre-election through post-election periods in the United Kingdom, United States and Australia.



Pictured: Privy Council Office building across Wellington Street from Parliament Hill in Ottawa, Ontario, Canada. Credit: Gara A Corcoran Arts - Shutterstock

⁵⁷ This figure was workshopped at the OECD Informal Expert Group on Strategic Decision-Making at the Centre of Government on April 22, 2024. The authors thank participants for their contributions.

⁵⁸ See, e.g., Catherine Haddon, "General Election: Access Talks," Institute for Government, January 18, 2024, <https://www.instituteforgovernment.org.uk/publication/general-election-access-talks>; and Oonagh Gay, Pre-Election Contacts Between Civil Servants And Opposition Parties (UK Parliament House of Commons Library, 2014), <https://commonslibrary.parliament.uk/research-briefings/sn03318/>.

⁵⁹ Catherine Haddon and Peter Riddell, *Transitions: Preparing for Changes of Government* (Institute for Government, 2009), <https://www.instituteforgovernment.org.uk/publication/report/transitions-preparing-changes-government>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

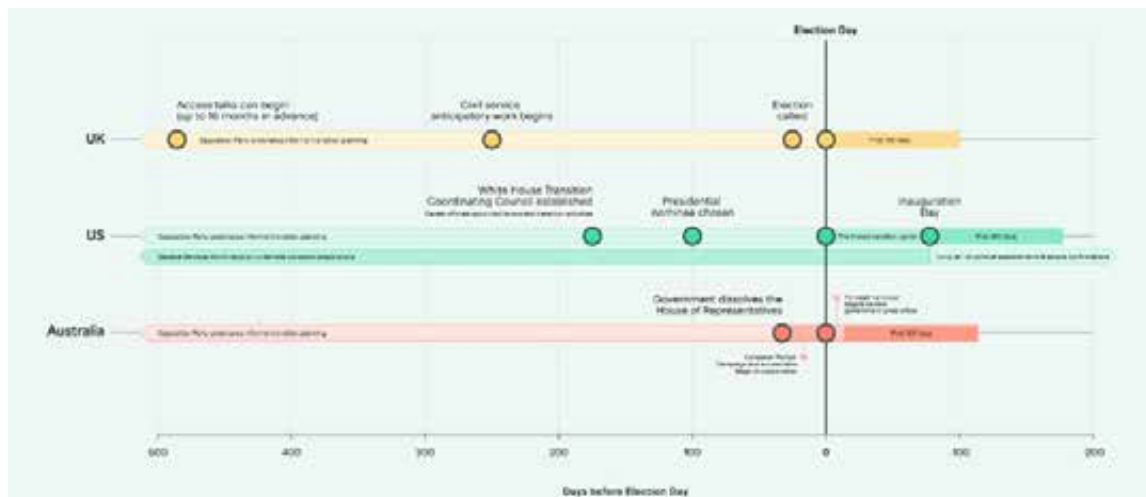
ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Figure 2: Comparative transition timelines in Australia, the United Kingdom and the United States



Source: Tom Collinge and Adam Terry, *Into Power 01: Lessons from Australia and the United States* (Future Governance Forum, 2024), Figure 1, p. 14,

<https://www.futuregovernanceforum.co.uk/wp-content/uploads/2024/02/Into-Power-01-%E2%80%93-Lessons-from-Australia-and-the-United-States.pdf>

Transition timelines in the United States

In the United States, a detailed legal framework establishes procedures the federal government must follow to prepare for an electoral transition of power.

One year (12 months) before an election: The General Services Administration (GSA) develops a transition directory with information on the various federal agencies and produces a report summarizing modern transition activities and resources.

Six months before an election: The incumbent president establishes the White House Coordinating Council to guide and oversee agencies and the Federal Transition Coordinator (FTC), who is a senior career official at the GSA. Each agency also designates a senior career staffer to oversee transition activities, act as the agency transition director, and serve on the Agency Transition Directors Council (ATDC). The FTC provides the first mandated report to designated Senate and House committees on the status of transition preparedness.

After party nominating conventions (around 6 months before an election): The GSA begins providing office space and support to eligible candidates within the first three business days after the last major party nominating event. By legally specified dates: the GSA enters into MOUs with eligible candidates and transition teams; the heads of agencies establish succession plans for noncareer staff positions; The FTC provides a second report to Congress; and the ATDC finalizes briefing materials.

Post-election (while final results are unclear): Pre-election support to candidates continues for five days unless all but one candidate concedes. If a winner is not determined within five days, the GSA provides post-transition support on an equitable basis to all remaining candidates until a winner is determined.

Post-election (once final results are clear): The president-elect receives a classified national security briefing, often well before inauguration. The GSA: continues providing office space and support to the president-elect and vice-president elect, continuing up to 60 days after inauguration; begins training and orientation for prospective political appointees; and begins supporting the offboarding of the outgoing president and vice president.

Source: Center for Presidential Transition, “2024 Transition Timeline”,
<https://presidentialtransition.org/transition-resources/transition-timeline/>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

In practice, most transition legal frameworks are not expressly structured around particular phases of a transition, except for **Kosovo's** 2024 draft regulations on transitions for the Office of the Prime Minister and Office of the President, respectively.

However, a phased approach that considers key activities in the pre-election period, election period, period between the election and swearing-in, and post swearing-in/government formation period offers a useful reference point for planning and organizing transition activities in line with the relevant rules and practices of the country.

Key variations to consider include, for example:

- ◆ **Whether there is a formal campaign window and whether and how to engage with candidates to prepare for a potential transition.**

For example, many countries have statutorily defined campaign periods, while others – particularly in parliamentary systems – have campaign periods tied to other decisions or events, such as when an election is called or when parliament is dissolved, and may be less predictable.⁶⁰ The campaign period matters because, in some countries, like the **United States**, qualified candidates are offered resources and briefings at this time. In other states, like **Canada**, civil service leaders must closely monitor campaign commitments and governance agendas to prepare for a potential transition.

- ◆ **How much time is there between an election and the swearing-in of the winning executive?**

In countries where the duration between the election (or certification of election final results) and the swearing-in of new leadership is long, fewer pre-election preparations may be necessary to support an effective transition – though pre-election preparation is always advisable.

In contexts where this period is short or variable, however, a more organized and well-prepared pre-election approach will be required for an effective transition. The duration of this period is sometimes set out in the constitution or may be determined through the confluence of electoral system type, system of government, contextual factors and the outcomes of political negotiations.

In some places, the period from elections to cabinet formation is only a few days (**United Kingdom**⁶¹), while in others it is a few weeks (**Canada, New Zealand**), and still others a few months (**Chile, Germany, Kosovo, Liberia, Mexico, United States**). **Mexico** (a presidential system) has a uniquely long four-month period between the election and inauguration (reduced in 2014 from five months), while **Belgium**, a parliamentary system, famously went 652 days before forming a new government in 2020 due to contentious negotiations. This broke the previous record of 541, also in Belgium, following the 2010 elections.

The nature of the electoral system can also create variation in these windows, which requires early preparation and contingency planning. In **Chile** and many other countries in Latin America and Africa (as well as **France**), a two-round electoral system impacts transition timelines by generating a window during the election period when a particular outcome may become clearer and preparations *during* the election

⁶⁰ Some examples of campaign lengths are as follows: in Canada, the minimum length of a campaign is 36 days, while the longest-ever campaign was 74 days; in Australia, a campaign must be at least 33 days and the longest ever was 11 weeks; in Japan, campaigning is limited to a 12-day period, and in Singapore, to a 9-day period. In Argentina, campaign advertisements can begin only 60 days before an election, and the official campaign can start only 25 days after that. See Ace Project, The Electoral Knowledge Network <https://aceproject.org/ace-en/topics/me/mca/mcc02>.

⁶¹ The short timeline between election and government formation in the United Kingdom has long been a subject of debate, leading some government officials, policy experts and scholars to call for a post-election transition window to enable time for effective handover and discussions for both government formation and a new parliament itself. See, e.g., Catherine Haddon and Peter Riddell, *Transitions: Preparing for Changes of Government* (Institute for Government, 2009), <https://www.instituteforgovernment.org.uk/publication/report/transitions-preparing-changes-government>; Meg Russell, "In Praise of Post-Election Transition Periods," *The Constitution Unit Blog*, July 3, 2024, <https://constitution-unit.com/2024/07/03/in-praise-of-post-election-transition-periods/>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

window may shift gears.⁶² Further, when the inauguration date is constitutionally fixed, a runoff election can substantially shorten the duration of the window between certification of results and the swearing-in, thus foreshortening opportunities for incoming and outgoing leaders to directly engage.

Legal frameworks must structure transition activities and decisions to account for these particularities.

In **Zambia**, for example, the Transitional Period and Inauguration of President Act of 2016 provides that, where a second ballot is required for a presidential election, the head of the ad hoc transition committee – which is established 60 days before an election – must request the names of transition representatives from the remaining candidates and begin liaising with them prior to the second round of voting. In **Ghana**, the Presidential (Transition) Act of 2012 (rev. 2016) requires several pre-election transition preparations, including the development and submission of handover notes to the transition coordinator, in large part due to the risk that, if a second round of voting is required, the executive-elect and their team may have less than a week before the inauguration to engage with outgoing officials.

◆ Will (potentially lengthy and complex) coalition negotiations be required?

In systems where coalition governments are common (such as in **Belgium, Finland, Germany, Ireland, the Netherlands** and **Sweden**), coalition formation may take significant time and often involves both political leaders (in negotiations) and civil service actors (in a logistic and administrative support role). Accordingly, transition frameworks in these countries tend to address the roles and responsibilities of particular actors during this period, resource allocation needs, and other context-specific matters to ensure smooth and effective negotiations as part of the transition process. Ideally, transition frameworks would help guide the processes of coalition negotiations and government formation itself, while ensuring the effective day-to-day functioning of core service and administrative activities during such negotiations.

These and other timeline considerations impact the design of transition legal frameworks because they enable transition actors to ramp up or slow down activities in a predictable way, such as placing more emphasis on early (pre-election or annual review) transition preparations when early elections may be called (as in **Canada** or **Kosovo**), or to prioritize the post-election to pre-swearing-in window when this is relatively long (as in **Mexico**).

Additionally, many countries, particularly Westminster systems, apply a governing tradition known as the caretaker convention during the campaigning and post-election period to avoid binding the hands of a (potentially) different incoming administration.⁶³ For more on caretaker conventions, see Section 3.4. The applicability of the caretaker window is generally time-bound and should therefore be considered when developing a guiding framework on executive transitions.

⁶² TRS has also been observed to impact the nature of the transition, as it has been observed in Latin America to increase the likelihood of minority governments when presidential candidates could not be elected in the first round (as happened in Brazil in 1994 and Chile in 1989 and 1994). When voting for the president goes to a second round, TRS has led in a notable number of cases to minority governments and reduced governability, deepening the polarisation of multiparty systems and accentuating problems of legislative gridlock. See “Electing a President – Two-Round Systems,” The Electoral Knowledge Network (ACE), <https://aceproject.org/ace-en/topics/es/ese/ese01/ese01b>.

⁶³ See, e.g., Jennifer Menzies and Anne Tiernan, “Caretaker Conventions” in *Constitutional Conventions in Westminster Systems*, eds. Brian Galligan and Scott Brenton (Cambridge University Press, 2015), 91–115, <https://doi.org/10.1017/CBO9781316178560.006>.



Pictured: A march in Upper Montserrado to conduct civic and voter education in the runoff to Liberia's October 10, 2017 elections. Credit: Adele Ravida.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Examples of preparation timelines in comparative transition frameworks

In practice, effective transitions require that activities begin in the pre-election period, roughly 3 to 12 months prior to the scheduled election, depending on the country. In some cases, early pre-election transition timelines and activities are mandated by law or long-held convention. In others, practice varies across transitions.

For example, the main transition law of the **United States** (the Presidential Transition Act of 1963) establishes a series of milestones to ensure an early and organized approach to transition planning. The first set of milestones must take place **12 months before an election**, when the civil service must produce a report summarizing all “modern” transition activities and relevant resources, and must develop a transition directory with updated information on all departments.⁶⁴

Six months ahead of a U.S. presidential election (around May of an election year), the incumbent president must establish a White House Transition Coordinating Council to oversee and guide all government agency transition activities, which are decentralized to individual agency transition teams. These teams are headed by designated agency leads (senior civil service employees), who jointly sit on an Agency Transition Directors Council. This agency council must begin meeting no later than six months before an election.⁶⁵

In **Canada**, transition preparations begin **up to a year before a scheduled election** when civil service leaders informally start to review existing transition plans and materials, update policy briefs, and engage in policy scenario planning. **Around six months before an election**, the prime minister will normally authorize the secretary to the cabinet to begin formal transition work, which typically includes giving oral briefings to the principal leader of the opposition in a general way on the scope and nature of transition preparations.

Throughout the Canadian pre-election campaign period, the assistant deputy minister (a corporate or civil service role) at the Privy Council Office leads regular meetings of the entire government corporate community (i.e., all lead departments that serve ministers directly) approximately once per month, increasing in frequency as the election looms.⁶⁶ To ensure preparations in the event that early elections are called, Canadian civil service leaders responsible for transition activities also engage in regular joint check-ins and updates throughout a government's mandate.

Civil service preparation timelines similar to those in Canada are found in Australia, New Zealand, and other parliamentary and some semi-presidential systems, where transitions in government can arise under a range of different scenarios, compared to the more regularized electoral schedules of most presidential systems.

In practice, effective transitions require that activities begin in the pre-election period, roughly 3 to 12 months prior to the scheduled election, depending on the country. In some cases, early pre-election transition timelines and activities are mandated by law or long-held convention. In others, practice varies across transitions.

⁶⁴ In all transitions, a new government must be informed of such elementary information, such as the numbers and salaries of staff that it can recruit, the services that it can use, the secretariat that is at its disposal, explanations of decision-making procedures, signature delegation rules and other details. Government of the United States, “Presidential Transition Act of 1963, Sec. 3(a)(9) and (h)(1)(c), <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>.

⁶⁵ For an example of pre-election transition tasks, see the “2024 Transition Timeline” for the United States, based on the Presidential Transition Act of 1963 at <https://presidentialtransition.org/transition-resources/transition-timeline/>.

⁶⁶ Allen Sutherland, Facilitating Executive Transition in Kosovo (National Democratic Institute, 2024), on file with author.

⁶⁷ Zambia, Law No. 32 of 2016, The Transitional Period and Inauguration of President Act, 2016, <https://drive.google.com/file/d/1sjhy9IZ-IMY-qQHjiof2zDhKqDhKLMp-6/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

In **Zambia**, as noted above, the Transitional Period and Inauguration of President Act of 2016 requires the establishment of the Presidential Inauguration Committee **at least 60 days prior to an election**.⁶⁷ **Nigeria** applies a more condensed timeline codified by executive decree, establishing a presidential transition council approximately **two weeks before a scheduled election** to facilitate and manage the transition program.⁶⁸ In **Ghana**, the law requires relevant civil and political service leaders to prepare and submit handover notes to a standing transition coordinator (the administrator general) at least 30 days prior to an election.⁶⁹

In some systems, however, formal pre-election preparations are more limited among both the civil service and political actors, with efforts condensed around the period between the certification of election results and the swearing-in of new leaders.

In **Brazil**⁷⁰ and **Liberia**⁷¹, for example, legal frameworks recognize the transition process as beginning with the certification of election results, with no formal requirements to guide pre-election preparations. In **Malawi**, the draft Assumption to the Office of the President (Transitional Arrangements) Bill (2017) would similarly have formally begun preparations only after the certification of election results through the convening of a joint transition team.

In **Kenya**, the Assumption of the Office of President Act of 2012, as amended in 2024, also establishes an ad hoc transition committee only upon declaration of a president-elect, and does not require agency-level preparations prior to election certification.⁷² However, some leaders in Kenya have called for the amendment or replacement of the transition law to “establish formal mechanisms to facilitate presidential transitions *several months before a General Election is held*” [emphasis added].⁷³

In 2023, the Kenyan Prime Cabinet Secretary noted that “there was a need for all state departments and agencies to begin transition planning well before polls through processes such as the preparation of financial statements and inventories,” a move he said “will mutually benefit both outgoing and incoming administrations.”⁷⁴

In 2025, a draft Assumption of the Office of the President and Transition of Executive Authority Bill was tabled in the Kenyan Parliament. If adopted, the new bill would establish a transition period commencing 90 days before an election and ending 90 days after a president-elect assumes office or when the ad hoc transition committee presents its report to parliament, whichever comes earlier.⁷⁵ The bill would also mandate several preparatory activities in the pre-election period, primarily focused on agency-level preparation of handover materials.⁷⁶

In addition to specifying when certain activities should commence, legal frameworks should also clarify when key activities or specific transition institutions should be finalized or dissolved.

⁶⁸ Oluwatobi Aworinde, “Nigeria’s Presidency and the Traditions of Transition,” Channels Television, May 29, 2023, <https://drive.google.com/file/d/1xMbhtD9nWP5wPOwKSUv8uIMrVRIG3rLT/view?usp=sharing>; Donatus Anichukwueze, “Buhari Approves Transition Council, Signs Executive Order No. 14,” February 9, 2023, <https://drive.google.com/file/d/16N77QOeGv8iocFUFv73wO-eYloqNPLbe/view?usp=sharing>.

⁶⁹ Government of Ghana, Presidential (Transition) Act, 2012, Act 845, (amended in 2016) https://drive.google.com/file/d/10xQyAhtVyf_dq1s-CRGQCsOlo_7S464sR/view?usp=sharing and <https://drive.google.com/file/d/15whqsvKhuTc5SAk0eYNosI04Mhg0h6jQ/view?usp=sharing>.

⁷⁰ Government of Brazil, Lei No. 10.609/2002 [Law 10.609/2001], <https://drive.google.com/file/d/1dC32SPan4tAgBusdZV4HGmrwNZSD-H7LM/view?usp=sharing> and Decreto No. 7.221/2010 [Decree 7221/2010], <https://drive.google.com/file/d/1P8RaKAAJPIdxHYDKRM8hct-TPj5nLWhb/view?usp=sharing>, noting that the transition process begins with the proclamation of the result of the presidential election and ends with the inauguration of the new president of the republic.

⁷¹ Government of Liberia, Executive Order No. 91 – Establishing the Joint Presidential Transition Team of 2017, https://drive.google.com/file/d/1pS_eNe5OAU5_V9dsikrQhCBz62f1bGM9/view; Executive Order No. 123 – Establishing the Joint Presidential Transition Team 2023, <https://drive.google.com/file/d/1DE5uCKVh1D2j97CaaFKy7MHrhQEEnMKS/view>.

⁷² Government of Kenya, Assumption of the Office of President Act, No. 21 of 2012, as amended in 2024, <https://drive.google.com/file/d/1r-6pHBFsE27YGkEKR869opP6yUpTUh-Wj/view>.

⁷³ Anne Mwale, “State Working on Draft Transition Executive Authority Bill,” Kenya News Agency, September 28, 2023, <https://www.kenyanews.go.ke/state-working-on-draft-transition-executive-authority-bill/>.

⁷⁴ Anne Mwale, “State Working on Draft Transition Executive Authority Bill,” Kenya News Agency, September 28, 2023, <https://www.kenyanews.go.ke/state-working-on-draft-transition-executive-authority-bill/>.

⁷⁵ The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 7, Kenya Gazette Supplement No. 5 (National Assembly Bills No. 1), February 6, 2025, <https://drive.google.com/file/d/1Aqv1U6YcKFAterZKSEXuhDCR0qolqv6B/view?usp=sharing>.

⁷⁶ The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 24(1), Kenya Gazette Supplement No. 5 (National Assembly Bills No. 1), February 6, 2025, <https://drive.google.com/file/d/1Aqv1U6YcKFAterZKSEXuhDCR0qolqv6B/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

For example, transition laws that establish ad hoc transition teams prior to or shortly after an election typically establish timelines to dissolve the bodies. They also provide deadlines for when the bodies must submit required financial statements or other reports on transition processes. In **Liberia**, for instance, the timeline to dissolve the ad hoc joint presidential transition team has changed across subsequent transitions from 48 hours before the inauguration of the new president under the 2017 Executive Order on Presidential Transition, to one month after the inauguration under the 2024 Executive Order.

In **Korea**, by comparison, the Presidential Transition Act of 2003 stipulates that a Presidential Transition Committee shall remain in existence for not more than 30 days immediately after the first day of a presidential term of office.⁷⁷

3. 3. TRANSITION ACTORS AND INSTITUTIONS

“Generally, [the career civil service officers are] the ones who give the briefings to the incoming; they’re actually the ones who do all the reports, because they’re the institutional memory.”

Karina Constantino-David, former chairperson of the Civil Service Commission, the Philippines, discussing the importance of the civil service during the challenging 2010 presidential transition process⁷⁸

Section summary:

Transition frameworks should define key actors (and their responsibilities). While roles vary by country and system of government, key actors typically include:

- **Candidates/Opposition Leaders:** Some frameworks define the privileges of candidates before an election to, e.g., office space and information (United States). In some parliamentary systems, the opposition may have civil service “access talks.”
- **Election Winner/Executive-Elect:** Frameworks consistently clarify the role of the executive- or party-elect to, e.g., access, information, services, funding and security briefings (Republic of Korea; United States), and to appoint transition team members (Brazil, Liberia). Rules on incumbent re-election vary.
- **Incumbent/Outgoing Executive:** Rules should clarify specific obligations like allocating funding or appointing transition teams/leads (Ghana, Liberia, Zambia). In some parliamentary systems, the outgoing executive’s formal role is quite limited.
- **(Ad hoc) Transition Teams:** Typically established by law to facilitate cooperation, service provision and handovers, and/or plan inaugurations. Composition varies from solely government officials (Zambia, Philippines) to a mix of representatives of incoming and outgoing leaders (Ghana, Liberia, Kenya).
- **Transition Leads/Coordinators:** Highly advisable; may be standing or ad hoc positions. Used in Brazil, Ghana, the United States and elsewhere. In parliamentary systems, transitions are typically led by key offices and career civil servants (Canada, France).
- **Civil Service:** Integral to effective transitions as the holders of institutional memory and expertise. Frameworks should empower and capacitate the civil service as a politically impartial and professional body.
- **Political Parties:** Serve as knowledge banks, provide candidates for appointments and support public communications. Some frameworks address the provision of institutional information to parties during transitions (Brazil, Canada, United Kingdom).

⁷⁷ Korea, Act No. 6854, Feb. 4, 2003, Presidential Transition Act, <https://drive.google.com/file/d/1TpsdqW0F0VyUeCzkk5d0fUtDBi-V0Q56A/view?usp=sharing>.

⁷⁸ Robert Joyce, “A Tense Handover: The 2010 Presidential Transition in the Philippines,” *Innovations for Successful Societies*, Princeton University, 2015, <https://successfultocieties.princeton.edu/publications/tense-handover-2010-presidential-transition-philippines>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

One of the most critical elements of effective and efficient transition processes is the clear delineation of responsibility. Accordingly, transition legal frameworks need to define:

- Key transition actors, as individual (ex officio) office holders or as agencies, institutions or departments; and
- The specific roles and responsibilities of these actors and institutions during each phase of the transition process.”

While there are numerous actors more broadly involved in a transition process, and while specific roles vary by country and system of government, the main actors typically include: the incoming and outgoing elected leaders and their political appointees and staff; transition team leaders and members (composition varies); the professional and politically neutral civil service; and, formally or informally, civil society organizations or other nongovernmental entities that support transition accountability and success.

Key Transition Actors and Institutions

Candidates for Executive Office/Opposition Leaders

A handful of transition legal frameworks address the rights and privileges of qualified candidates for executive office prior to the certification of election results as part of transition preparations. This goes beyond rules associated with the election process itself. Formalizing transition engagements between the civil service, the incumbent government and qualified candidates for elected office is advisable in contexts where the number of qualified candidates or parties is relatively few and can provide crucial foundations for a potential changeover in power. For example, by enabling initial contacts with civil service leaders that will be necessary for the effective launch of the new governance agenda, early information exchanges and orientations on the basics of transition processes, and access to equipment and secured technology, among other resources, can support effective candidate transition team planning. Any such services offered to candidates should be offered equally to all qualified candidates, regardless of party affiliation.

“Qualified” candidates or parties are generally those who are certified under national election laws as having enough support to merit access to basic outgoing administration transition materials and support or are the designated opposition. In the **United States**, for example, the Pre-Election Presidential Transition Act of 2010 provides that certain transition services shall be made available to eligible candidates (as defined by law) before the election.

The act details notification requirements on the part of the civil service to inform candidates of these rights, the types of assistance to which they are entitled and reporting requirements to Congress about transition support activities being conducted. Eligible candidates and their transition teams are entitled to, e.g., office space, office equipment (such as computers and communications services), information (such as on administrative practicalities and procedures), and the payment of certain expenses.⁷⁹

Further, under the Intelligence Reform and Terrorism Prevention Act of 2004, the civil service must provide eligible major party candidates with a list of presidentially appointed positions no later than 15 days

⁷⁹ Government of the United States, Pre-Election Presidential Transition Act of 2010 [Public Law 111–283, 124 Stat. 3045 (3 U.S.C. 1 note)], <https://www.congress.gov/111/plaws/publ283/PLAW-111publ283.pdf>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

following their formal nomination by the party.⁸⁰ Candidates are also entitled to submit names of transition team members for fast-tracked security clearance so that they can receive security briefings.

In some parliamentary systems, particularly Westminster systems, opposition leaders (often defined by the constitution or other law) may have pre-election privileges to support a potential transition of power. As noted elsewhere, **Australia, Canada, New Zealand** and the **United Kingdom** enable the civil service to hold “access talks” with opposition leaders. See Section 3.5 on transition coordination mechanisms for more information on access talks.

Regardless of details set out in legal frameworks, virtually all effective transitions involve candidate-led or party-led transition teams that prepare for and oversee transition processes both prior to and following elections – whether or not these are entitled to resources specifically designated under transition (as opposed to electoral) frameworks. The presence of and effectiveness of government open data policies and right to information laws – though not directly related to transition processes – are important to support these candidate or party transition teams to access relevant information about the functions and status of government (such as budget data) to prepare a governing agenda.

Regardless of details set out in legal frameworks, virtually all effective transitions involve candidate-led or party-led transition teams that prepare for and oversee transition processes both prior to and following elections

Winner of Election/Executive-Elect

Once an election has been certified, transition frameworks should (and consistently do) provide particular rights and privileges to the (new) executive-elect or party-elect. In the **Republic of Korea** and the **United States**, for example, executives-elect are entitled to a range of services and support from the government in addition to information and security briefings, as set out by law.

Under the U.S. Presidential Transition Act of 1963, the president-elect and vice president-elect are entitled to “necessary services and facilities,” including, e.g., suitable office space appropriately equipped with office machines, furniture and supplies; payment of compensation for office staff at a rate determined by law; payment of expenses for the procurement of experts or consultants to assist with the transition; payment of travel expenses and subsistence allowances at determined rates; communications services; printing services; postal and shipping services; and other logistic support.⁸¹

In all countries, executives-elect should also be entitled to personal security services,⁸² as well as intelligence briefings to ensure they are fully apprised of security matters facing the country and can effectively plan for contingencies and threats, though such practices vary by system of government.

In contexts where there is a time gap between the election and assumption of office, such support to executives- or parties-elect is crucial for an effective transition process and a fundamental obligation of the government to provide. The scope and availability of such assistance should be consistent and predictable across transitions. This generally requires early planning for budget allocations, procurement procedures and other logistic setups.

⁸⁰ Government of the United States, Intelligence Reform and Terrorism Prevention Act of 2004 [Public Law 108–458, Sec. 8403], <https://www.congress.gov/bill/108th-congress/senate-bill/2845/text>.

⁸¹ Government of the United States, Presidential Transition Act of 1963, <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>.

⁸² See, for example, transition rules in Brazil and the United States, among others.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

In contexts where such preparations do not formally begin until an election is certified, services and equipment are often delayed – leading to tensions between incoming and outgoing administrations and undermining the relationship between incoming political leaders and the professional civil service, which can impact governance into the future.

When an incumbent executive is (re-)elected,⁸³ core information and asset review processes should continue to take place, as key cabinet positions and political personnel often change. However, implications for the allocation of financial and material resources to support the transition of an incumbent-elect, and the composition or establishment of ad hoc transition teams, should be carefully considered and addressed in the transition framework.

Notably, some transition frameworks do not address such situations at all or address them in only a limited way. **Malawi's** 2017 draft transitions law, for example, and **Ghana's** 2012 law (prior to the 2016 amendment), note only that, where an incumbent is returned to office, they shall, respectively, chair and solely designate members of the transition team.⁸⁴

Ghana's 2012 election presented the first test of its transition law generally and with respect to incumbent return. Observers noted that, while it is "important to emphasise that executive level transition occurs even with the re-election of an incumbent . . . the 22 member [transition] team the President appointed could be considered as sizeable," and recommended a statutory cap of 12 members in such scenarios. Researchers further recommended that, to save resources, key statutory transition institutions, such as the Advisory Council, should be nullified in situations where an incumbent is returned.⁸⁵ The law was amended in 2016 to address these and other gaps.

Kenya's Assumption of the Office of the President Act similarly addresses the situation of incumbent (re-)election only briefly, to note that provisions related to the handing over of the instruments of power (a sword and the constitution) shall not apply.⁸⁶

By comparison, in the **United States**, the 1963 Presidential Transition Act specifies that, when the incumbent president (or vice president) is returned to office, there shall be no expenditure of funds for the provision of services and facilities under the act, and any funds so appropriated shall be returned. In **Brazil**, Law No. 10.609 states that its provisions shall not apply in the case of re-election of the president of the republic.⁸⁷

In all countries, executives-elect should also be entitled to personal security services, as well as intelligence briefings to ensure they are fully apprised of security matters facing the country and can effectively plan for contingencies and threats, though such practices vary by system of government.

⁸³ Generally, policymakers should avoid the use of the term "re-elected" in legal texts. In some contexts, depending on the nature of constitutionally defined term limits, an elected incumbent executive may be re-elected to office. In others, however, the incumbent executive may have succeeded to office through non-electoral means, such as upon the death, resignation or vacancy of the previous executive. In these scenarios, an incumbent executive may be elected to the office for the first time, while still constituting an incumbent return scenario.

⁸⁴ Malawi, draft Assumption of the Office of President (Transitional Arrangements) bill (2017), Art. 3(2) (on file with author); Government of Ghana, Presidential (Transition) Act, 2012, Section 1(3), https://drive.google.com/file/d/10xQyAhtVyf_dq1sCRGQCsO-lo_7S464sR/view?usp=sharing.

⁸⁵ Michael Ofori-Mensah, Implementing the Presidential(Transition) Act: Lessons, Challenges and the Way Forward (Institute of Economic Affairs, Ghana, 2013), https://drive.google.com/file/d/1LqjMkyhGND1_uAX-Rv2fgBzndL9WfUFy/view.

⁸⁶ Kenya, Assumption of the Office of President Act of 2012 (as amended 2024), Section 14(2), <https://drive.google.com/file/d/1r-6pHBFsE27YGkEKR869opP6yUpTUh-Wj/view>.

⁸⁷ Brazil, Lei No. 10.609/2002, Art. 9., <https://drive.google.com/file/d/1dC32SPan4tAgBusdZV4HGmrwNZSDH7LM/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

president (or vice president) is returned to office, there shall be no expenditure of funds for the provision of services and facilities under the act, and any funds so appropriated shall be returned. In **Brazil**, Law No. 10.609 states that its provisions shall not apply in the case of re-election of the president of the republic.⁸⁷

Incumbent/Outgoing Executive

In a democratic system, an outgoing incumbent executive is expected to acknowledge the outcome of an election, facilitate full cooperation for the transition and gracefully exit the stage after inauguration. The smooth and peaceful transfer of power depends on the attitudes and actions of the outgoing administration, beginning with the outgoing leader. While the outgoing executive should set the tone, other senior administration officials must follow suit by seeking to be helpful to the incoming leader and their team.

In a democratic system, an outgoing incumbent executive is expected to acknowledge the outcome of an election, facilitate full cooperation for the transition and gracefully exit the stage after inauguration.

With this in mind, transition legal frameworks should help clarify the specific obligations of outgoing executive leaders and the government as a whole regarding transition processes. For example, by function of office, an incumbent (outgoing) executive, particularly in a presidential system, may be obligated by law to appoint ex officio members of an ad hoc transition team, as in **Zambia** and **Liberia**, or to designate an individual transition lead, as in **Ghana**. Members of the executive leader's staff, such as a chief of staff, may also be identified in transition laws and assigned specific roles within the transition process.

In other cases, rules for the outgoing leader's behavior are more a matter of convention than law. In **France**, for example, pre-inauguration protocol demands that an outgoing president welcome a president-elect, whether from the same or opposing party, into the presidential house for a closed-door discussion and possibly a personal guided tour. In the **United States**, outgoing leaders typically handwrite letters to their successors, offering friendly advice and best wishes. In the **Philippines**, outgoing and incoming presidents typically share the same car when traveling to the inauguration of the new leader. Transition legal frameworks typically do not require such symbolic exchanges.

In many parliamentary systems, such as the **United Kingdom** and **Canada**, there is only a limited formal role for the outgoing executive beyond resignation. Rather, it is the broader incumbent government, the civil service and the incoming government (government-in-waiting) that are the primary players.

Transition legal frameworks should help clarify the specific obligations of outgoing executive leaders and the government as a whole regarding transition processes.

(Ad hoc) Transition teams

(See also Section 3.5 on transition coordination mechanisms for more on transition teams and leads.)

Transition teams are key to effective transfers of power. Transition teams lay the groundwork for governing – ideally well in advance of Election Day – by enabling the incoming government to gather information about government ministries, agencies and departments; build a policy agenda for the new administration; vet potential political appointees; and develop a management agenda.

As noted above, candidates and parties often establish their own transition teams during the campaign period to support early planning. In addition to these bodies, however, transition laws often establish governmental or joint transition teams to facilitate the transfer of power, oversee the various elements of the transition process, and support cooperation among broader transition actors.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Transition Team Composition

In some presidential systems, legal frameworks establish ad hoc transition teams made up of senior civil servants and sometimes political appointees. These may consist solely of public officials, as in **Zambia** and⁸⁸ **the Philippines**, or be a mix of government representatives and members appointed by the incoming leader, as in **Ghana, Liberia, Kenya, the Republic of Korea** and **Nigeria**. In the **United States**, for example, the White House Transition Coordinating Council, which must be established no later than six months before an election, includes political representatives of the outgoing administration and civil service leaders, as well as representatives of the transition teams of eligible candidates for the office of the presidency, in an advisory capacity.⁸⁹

In **Brazil**, the law empowers the president-elect with the sole authority to set up a transition team, comprising 50 members who may be requisitioned from the federal civil service and are entitled to remuneration and privileges set out in the law.⁹⁰ In the **Republic of Korea**, the law similarly empowers the president-elect to solely appoint a transition team of up to 24 members and issue requests to the heads of relevant agencies to requisition staff; the law obligates agency heads to comply with such requests, barring “extraordinary circumstances.”⁹¹

In **Zambia**, membership of the ad hoc transition team includes senior civil service leaders (the permanent secretaries of ministries), as well as the attorney general, the secretary and deputy secretary of the cabinet, armed forces commanders, and the chief administrator of the judiciary.⁹² The body is convened at least 60 days before a presidential election; there are no members from candidate’s transition teams or, after the election, from the president-elect’s transition team. Rather, coordination with the transition teams of the president-elect and vice president-elect is a specific mandate of the ad hoc governmental transition body.

In **the Philippines**, membership in the 2022 ad hoc transition team was limited to the executive secretary and the secretaries of the National Economic and Development Authority and the Departments of Budget and Management, Finance and Foreign Affairs.⁹³ Similarly, government or civil service-only teams have been set up under previous transition frameworks.

By comparison, under both **Ghana** and **Liberia** legal frameworks, the incumbent president and the president-elect jointly chair the respective ad hoc transition teams and appoint an equal number of members.⁹⁴

Evaluations of past transitions in both countries have revealed some coordination challenges among the political membership of the transition teams, indicating that an enhanced role for a professional and capacitated civil service is likely advisable in each.⁹⁵ Further, the right of an executive-elect to appoint

The right of an executive-elect to appoint representatives to a joint transition team, where this occurs, should exist as a matter of law and should not be dependent on an outgoing president to approve.

⁸⁸ Zambia, Transitional Period and Inauguration of President, No. 32 of 2016, <https://drive.google.com/file/d/1sjhy9IZ-IMYqQHjjo-f2zDHkqDHkLMp-6/view?usp=sharing>

⁸⁹ United States, Presidential Transition Act of 1963 [Public Law 88–277, 78 Stat. 153 (3 U.S.C. 102 note)], <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>

⁹⁰ Brazil, Lei No. 10.609/2002, <https://drive.google.com/file/d/1dC32SPan4tAgBusdZV4HGmrwNZSDH7LM/view?usp=sharing>

⁹¹ Republic of Korea, Presidential Transition Act of 2003, as amended through 2017, <https://drive.google.com/file/d/1TpsdqW0F0V-yUeCzkk5d0fUtDBiV0O56A/view?usp=sharing>

⁹² Zambia, Transitional Period and Inauguration of President, No. 32 of 2016, <https://drive.google.com/file/d/1sjhy9IZ-IMYqQHjjo-f2zDHkqDHkLMp-6/view?usp=sharing>

⁹³ The Philippines, Administrative Order No. 47 of May 10, 2022, <https://drive.google.com/file/d/1zLzKt2nO7rre7-Ni49yEX-heAzw6wflKi/view?usp=sharing>

⁹⁴ Ghana, Presidential (Transition) Act, 2012, Act 845 (amended in 2016), https://drive.google.com/file/d/10xQyAhtVyf_dq1sCRGQC-sOlo_7S464sR/view?usp=sharing; <https://drive.google.com/file/d/15whqsvKhuTc5SAk0cYNosI04Mhg0h6jQ/view?usp=sharing>

⁹⁵ See, e.g., Michael Ofori-Mensah, *Implementing the Presidential(Transition) Act: Lessons, Challenges and the Way Forward* (Institute of Economic Affairs, Ghana, 2013), https://drive.google.com/file/d/1LqjMkyhGND1_uAX-Rv2fgBzndL9WfUfY/view?usp=sharing



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

representatives to a joint transition team, where this occurs, should exist as a matter of law and should not be dependent on an outgoing president to approve.

In **Nigeria** and **Kenya**, the balance of members representing the outgoing government and the incoming leader differs.⁹⁶ In **Nigeria**, the president-elect appoints only two of the 22 members.⁹⁷ In **Kenya**, under the 2012 law (as amended in 2024), the president-elect appoints six of the 23 members.⁹⁸

In both countries, membership is primarily composed of civil service leaders who possess the institutional memory and knowledge of government processes and procedures necessary to support an effective administrative transition from one government to another.

Notably, under Kenya's proposed bill on the Assumption of the Office of President and Transition of Executive Authority, introduced in 2025, the president-elect would appoint nine of 25 total committee members, including the co-chair and the head of the Committee Secretariat.⁹⁹



Pictured: Crowds gather to watch a presidential inauguration in Manila, Philippines. Transitions in the Philippines are guided by ad hoc administrative orders establishing government-led transition teams. Credit: Tony Magdaraog - Shutterstock.

⁹⁶ Republic of Korea, Presidential Transition Act of 2012, as amended through 2017, <https://drive.google.com/file/d/1TpsdqW0F0V-yUeCzkk5d0fUtDBiV0O56A/view?usp=sharing>; Nigeria, Executive Order No. 14 of 2023 (as reported), <https://drive.google.com/file/d/16N77QOeGv8iocFUFv73wO-eYloqNPLbe/view?usp=sharing>.

⁹⁷ "President Buhari Approves Transition Council, Signs Executive Order No. 14, 2023," Proshare, February 9, 2023, <https://proshare.co/articles/president-buhari-approves-transition-council-signs-executive-order-no.-14-2023?menu=Economy&classification=Read&category=Politics>, or stable link: <https://drive.google.com/file/d/14nqSYG33qk7BPjIOD1deLK-46qUOMypz/view?usp=sharing>.

⁹⁸ Kenya, Assumption of the Office of the President Act, No. 21 of 2012, Art. 5, <https://drive.google.com/file/d/1r6pHBFsE27Y-GkEKR869opP6yUpTUh-Wj/view?usp=sharing>.

⁹⁹ Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 8(2) and (3), Kenya Gazette Supplement No. 5 (National Assembly Bills No. 1), February 6, 2025, <https://drive.google.com/file/d/1Aqv1U6YcKFAtetZKSEXuhD-CR0qolqv6B/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Ad hoc or standing transition leads or coordinators

Beyond ad hoc transition teams, designating a transition lead or coordinator role is also highly advisable. A transition lead or coordinator should ideally be perceived as politically neutral and have a background in public administration – such as a retired former civil service leader or senior administrator.

In **Ghana**, for example, the Presidential (Transition) Act of 2012 (rev. 2016) calls for the appointment of a designated transition lead an administrator general – by the incumbent president ahead of the election period. The **administrator general** is a standing position distinct from the transition team and has the same terms and conditions of service as a Justice of the Court of Appeal. The designated administrator general has typically been a former official with extensive civil service and administrative experience. This position formally heads the Presidential Estates Unit responsible for overseeing public assets, but also has specific responsibilities for coordinating the transition with the transition team; making recommendations on budget allocations to support the transition and managing the transition budget; inventorying the public assets held by outgoing officials and procuring any public assets necessary for an effective transition and the use of incoming officials; and reviewing and managing handover materials.¹⁰⁰

In **Brazil**, the president-elect's transition team is supported and supervised under the law by a coordinator charged with facilitating information exchange between transition team members and federal institutions and agencies.¹⁰¹ In the **United States**, a standing (or permanent) federal transition coordinator coordinates transition planning across agencies and serves as the primary liaison with candidates' transition teams. The federal transition coordinator must also report regularly to Congress on the status of transition planning, at six and three months before an election.

Similarly, in **Cabo Verde**, whereas there is no formalized transition framework, convention holds that when control of the National Assembly changes hands, the president of the incoming majority party appoints a designated transition lead. This individual need not be an elected official or even a political actor. Concurrently, the outgoing prime minister similarly assigns the responsibility to a deputy. These individuals and their respective teams work closely in the brief period between the conclusion of the election and the beginning of the new legislative term.¹⁰²

More commonly in parliamentary systems, such as **Australia, Canada, the United Kingdom and New Zealand**, and some semi-presidential systems, such as **France**, transitions are broadly led by the career civil service rather than ad hoc transition teams.

In **Canada**, for example, transitions are led by a specialized unit of the Office of the Privy Council responsible for matters relating to the machinery of government, including transfers of power. Coordination is facilitated through departmental civil service concierges who communicate and liaise with ministers' offices and departmental functional leads (such as human resources, information technology, finance, communications and accommodations) and subject matter experts, and report to a "lead concierge" responsible for a whole-of-government approach. While the Canadian process is guided by long-standing protocols rather than a legislated framework, the process managed by the Office of the Privy Council is extremely detailed, and several conventions and guidance materials structure the work of the unit.

In **France**, by comparison, transitions are led by the Secretariat General of the Government (SGG). The SGG is charged with ensuring the continuity of government action through political change and has four defined functions to fulfill when a new government is formed. These include preparing decrees of allocation and delegation for each new member of the government; allocating specified logistical resources to the new ministerial teams; initiating and disseminating guidelines on ministerial office staffing; and providing new ministerial teams with information on the customs and procedures of government,

¹⁰⁰ Ghana, Presidential (Transition) Act, 2012, Act 845, (amended in 2016), https://drive.google.com/file/d/10xQyAhtVyf_dq1sCRG-QCsOlo_7S464sR/view?usp=sharing; <https://drive.google.com/file/d/15whqsvKhuTc5SAk0cYNoslO4Mhg0h6jQ/view?usp=sharing>.

¹⁰¹ Brazil, Law No. 10.609, <https://drive.google.com/file/d/1dC32SPan4tAgBusdZV4HGmrwNZSDH7LM/view?usp=sharing>.

¹⁰² Harold Tavares, Chief of Staff to the Prime Minister of Cabo Verde, interview, August, 28, 2022.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

the status of particular government processes, organizational details and contact information. The SGG is also responsible for maintaining and updating a government work file (dossier du travail gouvernemental) containing up-to-date records concerning the preparation and monitoring of the council of ministers, interministerial meetings, legislative procedures and regulatory procedures.¹⁰³

(Ad hoc) Transition Team Responsibilities

Regardless of the form and composition of transition teams, they tend to be responsible for a common set of oversight and coordination responsibilities. While specific mandates vary from country to country, these (mainly ad hoc) bodies – sometimes in coordination with or under the auspices of a designated transition lead – are typically responsible for organizing critical processes such as:

- ◆ Overseeing the overall transition, including the coordination of executive departments, agencies, bureaus and other instruments of the government;
- ◆ Pre-election or post-election planning and operations (depending on when established);
- ◆ Facilitating communication between the outgoing and incoming executive leaders for an orderly handover; and
- ◆ Facilitating and carrying out the handover process.

In some countries, transition legal frameworks also assign to ad hoc transition teams the responsibility to: ensure the continuity and efficiency of the government during the transition,¹⁰⁴ organize for the security and hospitality of the incoming leadership, and provide equipment and facilities support for the transition teams of the incoming leaders – often through the civil service or other designated agencies.¹⁰⁵ In other countries, these responsibilities solely fall to the civil service or other designated agency as part of their institutional mandate.¹⁰⁶

Civil Service Leaders

As noted throughout this report, the civil service is an integral part of any effective transition. It builds and maintains institutional memory and is deeply knowledgeable about the laws, processes and procedures that make the government work. The civil service is responsible for translating the policy ambitions of an incoming elected government into a programmatic reality and supporting the smooth and effective offboarding of outgoing officials.

Moreover, in the transition period between administrations, the civil service ensures the continuity of government services and processes for the public good. Accordingly, transition frameworks should clearly address the role of the civil service and ensure that it is both empowered and capacitated to foster an effective transition.

The structure and capacity of the civil service (sometimes called the public service or administrative officials) differ from country to country, as does the level of turnover among the civil service during a government transition. In systems in which the senior civil service administration is relatively politicized, as in **Brazil** and the **United States**, there is more likely to be a high level of staff turnover along with changes of government.

Such changes require additional coordination mechanisms to be put in place under transition frameworks to ensure effective knowledge handover before changes in key leadership positions on both the political and civil service sides. Generally, however, the civil service comprises career government employees who are apolitical subject matter experts sworn to serve executive leaders and political appointees equally, regardless of political affiliation.

¹⁰³ Secrétariat Général du Gouvernement (France), “Qu’est-ce que le Secrétariat Général du Gouvernement?” April 2025, <https://www.info.gouv.fr/organisation/secretariat-general-du-gouvernement-sgg>. For an English translation, see <https://drive.google.com/file/d/10gdSlmvNZsCTQEAcjUUKDfM9UvtRaA/view?usp=sharing>.

¹⁰⁴ This is the case in the Philippines under Administrative Order No. 47 of 2022.

¹⁰⁵ As in Zambia and Liberia.

¹⁰⁶ As in the United States.

The civil service is an integral part of any effective transition. It builds and maintains institutional memory and is deeply knowledgeable about the laws, processes and procedures that make the government work.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

At a minimum, transition legal frameworks should identify the head(s) of the civil service¹⁰⁷ as key actors in executive transition processes charged with specific responsibilities and tasks. For example, in many laws that establish ad hoc transition teams, the head of the civil service is identified as a member of the body (see **Ghana**,¹⁰⁸ **Kenya**,¹⁰⁹ **Zambia**, **Liberia**, **Korea**, **the Philippines**, **Nigeria**¹¹⁰). In **Nigeria**, the majority of members of the ad hoc team established by executive decree in 2023 were permanent (civil service) secretaries from key ministries and agencies.

In **Kenya**, the 2025 draft bill on the Assumption of the Office of President and Transition of Executive Authority proposes the appointment of the head of the public service as a co-chairperson, along with a co-chair appointed by the president-elect. Such a revision would, if adopted, adjust the committee leadership structure as compared to the law in force at the time of writing, which establishes the secretary to the cabinet as the sole chairperson.¹¹¹ In doing so, the bill would help cure the potential challenge – as seen in some countries – of convening and chairing meetings in a situation where an outgoing administration may have challenges doing so.

In the **United States**, the head of the federal General Services Administration (GSA) (called the administrator) plays a significant role in virtually all aspects of the transition and is ultimately accountable for a wide range of responsibilities, including designating the federal transition coordinator from among senior members of the civil service itself.¹¹²

Noting the importance of the civil service in presidential transitions in the **United States**, the Partnership for Public Service's Center for Presidential Transition maintains that:

The work of experienced career officials is the foundation for a successful transition. Many departments and agencies, including most notably the General Services Administration, benefited from selecting transition directors with extensive transition experience. These directors were crucial in helping the incoming administration be prepared to govern on Day One.¹¹³

In **Canada**, as noted above, transitions are primarily guided by a standing office within the Office of the Privy Council, called Machinery of Government and Democratic Institutions. This is staffed by senior career civil servants answerable to the head and deputy head of the civil service administration, who oversee transition processes from one elected government to another.

Similarly, in **France**, a specialized civil service structure housed in the prime minister's offices – the general secretariat of the government (SGG) – plays a leading role in transitions. While coordinating government transition is not formally part of the SGG's mandate, in practice, this institution functions as the guarantor of continuity of government action and as the primary guide for the incoming political administration.

¹⁰⁷ Titles for the head of the civil service vary by country. Sometimes called a secretary general (Kosovo, Liberia), clerk (Canada), administrator (United States), or secretary to the cabinet (Kenya).

¹⁰⁸ Ghana, Presidential (Transition) Act, 2012, Art. 1(1)(b) on "head of the civil service" https://drive.google.com/file/d/10xQyAh-rVyf_dq1sCRGQCsOlo_7S464sR/view?usp=sharing.

¹⁰⁹ Kenya, Assumption of the Office of President Act, No. 21 of 2012, as amended 2024, Art. 5, <https://drive.google.com/file/d/1r-6pHBFsE27YGkEKR869opP6yUpTUh-Wj/view?usp=sharing>.

¹¹⁰ "President Buhari Approves Transition Council, Signs Executive Order No. 14, 2023," Proshare, February 9, 2023, <https://drive.google.com/file/d/14nqSYG33qk7BPjIOD1deLk-46qUOMypz/view?usp=sharing>; Donatus Anichukwueze, "Buhari Approves Transition Council, Signs Executive Order No. 14," ChannelsTV, February 9, 2023, <https://drive.google.com/file/d/16N77QOeGv8i0c-FUfv73wO-eYloqNPLbe/view?usp=sharing>.

¹¹¹ See Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 8(2)(a), Kenya Gazette Supplement No. 5 (National Assembly Bills No. 1), February 6, 2025, <https://drive.google.com/file/d/1Aqv1U6YcKfAtetZKSEXuh-DCR0qolqv6B/view?usp=sharing>, and Assumption of the Office of President Act, No. 21 of 2012, as amended 2024, Section 5(2)(a), <https://drive.google.com/file/d/1r6pHBFsE27YGkEKR869opP6yUpTUh-Wj/view?usp=sharing>.

¹¹² Note that in the United States, the General Services Administration (GSA) is not the civil service but an independent federal agency headed by a presidential appointee approved by the Senate. The GSA provides a wide range of services for the federal government, including hiring civil service contractors as needed. The civil service is organized under the Office of Personnel Management (OPM), which serves as the chief human resources agency and personnel policy manager for the federal government. The head of the OPM is also confirmed by the Senate, and hiring practices must be competitive and merit based.

¹¹³ "The 2020–21 Presidential Transition," Partnership for Public Service's Center for Presidential Transition, 2022, <https://presidential-transition.org/reports-publications/2020-21-lessons-learned/>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Rules on civil service neutrality

In both presidential and parliamentary systems, transition frameworks often aim to ensure that the civil service maintains its impartiality during an election campaign. For instance,

- ◆ In the **United States**, the 1939 Hatch Act prevents federal employees from engaging in some forms of political activity. Other executive orders related to the Employees Standard of Conduct relate more to conflicts of interest, rather than specifically to remaining politically impartial in carrying out duties.
- ◆ In **Australia**, the Charter of Budget Honesty Act of 1998 outlines a process whereby the opposition, minority parties and ruling parties may ask the prime minister to instruct the Treasury and Department of Finance to cost out a policy proposal during a caretaker government period. The process gives the opposition access to the machinery and knowledge of government but defines procedures to ensure transparency and impartiality on the part of the civil service.
- ◆ In **Scotland**, the civil service sometimes participates in particular ways in coalition negotiations to give the aspirants a chance to avail themselves of the civil service's knowledge about the feasibility of certain policy proposals. The civil service's involvement is part of an informal, not legally codified, process.
- ◆ In the **United Kingdom**, as noted elsewhere, the Douglas-Homes rule is a tradition, adopted in many other Westminster systems, wherein the leader of the opposition may ask the prime minister for permission to have contact with the civil service to discuss basic transition preparation matters. In response, each sitting prime minister issues guidelines to the civil service for the timing and parameters of this contact, which is considered confidential, and should be limited to information sharing only.

In many contexts – ranging from older to newer democracies and across systems of government – a new government may exhibit distrust of the civil servants who have served the predecessor government. Many new political leaders are therefore tempted to “behead” top civil servants and replace them with others considered politically safer or more loyal.

A consequence of this practice, in a transition context, is to prolong the transition period to when all required appointments have been made and to increase instability through the time frame extension, resource expenditure, and lack of ability and experience that new civil service leaders inevitably bring to the position. In practice, however, experience shows that it is “far more rare to find disloyal top civil servants than it is ministers who do not know how to give orders.”¹¹⁴

Further, in some countries, the development of a professional and impartial civil service remains in progress, so political leaders may be hesitant to entrust the major elements of transition processes to civil service leaders. This can lead to an enhanced reliance on political actors to facilitate transitions, which in turn can make transitions less predictable and effective. While transition frameworks should both reflect and work for the country context, the inclusion of civil service leadership in transition frameworks – and a concerted effort to capacitate and professionalize the civil service – is crucial for effective transitions over time and for the continuation of good governance between administrations.

In both presidential and parliamentary systems, transition frameworks often aim to ensure that the civil service maintains its impartiality during an election campaign.

¹¹⁴ OECD, “Management Challenges at the Centre of Government: Coalition Situations and Government Transitions,” SIGMA Papers, no. 22 (OECD Publishing, Paris, 1998), <https://doi.org/10.1787/5kml614vl4wh-en>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Political Parties

Political parties are crucial actors in any transition process. In all systems, parties serve as knowledge banks of transition and governing experience, provide pools of qualified individuals with aligned policy preferences to fill appointments, and can support public communications. Further, depending on whether the transition takes place in a coalition context, or if the executive is in the minority (compared to the legislative majority), parties engage in negotiating the legislative agenda.

Where parties are weak, highly personalized or operating in fractured coalitions, they may be unable to effectively fill these roles.¹¹⁵ Capacity may also be challenged depending on how long the party has been out of power. Long-term opposition or newer parties may lack the resources and institutional foundations, such as experienced staff or former elected leaders with direct transition experience, necessary to support a smooth transfer of power.

As noted above, in the pre-election campaign period, political parties that anticipate a potential victory may organize teams of experts with a wide range of skills to prepare, in the background, for a potential transition. Such teams typically operate discretely to develop plans for structuring and staffing the executive office, outlining policy agendas and developing lists of potential appointees, among other tasks. After an election, if the party (or, depending on the system, its candidate) is victorious, the formal transition team will finalize these plans and materials.

When parties have organized into an electoral alliance or coalition in the pre-election period, extensive discussions and negotiations are often required to develop not only shared policy goals and core principles, but also plans for government action should leaders assume power.

In the post-election period, the party (or coalition) plays a critical role in standing up the new administration. In systems where parties form a pre- or post-election coalition, coalition negotiations often determine members of the cabinet (to form a government) and other political appointees. These negotiations may sometimes be long and challenging.

Legal frameworks deal with the various roles of political parties in executive transitions in different ways, often in a number of instruments. Laws governing political party organization and financing, and those governing electoral rules and procedures, shape how parties may field and support candidates throughout the electoral process, including during the transition period.

Though relatively rare, some countries have also adopted rules that address the role of political parties specifically concerning transition processes. In **Brazil**, for example, Decree No. 4,199 of 2002 regulates procedures for the provision of institutional information relating to the federal public administration to political parties, coalitions and individual candidates for the office of the presidency up until the date that final election results are published.¹¹⁶

As noted elsewhere, in some Westminster parliamentary systems, rules and conventions enable “access talks” to begin in the pre-election period between opposition parties and the civil service to support planning for a potential transition.

In the **United States**, in comparison, the design of funding provisions in the transition legal framework took into consideration the historic role of parties. Before the enactment of the 1963 Presidential Transition Act, it was the political party of the incoming president – and not the federal government – that served as the primary source of funding for the entire executive transition. The development of a federally funded, institutionalized transition process under the act expressly sought to alter this historic practice concerning the role of parties and party finances in transfers of power.

¹¹⁵ See, e.g. Robert Joyce, “A Tense Handover: The 2010 Presidential Transition in the Philippines,” *Innovations for Successful Societies*, Princeton University, 2015, <https://successfulesocieties.princeton.edu/publications/tense-handover-2010-presidential-transition-philippines>; and National Democratic Institute, *Global Lessons on Managing Executive Transitions* (NDI, 2021), <https://www.ndi.org/sites/default/files/NDI%20Executive%20Transition%20Guide%20%282021%29.pdf>.

¹¹⁶ Brazil, Decreto No. 4.199, de 16 abril de 2002, <https://drive.google.com/file/d/1BB2ww3BQjkd83HD4jDmjWQeH9Y2bpqbGx/view?usp=sharing>; for an unofficial English translation, see <https://drive.google.com/file/d/117xyPI7DQyX31Y8HR9bUfhkQfbrxU-qT/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

3.4 DEFINING POWERS, CONSTRAINTS, RESPONSIBILITIES AND ACCOUNTABILITY MECHANISMS IN TRANSITIONS

“In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”

James Madison, a drafter of the U.S. Constitution and fourth president of the United States, writing about the draft constitution in Federalist Paper No. 51

Section summary:

Transition frameworks should define powers and responsibilities to prevent abuse and foster governance continuity. While approaches vary across jurisdictions, good practice approaches include:

- **Defining constraints on incumbent governments:** “Caretaker conventions” limit the actions of incumbent governments to essential business. Examples include Canada and New Zealand (written guidelines), Kosovo (codified in law), and Kenya (draft bill proposes codification of caretaker rules in presidential systems, with penalties).
- **Defining information handover procedures:** Virtually all frameworks authorize and obligate information transfer procedures. Some include specific templates. The civil service typically plays a leading role (e.g., Australia, Brazil, Canada, Ghana, United States), while some rely more heavily on the political service (Kosovo, Liberia).
- **Asset management rules:** These rules are crucial for retaining public property, combating corruption and ensuring governance. Many frameworks clarify rules for managing and returning public property, in part to avoid disputes and seizures.
- **Accountability:** Frameworks need oversight and accountability mechanisms (e.g., mandatory reporting). Administrative penalties are helpful; criminal accountability is rarer and generally not advised unless carefully considered in context.

Transition legal frameworks need to delineate the powers and obligations of various actors and institutions involved in transition processes, as well as limitations and constraints on the exercise of these powers and rights. In particular, they should establish:

- Rules related to decision-making that limit or control the actions of an outgoing leader or administration, such as caretaker conventions and beyond; and
- The specific powers, rights and obligations of transition actors and institutions concerning information and asset management and handover.

One of the most important objectives of a transition framework is to define the powers, privileges and constraints that operate on various transition actors throughout the transition process, the specific responsibilities they have, and accountability mechanisms for failure to comply.

¹¹⁷ David Zussman, *Off and Running, The Prospects and Pitfalls of Government Transitions in Canada* (University of Toronto Press, 2023), 5, <https://utorontopress.com/9781442667273/off-and-running/>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Without defined constraints, for example, there are risks that an outgoing leader and government could undertake major decisions that have the capacity to lay “landmines” for an incoming leader, with far-reaching implications for domestic, foreign and national security policies. Without defined responsibilities, in contentious contexts, outgoing governments could act as spoilers, working to withhold data, information or assets that incoming leaders need to ensure continuity in governance and to maintain the safety and security of the country. More broadly, defined responsibilities also help transition actors know what they need to do (and, hopefully, when to do it). At the same time, transition actors must also be empowered – particularly the incoming leaders and their transition teams as well as the civil service – to organize and implement their transition plans, demand and access information and resources, and settle into the halls of power.

In regulating these matters, transition legal frameworks and other guiding instruments play a crucial role in reinforcing preparation, discipline and accountability on the part of all transition actors to act for the good of the country and can contribute to a wider culture of thoughtful restraint in the exercise of power during this delicate time.

Constraints on incumbent executives/government leaders

With a few exceptions, an outgoing government in countries around the world typically retains its legal personality and full constitutional powers until its successors are sworn into office.¹¹⁸ However, an electoral loss means that the outgoing government no longer has the political mandate to undertake new business with long-term impacts.

The incoming government, on the other hand, has political legitimacy secured through an electoral victory, but no legal personality to engage in governance decision-making until officially sworn in. This can create tensions for the practicalities of cooperation, even when the legal and normative environment mandates that a transition take place. These complications can be exacerbated by a potentially long coalition negotiation process, depending on the system of government and distribution of electoral seats, and by an executive who finds themselves in the minority (divided government).

Caretaker conventions

In many parliamentary and some semi-presidential democracies, governments adhere to a convention of restraint on government activities during the electoral period and prior to the swearing-in of the new government (if different from the incumbent). This is known as a **caretaker convention**. Caretaker conventions are typically, but not always, set out in writing. The scope and particularities of caretaker conventions vary across jurisdictions, but all are rooted in the principle of government accountability.

The concept of accountability applies during the caretaker period because a government is functionally no longer accountable to parliament – either because parliament has been dissolved in the lead-up to a general election or because the government has lost the support of parliament. The application of a convention of restraint serves to foster fairness in the pre-election and election period and, in the event the incumbent party loses power, an effective transition of leadership.

The average duration of a caretaker period varies across countries and across individual transitions within the same country – around nine days on average in **France** since 1958 (though growing to a record-breaking 39-plus days in 2024 following the election of a highly divided parliament), around three weeks in the **United Kingdom** (which has a majoritarian electoral system), up to nine weeks in **New Zealand** (since the change to mixed member proportional representation in 1996), around 11 weeks on average

¹¹⁸ As noted in Section 3.1, the **Republic of North Macedonia** requires the formation of a new caretaker cabinet government 100 days prior to parliamentary elections. The process was established under the 2015 Pržino agreement, a political settlement between the main parties in the country with the mediation of the European Union following a political and institutional crisis, and has since been codified into the Law on Government. The agreement on a non-party caretaker government aimed to mitigate past abuses of the basic conventions of good governance in the country. Similarly, in **Bangladesh**, the 13th amendment to the constitution, adopted in 1996, required that general elections be held under a non-party caretaker government composed of advisors and headed by a retired chief justice and appointed by the incumbent president. The non-party caretaker government was responsible, with the Election Commission, to oversee the general elections and carry out the “routine” functions of the government during the interregnum period. This provision was repealed in 2011 under the 15th Amendment to the Constitution.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

in **Israel**, nearly 400 days in **Lebanon** (2020–2021) and 600 days in **Belgium** in a recent exceptional transition. All such countries, however, recognize and apply caretaker principles during these periods.

During a caretaker period, the incumbent or caretaker government limits itself to “essential business,” meaning that caretaker ministers, including the prime minister, should not announce new policy, make new appointments, sign new contracts or take decisions of long-term consequence unless not doing so would be detrimental to public interest.

Common aspects of a caretaker convention include:

1. Downward delegation of authorities from ministers to the public service to ensure decisions are not politicized;
2. Severe restrictions on nonroutine, nonurgent appointments and contracts;
3. Limiting government communications during the election to matters of health and safety rather than broader policy concerns to mitigate incumbent advantage; and
4. Funneling ministerial information requests through the senior civil service to ensure that information requests are not in aid of a political purpose.

For instance, in **Canada**, the caretaker convention is defined through detailed written guidelines issued by the Office of the Privy Council and updated periodically. As demonstrated in Figure 1 above, it lasts from the dropping of the writ until the new government is sworn in. In **New Zealand**, caretaker guidance is updated regularly through Cabinet Office Circulars.¹²⁰

In **Kosovo**, by comparison, caretaker rules are codified in the 2022 Law on Government. Article 31 specifies that the “Outgoing Government shall carry out only the necessary activities [already] planned” in the annual government work plan and budget law, except for the following:

- ◆ “[The Government] shall not approve initiatives to conclude international agreements that are required to be ratified by the Assembly;
- ◆ it shall not approve draft constitutional amendments, draft laws, strategies and concept documents;
- ◆ it shall not initiate new procedures for appointment to public positions, for the appointment of which it is competent based on the relevant laws ; and
 - it shall not propose candidates for positions for which appointment is required by the Assembly;
 - it shall not propose and initiate appointments of senior officers for which the decision should be taken together with the President of the Republic.”¹²¹

The Kosovo law also notes that the outgoing government is entitled to propose to the Assembly the approval of the national budget, and that, in the case of natural disasters or other emergencies defined by law, exceptions to the above limitations are allowed to the extent that they are justified by the context.

Caretaker-type conventions are less common in presidential systems, though scholars and country-level observers have long debated the need for constraints on government action in transition periods. In **Ghana**, for example, spending and appointment sprees near or during the transition period, known as “midnight actions,” have become increasingly problematic, giving rise to calls to amend the Presidential Transition Act of 2012. While the act was amended in 2016, the revisions did not address constraints on the outgoing government.

¹¹⁹ Canada, Privy Council Office, “Guidelines on the Conduct of Ministers, Ministers of State, Exempt Staff and Public Servants During an Election,” Government of Canada, August 2021, <https://www.canada.ca/en/privy-council/services/publications/guidelines-conduct-ministers-state-exempt-staff-public-servants-election.html>

¹²⁰ New Zealand, Cabinet Office, *CO (23) 10: Government Decision Making during the Period of Caretaker Government* (Cabinet Office, 2023), <https://www.dpvc.govt.nz/publications/co-23-10-government-decision-making-during-period-caretaker-government#introduction>

¹²¹ Kosovo, Law on Government No. 08/L-117, Art. 31, <https://drive.google.com/file/d/1aB317sHBIoifovC0pJ4wL8kBUK2VqJnS/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

In **Kenya**, by comparison, the 2025 draft bill on the Assumption of the Office of President and Transition of Executive Authority proposes to codify caretaker rules to ensure that, in the lead-up to an election, a potentially outgoing administration does not make decisions or take actions that would bind the hands of a future administration.¹²² Drawing from the well-established caretaker principles of parliamentary systems around the world, Part V of the Kenya draft bill requires that, within 90 days before the date of a presidential election,

“no Cabinet Secretary or Principal Secretary shall make any commitment that is or is intended to be binding on the Government, unless the commitment is necessary during that period and has been duly budgeted for.”

The 2025 bill further specifies that the types of actions and decisions that are limited or prohibited from the moment that voting in a presidential election begins. As applied to particular office holders, prohibited activities include:

- ◆ Making new appointments of public officers or nominating periods for appointment as public officers;
- ◆ Traveling outside of Kenya without prior written approval of the head of the public service;
- ◆ Making changes or transferring staff;
- ◆ Making or authorizing payments above 50 million shillings without prior written approval of the National Treasury;
- ◆ Entering into contracts on behalf of the government;
- ◆ Entering into international obligations binding the government; or
- ◆ Undertaking any act of commission or omission whose intention or effect would disrupt the orderly transition of executive authority or otherwise aid in the disruption of the formation of the government.

Caretaker-type conventions are less common in presidential systems, though scholars and country-level observers have long debated the need for constraints on government action in transition periods.

The bill also provides that a violation of these rules constitutes an offense and is liable, upon conviction, to a fine of up to ten million shillings and imprisonment for a term of up to ten years.¹²³

If enacted, the **Kenya** bill could establish a model for other countries with presidential systems of government to consider as a means of fostering electoral fairness and more effective transitions of power over time.

Information preparation and handover responsibilities

A key function of transition legal frameworks is to authorize – as well as obligate – transition actors to conduct a range of handover activities at specified times during a transition process. The assignment of particular responsibilities to individual actors and institutions – such as designated civil service leadership, ad hoc transition teams or (ad hoc or permanent) transition leads, specific agencies or offices or incumbent leadership – varies by jurisdiction depending on the system of government, political culture, and the institutional structures, resources and capacities available.

In countries with a well-established and politically impartial civil service, such as **Australia, Belgium, Brazil, Canada, France, Mexico, the United States, or New Zealand**, among many others, civil service

¹²² Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 23, Kenya Gazette Supplement No. 5 (National Assembly Bills No. 1), February 6, 2025, <https://drive.google.com/file/d/1Aqv1U6YcKFAterZKSEXuhDCR-0qolqv6B/view?usp=sharing>.

¹²³ Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 23, Kenya Gazette Supplement No. 5 (National Assembly Bills No. 1), February 6, 2025, <https://drive.google.com/file/d/1Aqv1U6YcKFAterZKSEXuhDCR-0qolqv6B/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

leaders are typically assigned a significant amount of responsibility. As noted elsewhere, the civil service is the holder of institutional memory and deeply knowledgeable about the machinery of government. Beyond this, as an impartial institution, civil service engagement in transition processes can help to mitigate the unpredictability of political handovers.

Broadly speaking, and depending on country context, a professional and capacitated nonpartisan civil service would be responsible for things like:

- Engaging with incoming and outgoing leaders to agree on the core mechanics of the transition process – things like timelines, resources, communication mechanisms, ethics regulations, treatment of confidential and sensitive information, and the like – preferably by facilitating and managing written plans and agreements, such as memoranda of understanding on key principles and practices;
- Organizing (in a supporting capacity), with relevant agencies, for classified information sharing and national security meetings;
- Managing information inventories and regulating the transfer of official records and artifacts from the outgoing administration to the legal custody of a national archives or records office, where one exists, to ensure the maintenance and security of such data for future generations;
- Providing eligible candidates and/or the incoming leader and their transition teams with the services and facilities needed to conduct transition activities and assume their official duties;
- Developing briefing materials for incoming officials on the machinery of government, “hot files” and other matters (varies by context), such as:
 - Urgent matters that require the attention of new leadership (like a pending labor strike or dispute with a neighboring country);
 - State of the economy;
 - Government contracts and obligations;
 - Pending litigation;
 - Strategic foreign relations background information;
 - Operations and the organizational structure of government;
 - Asset management rules (rights and responsibilities) for use, maintenance and return of government-issued materials (like phones, laptops, offices and supplies);
 - Other matters deemed necessary by relevant transition teams or leads, or upon request of incoming or outgoing leadership;
- Developing briefing exit materials for outgoing officials (e.g., on human resource matters, benefits and entitlements, asset return and other details); and
- Preparing new leaders for welcome calls with foreign leaders and international organizations of strategic importance (e.g., background briefs, protocols).



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

In some contexts, civil service leaders are also charged with:

- Sharing specified information with recognized candidates in the pre-election period, such as lists of all presidentially appointed positions with specified details so candidates can adequately prepare lists of nominees within necessary time periods (and ensure continuity of governance following an election);¹²⁴
- Engaging in “access talks” with the opposition in the pre-election period to provide administrative support and practical advice on the machinery of government to candidates;¹²⁵
- Supporting coalition formation processes following elections (in an operational or administrative capacity); and
- Planning for an early cabinet retreat and helping to frame the “100-Day Plan,” among other roles.

To facilitate the information handover process, transition framework packages often include templates or otherwise outline parameters for the content of prioritized materials and briefings. This helps ensure a comprehensive and consistent approach, ideally while enabling flexibility as needed. Access to information that is presented in an organized way is critical not only to build the new leader’s understanding of the status of government agencies and offices, but also to audit performance, address challenges and plan to effectively implement their agenda.

The draft law on presidential transition considered in 2024 in **Liberia**, for example, includes a template for handover memos in a schedule appended to the bill.¹²⁶ In **Ghana**, ahead of the 2009 partisan transition, leaders in a unit of the president’s office developed a template for information handover to help standardize the quantity and quality of materials (see Annex 1).

Example content of briefing materials prepared by civil service, at either the government-wide or departmental level:

1. An organogram of the organization or portfolio
2. Legal framework for the functioning of the institution(s)
3. Who is who at the administrative level, and how the administration is composed;
4. How many political staff can be hired at each institution;
5. Basic information on budget, public accounts, procurement processes and current financial issues;
6. The “to do” list remaining from the previous administration (pending matters requiring the adoption of measures, action or decision by the new administration); and
7. Any outstanding issue related to foreign policy, national security or other urgent matters.

Adapted from information provided by Allen Sutherland, Office of the Privy Council, Canada, to NDI. For another example of briefing materials, see also Decree No. 7.221 of June 29, 2010 (Brazil)

¹²⁴ In the United States, the Office of Personnel Management (OPM) (which oversees the federal civil service) is legally obligated to provide a list of presidentially appointed positions to all major party candidates and is legally permitted to share such lists with non-major party candidates. Incoming presidents must make around 4,000 appointments, 1,300 of which require Senate confirmation. The scale of such appointments therefore requires careful documentation and planning. Information that must be legally provided to candidates for presidential election includes: the title and description of duties for each position, the name of each person holding a position and any vacancies in specific positions, the date at which an appointment should necessarily be made following an election to ensure the effective operation of government, and “any other information” that the OPM determines would be “useful in making appointments.” United States Intelligence Reform and Terrorism Prevention Act of 2004 [Public Law 108–458], Sec. 8403, <https://www.govinfo.gov/content/pkg/PLAW-108publ458/pdf/PLAW-108publ458.pdf>.

¹²⁵ The term “machinery of government” generally refers to the interconnected structures (departments, agencies and people), processes and functions of government, sometimes called the systems and functions of government. The term has been used since the 19th century in a range of contexts, and is an official term in countries like Australia, Canada, South Africa and the United Kingdom, among others, particularly in reference to orienting new leaders as well as changes to the machinery of government that may take place following a transition.

¹²⁶ On file with author.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

In **Canada**, for example, as noted in Figure 1, prevailing practice holds that up to a year before an election, senior leaders (such as secretary generals and directors of different directorates) come together regularly (typically, at their monthly meetings) to discuss their and their organization's level of transition readiness, including:

- ◆ Level of understanding of the public service's role in transition;
- ◆ Readiness to support corporate and organization needs of both an incoming administration, as well as the outgoing administration, including the availability and continuing appropriateness of checklists, protocols and guidelines on a transition within their offices; and,
- ◆ Level of understanding of the potential future administration's governing program (in the lead-up to the constitutional election period, if one is not called earlier).

Such preparations are valuable even if a governing coalition or majority party is returned to power, as individual office holders and policy priorities will inevitably change, and transition processes and stock-taking will still be required.

Where the civil service does not take the lead in these core activities, such tasks are typically assigned to ad hoc (joint) transition teams or commissions, which may be more political in nature – though the civil service remains highly involved. As noted elsewhere, this practice is found in **Ghana, Liberia and Kenya**, where ad hoc transition teams are formed just before or following the certification of election results. In **Kosovo**, draft regulations to guide transitions in both the Office of the Prime Minister and the Office of the President would, if adopted, assign joint responsibility to civil service and political staff to ensure that transition activities are effectively undertaken.

In **Kenya**, the 2025 draft bill on the Assumption of the Office of President and Transition of Executive Authority would, if adopted, repeal the current act – the Assumption of the Office of President Act, 2012 – and significantly strengthen both the responsibility and capacity of government agencies to prepare comprehensive handover notes in advance of the election period, and thereby address what some observers of past Kenyan transitions have noted as inadequate pre-election handover preparations.

As noted above, the bill would require ministries, state departments and agencies to submit handover reports to the head of the public service (who would also, under the bill, serve as the ex officio co-chair of the ad hoc joint transition committee), on July 15 of an election year – approximately one month ahead of a general election. The bill further specifies the content of handover materials and the time range for coverage through the end of the financial year preceding the date of the presidential election.¹²⁷

The bill requires that handover reports shall contain ministerial statements about the following matters:

- (a) The ministry's and the ministry's state departments' mandate;
- (b) The ministry's state corporations, semi-autonomous agencies and their mandates;
- (c) A report on all international obligations and their status;
- (d) A complete list of all bank accounts and reconciled balances;
- (e) Legal and policy frameworks governing or being administered by the ministry and its state corporations;
- (f) Ongoing programs and projects, contemplated high-priority programs and projects, values and completion rates;
- (g) Human resource matters, including staff establishments, emoluments, achievements, training and development, performance appraisals and ongoing disciplinary matters;

¹²⁷ Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 24, Kenya Gazette Supplement No. 5 (National Assembly Bills No. 1), February 6, 2025, <https://drive.google.com/file/d/1Aqv1U6YcKFAtetZKSEXuhDCR-0qolqv6B/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

- (h) Planning matters, including performance contracts, work plans and accompanying performance status reports;
- (i) Financial matters, including assets and contingent liabilities statement, statements of financial accounts and assets, pending bills, ongoing acquisitions, procurements and disposal of assets;
- (j) Legal matters, including ongoing court cases, and alternative dispute resolution processes and related contingent liabilities; and
- (k) Such other information as a cabinet secretary or head of a state department or agency may deem necessary to facilitate the orderly transition of executive authority.¹²⁸

To ensure maintenance of handover records and their review, the bill would further require the head of the public service to deposit the information at a dedicated transition center office for transfer to the president-elect by the Transition Committee.¹²⁹ A schedule to the bill provides a template for handover reports.¹³⁰

Asset management obligations

Asset tracking of official (public) property is a fundamental responsibility of the government. Asset inventory and management is therefore a key element of transition processes. Effective asset management systems and procedures ensure that property and services funded by the government and used for public purposes are retained by the government when outgoing officials exit office. Government assets include things like official residences, vehicles, phones, office furniture and supplies.

The management of government assets is often addressed across several legal and regulatory frameworks and ideally is an ongoing process. Yet asset management during a transition process should garner particular attention in transition frameworks, such as to address the scope of asset inventories and management procedures, assign clear responsibilities and set specific timelines for completion and handover. Both incoming and outgoing officials will have responsibilities related to tracking assets, but it is far more burdensome on outgoing officials.

These, and a host of other questions, would be ideally addressed in a robust transition framework complemented by a broader public asset management system and buttressed by the use of systematic hardware and software to track assets and ensure they are returned to government possession at the end of an administration. Such a robust asset management system is critical to combat corruption, reduce waste and ensure the ability of an incoming administration to effectively govern from Day One.

It is also a politically sensitive process taking place at a sensitive time. Governments may wish to rely on internal oversight officers working closely with legal advisors, accounting and finance specialists, and other experts to make sensitive status determinations about unreturned or damaged items, or about whether official gifts of particular monetary values may be purchased or retained by outgoing officials or must remain the property of the state.¹³¹

For instance, in **Ghana**, the Presidential Transition Act of 2012 establishes a standing Presidential Estates Unit overseen by a permanent administrator general (transition lead). This body is charged with taking and keeping an inventory of the assets and properties of the government, ensuring that such assets and

Effective asset management systems and procedures ensure that property and services funded by the government and used for public purposes are retained by the government when outgoing officials exit office.

¹²⁸ Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Sections 15 and 24.

¹²⁹ Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 15.

¹³⁰ Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Schedule (s. 24(5)) Format of the Handover Report.

¹³¹ National Democratic Institute, *Global Lessons on Managing Executive Transitions* (NDI, 2021), 77–79, <https://www.ndi.org/sites/default/files/NDI%20Executive%20Transition%20Guide%20%282021%29.pdf>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

properties are well maintained and, where relevant, transferring such assets and properties to the new administration.

The law details that the administrator general must prepare a national registrar of assets and, during a transition period, “conduct a stock-taking exercise, in the presence of the head of household, of the official assets in the official residence and in the personal or private residence of the President, Vice-President and of each of the Ministers, thirty days (i) before the person elected as President assumes office, and (ii) before the incumbent President leaves office.”¹³² For other office holders, the law clarifies that all other persons who cease to hold office upon the assumption of office of the president-elect, and who occupy an official residence, shall vacate that residence within three months after the swearing-in of the new president.

Following lessons from the 2012 transition, observers in Ghana have suggested that the asset management elements of the transition law would be strengthened by granting the administrator general enforcement powers to surcharge public officials for missing or damaged assets, or who fail to vacate state accommodation within the statutory deadlines. Observers also suggest that an update on the status of the national register of executive assets, timelines of inventories taken, costs of maintaining assets and other matters should be included in the administrator general’s regular reports to the legislature.¹³³

Accountability Mechanisms

It is important to note that ensuring reasonable oversight and accountability mechanisms in transition legal frameworks – such as express obligations to comply with information requests from transition actors, mandatory reporting requirements for transition institutions and leads, auditing requirements for transition expenditures or, in some cases, administrative penalties for willful noncompliance – may be helpful to incentivize and regulate behavioral tendencies among various transition actors that otherwise have the capacity to undermine a smooth transfer of power and continuity in governance.

The ways in which actors may be held accountable for breaches in the law depend on each country’s commitment to upholding the rule of law and strengthening democratic institutions, but mechanisms should be administrative in nature. Criminal accountability, beyond measures already set out in a country’s criminal code, is generally not advisable – not least because of the risks of arbitrary or retaliatory enforcement, challenges defining and proving the elements of the crime, and broader risks to undermine or destabilize the transition itself.

The **Kenya** Assumption of the Office of President Act of 2012 (rev. 2024) states that a public officer from whom information is requested is expressly obligated to provide the information within a reasonable time.¹³⁴ Similarly, in **Brazil**, the **United States** and many other countries, civil service leaders are expressly obligated under transition laws to provide requested information and specified technical and administrative support.¹³⁵

Kenya, however, takes the distinctive approach (relative to comparative transition frameworks globally) by designating that failure to comply with such requests constitutes an offense and renders the officer liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a term not exceeding two years, or both.¹³⁶

¹³² Ghana, Presidential (Transition) Act, 2012, Sec. 8 and 9, https://drive.google.com/file/d/10xQyAhrVyf_dq1sCRGQCso-lo_7S464sR/view?usp=sharing; as amended 2016, <https://drive.google.com/file/d/15whqsvKhuTc5SAk0cYNoslO4Mhg0h6jQ/view?usp=sharing>.

¹³³ Michael Ofori-Mensah, *Implementing the Presidential (Transition) Act: Lessons, Challenges and the Way Forward* (Institute of Economic Affairs, Ghana, 2013), https://drive.google.com/file/d/1LqjMkyhGND1_uAX-Rv2fgBzndL9WfUfY/view?usp=sharing.

¹³⁴ Kenya, Assumption of the Office of President Act of 2012, as amended 2024, Section 11(3), <https://drive.google.com/file/d/1r-6pHBFsE27YGkEKR869opP6yUpTUh-Wj/view?usp=sharing>.

¹³⁵ Brazil, Lei No. 10.609/2002, Art. 2, para. 3., <https://www.jusbrasil.com.br/legislacao/98963/lei-10609-02> [Unofficial English translation: https://drive.google.com/file/d/1V0_1km3fS21rAbvcgrGap8NTa-JUnmj-/view?usp=sharing].

¹³⁶ Kenya, Assumption of the Office of President Act of 2012, as amended 2024, Section 11(4), <https://drive.google.com/file/d/1r-6pHBFsE27YGkEKR869opP6yUpTUh-Wj/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

3.5 TRANSITION COORDINATION MECHANISMS

“In a transition, you have losers who are very annoyed that they lost, and winners who are very enthusiastic, so when you bring them together, it’s like pouring petrol on fire.”

Kwamena Ahwoi, former minister and lecturer at the Ghana Institute of Management and Public Administration, speaking of the 2001 transition, Ghana¹³⁷

“We envision an integrated, government-wide approach to transition that will ensure briefing materials are well prepared. There is a need to develop a transition directory of all government departments and agencies with comprehensive information on the finances, assets, personnel, and responsibilities of each state agency.”

Kenyan Prime Cabinet Secretary, **Musalia Mudavadi**, speaking in 2023 about the need to amend the Assumption of the Office of President Act of 2012¹³⁸

Section summary:

- Effective executive transitions require strong cooperation between incoming and outgoing administrations and with civil service to ensure continuity in governance and democratic symbolism.
- Clear rules with defined rights (e.g., to access handover information) and express corresponding obligations (e.g., to hand over such information) can reduce reliance on political goodwill, which is particularly important in contentious transitions (see Kenya, United States, Mexico).
- To facilitate cooperation, rules should establish specific coordination mechanisms or platforms, such as:
 - Designating transition leads/teams to oversee transition processes and serve as an interface between transition actors (e.g., United States, Ghana, Brazil).
 - Establishing dispute resolution bodies to support transition interactions as needed (e.g., Ghana).
 - Enabling “access talks” between the opposition and the civil service, as used in some parliamentary systems to discuss the machinery of governance, to lay the groundwork for trust and future cooperation (e.g., Australia, Canada, United Kingdom).
 - Encouraging or requiring the development of Memoranda of understanding (MOUs) that detail coordination procedures, define administrative support and facilitate information access (e.g., United States).

¹³⁷ Robert Joyce, “More Than Good Elections: Ghana’s Presidential Handover, 2007–2009,” Princeton University, 2015, <https://success-fulsocieties.princeton.edu/publications/more-good-elections-ghanas-presidential-handover-2007-2009>

¹³⁸ Anne Mwale, “State Working on Draft Transition Executive Authority Bill,” Kenya News Agency, September 28, 2023, <https://www.kenyanews.go.ke/state-working-on-draft-transition-executive-authority-bill/>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Legal frameworks on transitions need to establish mechanisms to facilitate effective, efficient and timely cooperation among various actors. In particular, they should establish:

- Cooperation mechanisms and obligations between outgoing and incoming officials for the purpose of information transfer and the handover of briefing materials; and
- Opportunities for relationship and trust building between the civil service and the incoming administration.

Establishing mechanisms for cooperation is a significant element of a robust transition framework. Effective cooperation should operate across two dimensions: cooperation between incoming and outgoing political administrations, and cooperation between the incoming administration and the professional nonpartisan civil service.

In both cases, effective cooperation supports the effective transfer of information and assets so that the new administration is better prepared to govern from Day One. But cooperation between outgoing and incoming leaders also plays an important symbolic role: it demonstrates respect for one's political rivals, the will of the people and the overriding national interest above personal or party interests.

Yet such goodwill is not always present. For bad political reasons, outgoing political actors sometimes cannot resist the temptation to leave successors without files, information, recommendations or material resources.¹³⁹ While transition frameworks cannot mandate goodwill or even cordial exchanges between incoming and outgoing administrations, they can facilitate mechanisms for cooperation to mitigate against the risk of recalcitrant actors seeking to hinder an effective handover, including through ensuring a robust role for the civil service.

Given the importance of cooperation between incoming and outgoing political leaders on the one hand, and between the incoming administration and the civil service on the other, it is crucial that transition frameworks establish the organizational machinery and administrative processes to facilitate such exchanges without dependence on the discretionary goodwill of outgoing political leaders.

Establishing an obligation to coordinate in principle

An express obligation for civil servants and political staff to undertake specific transition activities and “to coordinate” across government institutions and with eligible candidates or election victors is a foundational first step toward effective coordination. Such an obligation is therefore a minimum element of a robust transition framework.

In **Kenya**, for example, the Assumption of the Office of the President Act provides that “[t]he President-elect may, in carrying out preparations . . . request in writing for such information from a public officer as the President-elect may consider necessary,” and obligates that “a public officer from whom information is requested . . . shall provide the information within a reasonable time.”¹⁴⁰

To ensure compliance with this cooperation requirement, as noted above, the Kenyan law establishes a penalty mechanism by designating that failure to comply constitutes “an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.”¹⁴¹ While the use of criminal penalties may appear on its face to create a strong incentive for compliance, they are difficult to enforce. Administrative penalties may be preferable. Administrative penalties may take the form of surcharges or a delay in payment of benefits and entitlements until materials are turned over. Any such penalties should be set out in regulations with due process for appeal.

¹³⁹ OECD, “Management Challenges at the Centre of Government: Coalition Situations and Government Transitions,” SIGMA Papers, No. 22, (OECD Publishing, Paris, 1998), <https://doi.org/10.1787/5kml614v4wh-en>.

¹⁴⁰ Kenya, Assumption of the Office of President Act, No. 21 of 2012, as amended 2024, Section 11, <https://drive.google.com/file/d/1r6pHB-FsE27YGkEK869opP6yUpTUh-Wj/view?usp=sharing>.

¹⁴¹ Kenya, Assumption of the Office of President Act, No. 21 of 2012, as amended 2024, Section 11(4), <https://drive.google.com/file/d/1r6pHB-FsE27YGkEK869opP6yUpTUh-Wj/view>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

By comparison, Section 2 of the **United States** Presidential Transition Act of 1963 similarly obligates the civil service to coordinate on transition processes, though no penalties for noncompliance are specified. The law mandates:

“that all officers of the Government so conduct the affairs of the Government for which they exercise responsibility and authority as (1) to be mindful of problems occasioned by transitions in the office of President, (2) to take appropriate lawful steps to avoid or minimize disruptions that might be occasioned by the transfer of the executive power, and (3) otherwise to promote orderly transitions in the office of President.”

Without such obligations set out in transition frameworks, there is at best a risk of underpreparedness and delay, or at worst of an outgoing administration actively hampering political actors or the civil service in preparing transition materials, and leaving little behind for their successors.

Coordination through transition leads and teams with joint membership

In some countries, transition frameworks establish ad hoc or standing institutions to facilitate coordination and cooperation between incoming and outgoing political administrations during a transition process. This may include joint transition teams, transition leads or coordinators, or both.

In the **United States**, transition laws establish both a **federal transition coordinator** and several transition teams with joint representation. The federal transition coordinator hails from the GSA (an independent federal agency directed by an administrator appointed by the president and approved by the Senate). The federal transition coordinator serves as a senior career official responsible for coordinating transition planning and activities across federal agencies and is the primary liaison with the transition teams of eligible candidates and the government. In addition to this coordinating role, the federal transition coordinator also reports regularly to Congress on the status of transition planning, at six and three months out from the election.

In **Ghana**, the Presidential (Transition) Act of 2012 (as amended) establishes an administrator general, who plays a similar overarching coordination role. The incumbent president appoints this person to head the Presidential Estates Unit and oversee the transition process. The administrator general is politically independent and has security of tenure under the law. **Brazil's** transition framework also establishes a transition coordinator to facilitate the mechanics of information requests and exchanges between federal agencies and the transition team of the president-elect. Unlike in Ghana and the United States, however, where transition coordinators are nonpartisan actors by design, Brazil's transition coordinator is designated as the minister of state chief of staff of the presidency of the republic.¹⁴²

In addition to specified transition coordinators, coordination between incoming and outgoing administrations may also be facilitated through the inclusion of candidate or executive-elect transition team representatives on joint transition teams. These joint teams may be supported by a transition coordinator in various ways (as in **Ghana** and the **United States**) or operate without a designated transition lead officer.

As noted elsewhere, **Liberia, Kenya, Korea** and **Nigeria** transition frameworks require the establishment of joint transition teams wherein representatives of both incoming and outgoing administrations (and the civil service) can negotiate and exchange information, though the balance of representation from across incoming and outgoing administrations differs significantly across jurisdictions.

¹⁴² Brazil's transition framework is composed of a primary statutory instrument, Lei No. 10.609 de 2002 [Law No. 10.609 of 2002], and several subsequent decrees providing further details and clarifications on the operationalization of the law. Decreto No. 7.221 de 2010 [Decree No. 7.221 of 2010] designates the transition coordinator office, as set out in Lei No. 10.609, shall be an ex officio post fulfilled by the minister of state chief of staff of the presidency of the republic, <https://drive.google.com/file/d/1P8RaKAAJPIdxHYDKR-M8hctTPjI5nLWbb/view?usp=sharing> [unofficial English translation, <https://drive.google.com/file/d/1aYp6h0TYpjlz618N8CyB-geszv62CiKOO/view?usp=sharing>]. For a broader overview of Brazil's transition process, see also Brasil de Fato, “Government of Transition in Brazil: Understand How It Works and What It Can Do,” People's Dispatch, November 9, 2022, https://drive.google.com/file/d/1B4LfQKxto69MAnPLItY0WRRczWzk88_9/view?usp=sharing.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Transition frameworks that establish joint teams typically also specify at least some matters related to regularity of meetings, decision rules and organizational structure to ensure that there are opportunities for incoming and outgoing actors to meet, make decisions and address topics that are critical for an effective handover and the continuity of governance without reliance on political goodwill between the groups.

In practice, coordination among members of joint transition teams – even where coordinators are designated to assist – is not always smooth. To help resolve potential disputes, **Ghana's** 2012 law also establishes a three-member Advisory Council comprising the speaker of parliament as chairperson, one “eminent citizen” appointed by the incumbent president and another eminent citizen appointed by the president-elect. The law notes that while decisions of the joint transition team shall be arrived at by consensus, when failures to agree arise, the “co-chairpersons shall refer the issue to the Advisory Council for expeditious determination.”¹⁴³ The determinations of the Advisory Council are deemed binding on the transition team.

Access talks between the leader of the opposition and the civil service

As noted above, in some countries and particularly Westminster parliamentary systems, provisions are made for contacts to be established between the opposition and the civil service in the months before an election to lay the groundwork for a potential transition. The practice was initiated in the **United Kingdom** in 1964 under Prime Minister Douglas-Home, who anticipated a likely defeat to the Opposition Labour Party, which had not been in office for over a decade. The practice has since been adopted by other Westminster countries, including **Australia**, **Canada** and **New Zealand**, and is seen as a key coordination mechanism to facilitate relations between the civil service and (potential) incoming leadership.

The rules that guide such talks differ by country, but generally aim to achieve several transition-related objectives such as: establishing contact between the civil service and a possible future administration, answering opposition leader transition team technical questions on aspects of government formation (e.g., rules and practices governing cabinet and portfolio formation, machinery of government, or the role of the public service in government formation), managing the caretaker convention during the election period, and setting out possible time frames for the formal transfer of power.¹⁴⁴

In **Canada**, the outreach is typically undertaken by the secretary to the cabinet (i.e., the clerk). In **Australia**, by comparison, the dialogues are initiated by nongovernment parties (in opposition), not civil service officials. The relevant opposition party spokesperson makes a request of the minister concerned, who, in turn, notifies the prime minister of the request and informs them as to whether the minister has agreed.¹⁴⁵

Both the Canadian and Australian guidelines (as with other countries) provide parameters around the types of information that the civil service may share with opposition leaders. For example, Australian guidance specifies:

“Officials will not be authorised to discuss Government policies or to give opinions on matters of a party political nature. The subject matter of the discussions would relate to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in implementation of policies proposed by the non-Government parties. If the Opposition representatives raised matters which, in the judgement of the [civil service] officials, sought information on Government policies or sought expressions of opinion on alternative policies, the officials would suggest that the matter be raised with the Minister.”¹⁴⁶

¹⁴³ Ghana, Presidential (Transition) Act, 2012, Art. 3(4), https://drive.google.com/file/d/10xQyAhtVyf_dq1sCRGQCsOlo_7S464sR/view?usp=sharing; as amended 2016, <https://drive.google.com/file/d/15whqsvKhuTc5SAk0cYNoslO4Mhg0h6jQ/view?usp=sharing>.

¹⁴⁴ Allen Sutherland, Facilitating Executive Transition in Kosovo (National Democratic Institute, 2024), on file with author.

¹⁴⁵ Australian Government, Department of the Prime Minister and Cabinet, *Guidance on Caretaker Conventions* (Australian Government, December 2021), <https://www.pmc.gov.au/sites/default/files/resource/download/guidance-caretaker-conventions-2021.pdf>.

¹⁴⁶ Australian Government, Department of the Prime Minister and Cabinet, *Guidance on Caretaker Conventions*.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Timing also differs to some degree. In **Canada**, the meetings occur up to a year before the dropping of the electoral writ, often 3 to 6 months in advance. In the **United Kingdom**, they may start up to 16 months before a general election. In **Australia**, they may begin as soon as an election for the lower house of the legislature is announced, or three months before the expiration of the parliament's term.

Such coordination between the civil service and the opposition is undoubtedly sensitive and may not be possible in all jurisdictions or at all times. Decision-makers would need to assess whether this element of an executive transition is possible or desirable within the country context.

Coordination through memoranda of understanding

In some contexts, transition legal frameworks require that coordination mechanisms and services assistance be negotiated and agreed upon in writing. In the **United States**, the Presidential Transition Act of 1963 requires the civil service administrator, “to the maximum extent practicable,” to enter into a **memorandum of understanding** (MOU) with eligible candidates (as defined by law) no later than September 1 of an election year.¹⁴⁷

Candidate transition teams also enter into a separate MOU with the White House (office of the president) by October 1 of an election year. The MOU with the civil service addresses, at a minimum, the conditions for the provisions of administrative support services and facilities offered under the law, such as office space and information technology support. The MOU with the White House involves establishing access for transition staffers to federal agency facilities, documents and employees. Under the Presidential Transition Act, the MOU between candidate transition teams and the White House should include an ethics agreement.¹⁴⁸ (See Section 3.7 for more on the role of ethics agreements.)

While candidate transition teams are not obligated to sign either MOU, and signatory dates are sometimes delayed, most candidates take advantage of the option in order to smooth the transition process. As a practice, MOUs between eligible candidate transition teams and the civil service and the White House, respectively, are also made available to the public under the democratic principles of transparency and accountability.¹⁴⁹

The sequencing of the respective MOUs is significant for coordination to be effective. The first MOU with the civil service provides verified transition team members with access to secured information technology networks and government email addresses that allow them to then safely exchange information with government agencies under the subsequent MOU with the White House.

Without these information technology systems and infrastructures in place, actual information exchange and engagement become both more complicated and time delayed. This is because only the outgoing incumbent administration has the legal authority of the presidency in the period between the election and the inauguration of the new leadership. Accordingly, for government agencies that remain part of the outgoing administration to share information with the candidates, and later with the president-elect's transition team, the terms of where and how that takes place, as well as what type of information may be shared beyond basic data, must be clearly defined.

¹⁴⁷ United States, Presidential Transition Act, 1963, Section 3, <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>

¹⁴⁸ United States, Presidential Transition Act, 1963, Section 4(g), <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>

¹⁴⁹ See, e.g. Memorandum of Understanding between the General Services Administration and Donald J. Trump, GSA-17-0072-B-000003, August 1, 2016, with subsequent amendments, <https://presidentialtransition.org/reports-publications/memorandum-of-understanding-regarding-transition-procedures-identification-of-transition-contacts-and-access-to-non-public-government-and-transition-information/>; Memorandum of Understanding between President-elect George W. Bush and the White House, December 18, 2000, <https://presidentialtransition.org/reports-publications/memorandum-of-understanding-between-president-elect-george-w-bush-and-the-white-house/>; Memorandum of Understanding Regarding Transition Procedures, Identification of Transition Contacts and Access to Non-public Government and Transition Information between President-Elect Obama and the White House, November 8, 2008, <https://presidentialtransition.org/reports-publications/memorandum-of-understanding-regarding-transition-procedures-identification-of-transition-contacts-and-access-to-non-public-government-and-transition-information/>; Memorandum of Understanding Between the Obama-Biden Transition Project and the General Services Administration, November 5, 2008, <https://presidentialtransition.org/wp-content/uploads/sites/6/2008/11/6b6a905202b1d92586b2cfdcb1b2871e-1461090060.pdf>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

3.6 NATIONAL SECURITY BRIEFINGS

“We conduct intelligence to help reduce uncertainty for our national security decision maker . . . That’s why we briefed each of the presidential and vice presidential candidates this summer and fall, to help reduce uncertainty for our next president, so that he or she steps into the Oval Office with as good of an understanding of our complex and uncertain world as we can provide them.”

James Clapper, former director of national intelligence, United States, speaking in 2016¹⁵⁰

Section summary:

- Incoming leaders need timely access to national security and foreign policy information for informed decision-making from Day One. At the same time, sensitive data must be protected.
- Transition frameworks should include rules for access to security and intelligence information, expedited security clearances for specified incoming leaders who do not gain clearance by right of office and the secure management of public records.
- Many countries establish obligations or conventions for providing intelligence briefings to incoming leaders, and sometimes even candidates. The United States has a long-standing custom of briefing presidential candidates.
- Challenges arise when general legal frameworks on the treatment of classified information do not adequately address transition contexts or the need for expedited clearances for transition teams. The United States provides a model for fast-tracking security clearances for potential transition team members and high-level appointees, ensuring a prepared incoming administration.

Incoming leaders and their teams must have timely access to national security information to make informed decisions on crucial national security and foreign policy matters from Day One. At the same time, sensitive and classified information must be protected from unintended disclosures or leaks that could put the nation’s security at risk or compromise the sources of intelligence. Given this, transition frameworks should address:

- Rules to guide access to sensitive or confidential information for candidates, executives-elect and transition team members at different phases of a transition, including with respect to security clearance processes set out in other legal instruments;
- Rules to support expedited security clearance procedures for prioritized high-level officials to minimize gaps in national security personnel and enable appointees to perform their duties as quickly as possible.

¹⁵⁰ Dan Ingram, “Intelligence Briefings for Presidential Candidates, Explained,” The Dispatch, April 8, 2024, <https://thedispatch.com/article/intelligence-briefings-for-presidential-candidates-explained/>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

The period of transition between governments is a time of increased vulnerability to domestic and foreign security risks. The sharing of timely security information between an incoming and outgoing administration advances continuity in governance and reduces potential risks to national security. A delay in the transmission of information or an attempt to withhold it indefinitely, on the other hand, could lead to national security risks being overlooked.

A new administration needs to be aware of the threats facing the country and the options and resources available to them. This requires that transition frameworks and conventional practices enable the rapid sharing of intelligence information with an incoming leader and their team, while ensuring that the security of sensitive and confidential information is maintained throughout the transition process.

An important corollary component for effective transitions is the maintenance and management of public records and assets. Chain of custody, inventory and other requirements prescribed under the law are crucial for the safe and responsible handling of top-secret information, as well as confidential or sensitive materials and other documents and equipment that must be securely managed during a transition process. The safeguarding of records, for example, creates historical chronicles for future reference and is crucial for accountability and transparency in transitions. To ensure such practices, rules on the ethical handling of information during a transition process should also be carefully considered and addressed in a transition context.

The period of transition between governments is a time of increased vulnerability to domestic and foreign security risks. The sharing of timely security information between an incoming and outgoing administration advances continuity in governance and reduces potential risks to national security.

Sharing security briefings with candidates or incoming leaders

Ensuring the incoming leaders have access to updated national security information is a matter of national interest. Accordingly, many countries establish minimum obligations under transition frameworks for the provision of intelligence briefings ahead of or during executive transitions. Sometimes, this extends to eligible candidates for executive office (as in the **United States**), and more commonly, to the executive-elect following the certification of election results (as in **Kenya**).

In countries where transitions are structured through long-established practices and written guidelines rather than legal instruments, such as **Canada**, the **United Kingdom** and many other parliamentary democracies, briefings are also provided to opposition leaders (who have gone through a security clearance process) as a matter of convention.¹⁵¹

As noted elsewhere, the **United States** has adopted the conventional practice of providing intelligence briefings to qualified presidential candidates during the campaign period, ahead of scheduled elections. This practice dates to 1952, when the outgoing term-limited president, Harry S. Truman, recognized the need to bring then-candidate (and future president) Dwight D. Eisenhower up to speed. The era was shaped by an ongoing “Cold War” and arms race between the United States and the Soviet Union, creating a highly complex and fragile security situation. To ensure the continued security of the United States and its allies during and following the transition of power, Truman initiated the practice of providing intelligence briefings to candidates for presidential and vice presidential offices.¹⁵²

¹⁵¹ Jim Bronskill, “Before election, feds urged classified briefings for opposition leaders,” Global News Canada, April 11, 2025, <https://globalnews.ca/news/11127667/canada-foreign-interference-opposition-classified-briefings-memo/>

¹⁵² Dan Ingram, “Intelligence Briefings for Presidential Candidates, Explained,” The Dispatch, April 8, 2024, <https://thedispatch.com/article/intelligence-briefings-for-presidential-candidates-explained/>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Since then, the practice has continued as a matter of custom, courtesy and tradition, but is not a legal requirement. Intelligence briefings for candidates and their teams are guided by the following parameters:

- ◆ With the exception of the presidential and vice presidential candidates themselves, all recipients of intelligence briefings (such as members of the candidate transition teams) must hold a security clearance. The exception of candidates from the need for a security clearance is a matter of legal interpretation since the Constitution lays out criteria for eligibility for the presidency, “no additional criteria [such as a security clearance] may be required.”¹⁵³
- ◆ Typically, only the candidates from the two major parties (Democratic Party and Republican Party) have received briefings; third-party candidates (such as Greens or Libertarians) have not (with rare historic exceptions).
- ◆ The Office of the Director of National Intelligence (ODNI) reaches out to candidates to offer an intelligence briefing following party nomination conventions. If one campaign asks for or receives something, ODNI notifies the other campaign.
- ◆ Intelligence officials have discretion to withhold certain classified topics or details. Generally speaking, briefings are primarily analytic and do not include operational matters or policy issues; sources and methods are never shared. Briefing content typically parallels information that is otherwise publicly available through publications by ODNI.
- ◆ Despite the long-standing custom, decisions about whether to share intelligence information with candidates ultimately remain at the discretion of the incumbent president.¹⁵⁴

Similarly, in the **United Kingdom**, where transitions are guided primarily by long-held customs and conventions rather than legal instruments, opposition leaders also typically receive pre-election briefings by the heads of defense and intelligence agencies.¹⁵⁵

In other countries, intelligence and security briefings do not begin until election results are certified. Briefings are then offered to the executive-elect and, in some cases, the vice executive(s)-elect. **Zambia** and **Ghana** transition laws, for example, both require that the president-elect receive security and intelligence briefings “on a daily basis” until the president-elect is sworn into power.¹⁵⁶ Similar provisions may be found, under various constructions, in the transition legal frameworks of **Kenya**, **Liberia**, **Nigeria** and others.

Rules on Security Clearances Prior to and Following Elections

As a related matter, most countries have established legal frameworks that guide the handling of sensitive government documents and classified information, including criteria and procedures for the granting of security clearances. Also, in most countries, the most senior constitutional office holders have access to classified information by right of office. This typically includes the head of state, head of government and speaker of the legislature, as well as some types of judges and sometimes members of the legislature on a “need-to-know” basis. Other officials and staff members, however, must hold security clearances. To obtain a security clearance, these individuals must undergo the security clearance process.

A key transition challenge may arise when laws guiding the treatment of classified information and procedures to obtain a security clearance do not effectively address government transition contexts. Although constitutional office holders are entitled to access classified information by right of office, what

¹⁵³ Congressional Research Service, *Security Clearance Process: Answers to Frequently Asked Questions*, updated October 5, 2023, <https://sgp.fas.org/crs/secrecy/R43216.pdf>.

¹⁵⁴ Dan Ingram, “Intelligence Briefings for Presidential Candidates, Explained,” *The Dispatch*, April 8, 2024, <https://thedispatch.com/article/intelligence-briefings-for-presidential-candidates-explained/>.

¹⁵⁵ Catherine Haddon and Peter Riddell, *Transitions: Preparing for Changes of Government* (Institute for Government, 2009), <https://www.institute-forgovernment.org.uk/sites/default/files/publications/Transitions%20-%20preparing%20for%20changes%20to%20government.pdf>

¹⁵⁶ Zambia, *Transition Period and Inauguration of President Act, 2016*, Section 12, mandating that “the security and intelligence services shall provide the outgoing President and President-elect with appropriate security and intelligence briefings on a daily basis until the President-elect is sworn in as president,” <https://drive.google.com/file/d/1sjhy91Z-1MYqQHjiof2zDHkqDHkLMp-6/view?usp=sharing>; Ghana, *Presidential (Transition) Act of 2012*, (No. 845), Art. 2(b), https://drive.google.com/file/d/10xOyAhtVyf_dq1sCRGQCsOlo_7S464sR/view?usp=sharing; as amended 2016, <https://drive.google.com/file/d/15whqsvKhuTc5SAk0cYNosI04Mhg0h6jQ/view?usp=sharing>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

rules apply to executives-elect in the period between elections and swearing-in? While in some countries this period may be quite short, as in the United Kingdom, in others, it can be quite long, as in the United States and Mexico, or in places like Belgium, where coalition negotiations are often needed to form a government.

What rules apply for obtaining *timely* security clearances for members of transition teams, many of whom will subsequently be appointed to senior cabinet positions, particularly when timelines for the regular security clearance process can exceed the entire transition period?

The scope of this challenge varies from country to country. In **Kosovo**, for example, the law that governs protection of classified information aligns with comparative global practice by specifying that the president, the prime minister and the speaker of the parliament are authorized to access classified information by right of office without being subjected to security verification. However, in Kosovo, this exception does not extend to incoming leaders as per their status as electoral winners. Though the window between election and swearing-in is typically short in Kosovo, there is no mechanism for incoming leaders to access intelligence briefings before swearing-in and no practice of sharing nonclassified intelligence information.



Pictured: Crowds of people take part during a presidential inauguration ceremony in Mexico City, Mexico. Credit: Carlos Tischler - Shutterstock.

Similarly, there is no process for fast-tracking clearance procedures for high-level incoming cabinet members and advisors. In practice, this has occasionally created challenges for bringing incoming administration leaders up to speed on the security challenges facing Kosovo in situations where transitions involve protracted coalition negotiations. For cabinet members and senior advisors, security clearance applications are treated on a first-come, first-serve basis and may take up to 120 days as per the law.¹⁵⁷ Both senior politicians and civil service leaders in Kosovo have noted that the lack of a legal

¹⁵⁷ Kosovo, Law No. 08 L-175 on Protection of Classified Information, <https://drive.google.com/file/d/1aB3T7sHBIoifovC0pJ4wL8k-BUk2VqJnS/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

pathway for fast-tracking prioritized clearance processes is consistently challenging to navigate during government transitions.

This experience highlights the importance of clarifying rules on access to classified information and security clearance procedures during the transition period. Regarding executives-elect themselves, as noted above, many countries require that intelligence briefings be provided to executives-elect *as a matter of law* in the period between certification of election results and swearing-in.

Practices are less consistent in ensuring that members of transition teams and nominees for high-level cabinet or advisory positions can obtain timely security clearances. Depending on context, a fast-tracking clearance process could enable qualified candidates for executive office to submit a list of applicants (who will be nominated or appointed to senior positions in a potential future administration) for expedited clearance review during specified timelines *before an election*.

Alternatively, the mechanism could enable executives-elect to submit a list immediately following certification of election results and obligate the agency responsible for conducting security clearance reviews to expedite procedures to the extent practicable. Any such fast-tracking framework should include both the right of qualified candidates and executives-elect to submit such lists in a specified manner, and a corresponding obligation for security services to speed the process of review to the extent practicable.

In the **United States**, for example, the 2004 **Intelligence Reform and Terrorism Prevention Act** authorizes each eligible presidential candidate to submit security clearance requests for prospective transition team members who will need access to classified information. The law also directs security officials to complete the clearance process, “to the fullest extent practicable,” by the day after the general election.¹⁵⁸ This ensures that, whatever the outcome of the election, the president-elect will have a transition team in place with the qualifications necessary to access classified information and plan for the continued security of the country.

The law also empowers the president-elect to submit to relevant intelligence and security agencies the names of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, “as soon as possible after the date of the general elections,” and obligates the responsible agencies to “undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the [individual candidates] . . . *before the date of the inauguration.*”¹⁵⁹

To support candidates for president in making informed decisions about their future potential national security advisors, the law also requires the Office of Personnel (civil service) Management to provide a list of presidentially appointed positions, with specific details, to each major party candidate no later than 15 days after their official nomination by the party. The ability of candidates (or leaders elect) to understand and plan for the scope of appointments is critical for an effective transition, particularly in countries where appointments can number in the thousands, as in the United States or Brazil, among others.

For other countries, ensuring that such arrangements are set out in law could help ensure that incoming leaders and their teams are aware of and better prepared to deal with any potential threats facing the country from Day One in office.

¹⁵⁸ United States, Intelligence Reform and Terrorism Prevention Act of 2004 [Public Law 108–458], <https://www.govinfo.gov/content/pkg/PLAW-108publ458/pdf/PLAW-108publ458.pdf>.

¹⁵⁹ United States, Intelligence Reform and Terrorism Prevention Act of 2004.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

3.7 ETHICS MEASURES

“Each memorandum of understanding . . . shall include an agreement that the eligible candidate will implement and enforce an ethics plan to guide the conduct of the transition beginning on the date on which the eligible candidate becomes the apparent successful candidate for the office of President.”

Section 4(g)(3)(a) of the 1963 **Presidential Transition Act**, as amended, United States

Section summary:

- Transition frameworks should establish ground rules for and mechanisms to support ethical behavior among transition actors, particularly regarding confidential information.
- Some frameworks stipulate that transition teams create and publish specific ethics plans (United States) and mandate that transition team members keep confidential any data and information accessed during the transition, under penalty of liability (e.g., Brazil, Republic of Korea, United States).

The transition of power between administrations is a time of heightened vulnerability. Mechanisms to ensure the ethical behavior of both incoming and outgoing transition actors during this time help protect the health, safety and economic security of a country. Moreover, they provide important pathways for new officials to learn about the ethics rules that govern public officials. Accordingly, transition frameworks should include:

- Rules to ensure that handover information is handled ethically; and
- Rules to ensure that all transition actors adhere to ethical standards of behavior, such as through declaring and resolving conflicts of interest, making financial disclosures, divestitures, recusals and other matters.

Rules on ethical conduct

Some legal frameworks stipulate ethical behavior concerning the treatment of confidential information, or else require that candidate transition teams develop specific ethics plans. These requirements can help ensure the responsible handling of classified and other sensitive information during the transition process. Ideally, transition frameworks detailing such ethics requirements would clearly cross-reference related laws and regulations that guide conduct and the treatment of government information to avoid conflict of laws and ensure harmonization. Countries vary in their approach, from general requirements for ethical behavior to detailed rules on documentation and procedures.

In **Brazil**, for example, Law No. 10.609 of 2002 requires that, without prejudice to the law regulating public sector work, members of the president-elect's transition team are obligated to keep confidential the confidential data and information to which they have access as part of the transition process, under penalty of liability under the terms of specific legislation.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Similarly in **Korea**, the Presidential Transition Act of 2003 stipulates that “no person who serves or has served as the chairperson, the vice chairperson, a committee member or a staff member of the [Presidential Transition] Committee shall divulge any confidential information obtained in connection with his/her duties to any other person, use such information for any purposes other than transition of presidency or abuse his/her authority.”¹⁶⁰

In the **United States**, by comparison, the Presidential Transition Act of 1963 establishes extensive requirements for the ethical handling of sensitive information. As noted above, eligible candidate transition teams should enter into MOUs with the administrator of general services and with the White House. Under the law, these MOUs must include, among other elements, commitments to implement and enforce an ethics plan to guide conduct during the transition, should the candidate become the president-elect. The law prescribes the content of such ethics plans to include, at a minimum:

- ◆ “A description of the ethics requirements that will apply to all members of the transition team, including any specific requirement for transition team members who will have access to nonpublic or classified information”;
- ◆ A description of how the transition team will address the role of members who are registered under the Foreign Agents Registration Act of 1938, foreign nationals and other foreign agents;
- ◆ A Code of Ethical Conduct that shall be signed by each transition team member, which reflects the content of the ethics plan, and which requires transition team members to:
 - Seek authorization from transition team leadership before accessing any nonpublic information;
 - Keep confidential any nonpublic information and to use it exclusively for the transition and not for any personal or private gain at any time during or after the transition; and
- ◆ A description of how the transition team will enforce the Code of Conduct.¹⁶¹

Further, the law requires that the candidate transition team ethics plans be made publicly available on the website of the U.S. civil service administration.¹⁶²



Pictured: Crowds of people gather to watch the presidential inauguration ceremony in Brasilia, Brazil. Brazil has a detailed legal framework to guide transitions. Credit: Wagner Vilas - Shutterstock.

¹⁶⁰ Republic of Korea, Presidential Transition Act, No. 6854, Section 14, <https://drive.google.com/file/d/1TPsdqW0F0VYUeCzkk5d-0fUtDBiV0Q56A/view?usp=sharing>.

¹⁶¹ United States, Presidential Transition Act of 1963, Section 4(g), <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>.

¹⁶² As an example, see the Harris-Walz Transition Team Ethics Plan, established during the 2024 U.S. presidential campaign period, <https://drive.google.com/file/d/1ew8ONlksjdxahQjmVjv-hQAFMz1LxGCR/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

3.8 TRANSITION RESOURCES

“We studied how the [United States] does it. But the difference is that there’s legislation in the US. The legislation allots a budget for a transition. There’s an office that’s established, and there’s a particular budget. That’s something we don’t have here. So we tried to simplify that and just put a council here. So we put together a council composed of those outgoing from key Cabinet positions and incoming officials of the Aquino administration.”

Elena Bautista Horn, secretary of Presidential Management Staff, the Philippines¹⁶³

Section summary:

- Effective transitions require the timely allocation of financial, human and material resources, including but not limited to office space, equipment, remuneration for staff, travel, postage and communications.
- Regulation and oversight of transition resources are crucial to prevent corruption and abuse of power, and to ensure that appropriate and sufficient resources are made available promptly.
- Transition frameworks should enshrine clear rules for use of public, campaign and personal funding for transition purposes and limit incumbent discretion in providing assistance.
- Countries like Brazil, the United States and Ghana have specific budget allocations for transition activities.
- Some countries define resource availability for eligible candidates in the pre-election period, ensuring equitable access regardless of political affiliation. Most countries ensure the availability of post-election resources for election winners, with detailed rules on resource allocation and use. Some countries specify budget line items (United States, Ghana), while others require coverage by relevant ministries and agencies (the Philippines).
- Rules on financial reporting and auditing of transition resources are highly advisable, as are clear rules on the use and return of resources when an incumbent is re-elected.

Transitions involve financial, human and material resource inputs. Access to sufficient resources should be predictable and consistent across transitions. Legal frameworks should:

- Ensure that a transition will be adequately funded;
- Clarify rules on the use of public funding versus campaign or personal funding for the transition; and
- Set out a process whereby the incoming executive and staff, and potentially candidates for office, can access resources and plan their entry into government in advance.

¹⁶³ Robert Joyce, “A Tense Handover: The 2010 Presidential Transition in the Philippines,” Innovations for Successful Societies, Princeton University, 2015, https://successfulsocieties.princeton.edu/sites/g/files/toruqf5601/files/Philippines%20Tense%20Handover_ToU_0.pdf.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Effective transitions require the prompt allocation of sufficient financial, human and material resources. At a minimum, the transition team of the executive-elect will require office space, furnishings, equipment, office supplies, computers, information technology services, official and secured email addresses, remuneration for staff, and a range of other facilities and services to effectively perform tasks. When an ad hoc transition coordinator or (joint) transition team is employed, these individuals often also require facilities and services to fulfill their mandates and, when positions are not filled by an ex officio member of the civil service or government, they require specific remuneration.

The sufficient allocation of human, financial and material resources and services during transitions is important to enable transition actors to effectively perform their functions to ensure continuity in governance and the preparedness of the new administration to govern from Day One. At the same time, the effective regulation and oversight of how transition resources are accessed, distributed and managed is crucial to mitigate against potential corruption, conflicts of interest, abuse of power, foreign malign influence and other risks that are commonly present during these vulnerable periods in a country's democratic process.

Information related to the sources and uses of financial resources for a transition, including clear rules for the use of public funding versus campaign or personal funding for transition-related activities during all phases of a transition, should ideally be enshrined in a transition framework and related laws.

Importantly, transition frameworks should expressly limit the discretion of incumbents to offer or withhold such assistance. *When such assistance is made available, it should be accessible to qualified candidates and executives-elect as a matter of law and be equitably available.* This will mitigate against the problem of incumbent advantage and the potential misuse of state resources for partisan purposes.

Further, incumbent governments should be constrained in their ability to use state resources – human, material and financial – at their disposal to tilt the playing field in their favor. In **Canada**, for example, during the pre-election campaign period, the secretary to the cabinet issues written guidance to deputy ministers concerning the use of civil service and other resources during the campaign period. Convention dictates that ministers are barred from using government aircraft for official business if any part of the journey has a partisan political purpose. Further, ministers' political advisers must take unpaid leaves of absence if they wish to work on the election campaign, and ministers may not use routine government publications to promote themselves or their political party during this time.¹⁶⁴ Similar rules operate in most countries with robust electoral and transition frameworks and ethics policies.

Budget allocations

Some transition laws provide for specific allocations in the national budget to support transition activities. In **Brazil**, for example, Law No. 10.609 of 2002 requires that budget proposals in the years in which presidential transitions take place must provide for budget appropriations, allocated in a specific action by the presidency of the republic, to meet expenses arising from transition activities.¹⁶⁵ The law also empowers the transition coordinator to delegate, by means of an ordinance, remuneration for members of the president-elect's transition team at amounts specified under the law.

Transition frameworks should expressly limit the discretion of incumbents to offer or withhold such assistance. When such assistance is made available, it should be accessible to qualified candidates and executives-elect as a matter of law and be equitably available.

¹⁶⁴ OECD, "Management Challenges at the Centre of Government: Coalition Situations and Government Transitions," SIGMA Papers, no. 22, (OECD Publishing, Paris, 1998), <https://doi.org/10.1787/5kml614v14wh-en>.

¹⁶⁵ Brazil, Lei No. 10.609, of December 20, 2002, Art. 2, para. 3., <https://www.jusbrasil.com.br/legislacao/98963/lei-10609-02> [Unofficial English translation: https://drive.google.com/file/d/1V0_1km3fS21rAbycgrGap8NTa-JUnmj-/view?usp=sharing].



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Similarly, in the **United States**, the Presidential Transition Act of 1963 mandates that the incumbent president shall include in the budget transmitted to Congress, “for each fiscal year in which his regular term of office will expire,” a proposed appropriation for carrying out the purpose of this act (which is to facilitate effective transitions). Notably, the act also provides guidance on calculating appropriate allocation amounts across time to mitigate against an incumbent mistakenly or deliberately underfunding a particular transition. It specifies that the amount authorized to be appropriated “shall be increased by an inflation adjusted amount, based on increases in the cost of transition service and expenses which have occurred in the years following the most recent Presidential transition, and shall be included in the proposed appropriation transmitted by the President.”¹⁶⁶

In practice in the United States, funds are requested by the GSA as part of the appropriations process and become available to an incoming administration beginning on the day following the general election and ending 60 days following the inauguration. Funds are used to cover, for example, suitable office space for transition activities, compensation for transition office staff, communications services, travel and subsistence allowances related to transition activities, and printing and postage costs associated with the transition.

Exceptions are made under the law wherein the availability of federal transition funds is paused for periods when the winner of the election is in dispute. In such situations, the candidate later determined to be the winner is entitled to reimbursement for transition-related expenses, while the non-winning candidate is not. The funds may also be used to cover transition-related expenses for the outgoing president and vice president from 30 days before and up to six months after their term of office expires. Separate appropriations are made to provide for the benefits, emoluments, security and other provisions to which former presidents and vice presidents are entitled (which are set out under a separate law). When an election returns an incumbent president, the appropriated funds are rescinded.

In **Ghana**, special budget allocations in election years are similarly required under the Presidential (Transition) Act of 2012. In this case, the law empowers the standing transition coordinator (the administrator general) to make recommendations to the incumbent president in consonance with the Constitution, for budgetary allocations “for the purposes of the transfer of the reins of Government from one administration to the next administration.”¹⁶⁷ Functionally, this approach supports efforts to both ensure that allocations are adequate and mitigate against potential waste because, through experience, the standing administrator general may reference and compare the sufficiency of past allocations across transitions.

Allocation of resources in the pre-election phase

Transition frameworks should define the availability and regulation of financial, material and human resources allowed for use by eligible candidates to the executive office – as collected by their campaign or made available by the government – during the pre-election period. Legal frameworks should also clarify the criteria by which candidates for executive office may be deemed “eligible” to access and expend such resources. These rules are often set out across several legal and regulatory frameworks, such as those governing elections and political parties, as well as those that guide an executive transition process. Importantly, any transition resources provided by the government should be *equitable* for all qualified candidates, regardless of whether candidates are from opposition or ruling parties.¹⁶⁸

In the **United States**, for instance, presidential transitions are funded through a combination of federally appropriated funds (as noted above) and private funds. The U.S. transition legal framework regulates how these funds must be structured, used and accounted for by eligible candidates beginning in the pre-election period.¹⁶⁹ To accept private funding for transition purposes, an eligible candidate must establish and register an entity that is legally separate from the campaign and qualifies as a particular type of nonprofit entity

¹⁶⁶ United States, Presidential Transition Act of 1963, Sec. 7, <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>.

¹⁶⁷ Ghana, Presidential (Transition) Act of 2012, NO. 845, Article 8, https://drive.google.com/file/d/10xQyAhtVyf_dq1sCRGQC_sOlo_7S464sR/view?usp=sharing, as amended 2016 <https://drive.google.com/file/d/15whqsvKhuTc5SAk0cYNosLO4Mhg0h6jQ/view?usp=sharing>.

¹⁶⁸ National Democratic Institute, *Global Lessons on Managing Executive Transitions*, (NDI, 2021), 59–60, <https://www.ndi.org/sites/default/files/NDI%20Executive%20Transition%20Guide%20%282021%29.pdf>.

¹⁶⁹ United States, Presidential Transition Act of 1963, Section 3(h)(4), <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

defined under the U.S. tax code. An eligible candidate may transfer into this special entity contributions received for their general election campaign for transition use and may also solicit and accept donations directly into the entity, *except* for donations from foreign nationals, which are prohibited under U.S. law.¹⁷⁰ The law also regulates contributions to this fund, capping contributions per person or organization at US \$5,000. All such contributions and detailed records must be disclosed to the GSA for auditing.¹⁷¹

In addition, most transition legal frameworks provide for the provision of key **services and facilities resources** for eligible candidate transition teams in the pre-election period – whether or not these are funded through specific budgetary allocations. Again, in the **United States**, the Presidential Transition Act of 1963 stipulates that the GSA must make available services such as office space and equipment, secured information technology or communications services, and (administrative) information *on an equitable basis regardless of political affiliation* to candidates who are either nominated by a major party or who are otherwise determined by the head of the GSA to be eligible based on specified criteria. The law further requires the head of the GSA to proactively notify candidates that they are entitled to these services and facilities under the law.¹⁷²

As a condition of receiving office space and related services, however, eligible candidates (and later the president-elect and vice president-elect) must disclose to the GSA all nongovernmental funding contributions received for transition activities. As noted in Section 3.5 on transition coordination mechanisms, the GSA is mandated under the law, “to the maximum extent practicable,” to enter into MOUs with eligible candidates to establish the conditions for the services and facilities that will be provided; to formally designate transition representatives to receive inquiries related to transition team services, facilities and documents; and to establish a code of ethics for transition team members to ensure no conflicts of interest. This MOU with the GSA provides the foundation for an MOU with the White House (the incumbent government) to set out conditions for access to government agencies and information.

Such assistance to qualified candidates for executive office may be more complicated in countries with presidential systems where there are multiple – sometimes dozens – of candidates for executive office. While access to pre-election facilities and services can provide a solid foundation for a future transition of power, policymakers must weigh the benefits and drawbacks of such an approach, considering the impact on the potentially limited availability of human, material and financial resources, risks of waste or corruption, and the relative positions of the various candidates and their parties, among other factors.

In parliamentary systems, the allocation of financial, human and material resources for pre-election transition preparations looks quite different. In these systems, opposition parties more often have formalized recognition, rights and duties under the law. For example, many parliamentary democracies formally recognize a leader of the opposition, and many Westminster-model systems feature so-called “shadow” cabinets.¹⁷³ By virtue of these positions within the logic of institutional design, opposition parties vying to gain enough electoral support to form a government and to claim executive leadership typically have access to both information and resources in the pre-election period that may be used for transition preparations.

In the **United Kingdom**, for example, political parties may receive taxpayer-funded policy development grants designed to assist with the development of policies for inclusion in a party manifesto.¹⁷⁴ To be eligible

¹⁷⁰ Federal law in the United States prohibits contributions, donations, expenditures and disbursements received, or made directly or indirectly by or from, foreign nationals in connection with any federal, state or local election. This includes advances of personal funds and contributions or donations made to political parties. Foreign nationals are defined as individuals who are not citizens of the United States (and not holders of “green cards”), foreign governments, political parties, partnerships, associations, corporations, organizations or other combinations of persons organized under the laws of a foreign country. See Federal Election Commission of the United States, <https://www.fec.gov/help-candidates-and-committees/foreign-nationals/>.

¹⁷¹ Partnership for Public Service’s Center for Presidential Transition (2022) <https://presidentialtransition.org/reports-publications/2020-21-lessons-learned/>.

¹⁷² Government of the United States, Presidential Transition Act of 1963, <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>.

¹⁷³ See Elliot Bulmer, *Opposition and Legislative Minorities: Constitutional Roles, Rights and Recognition*, (International IDEA, 2021), <https://doi.org/10.31752/idea.2021.67>.

¹⁷⁴ Elise Uberoi, *Political party funding: Sources and Regulations*, (UK Parliament House of Commons Library, 201), <https://researchbriefings.files.parliament.uk/documents/SN07137/SN07137.pdf>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

for these grants, parties must be registered with the Electoral Commission and have at least two sitting and voting members in the House of Commons who have taken the oath of office. The total amount available for the grant scheme is GBP 2 million per year, and it is managed and distributed by the Electoral Commission. The first GBP 1 million is distributed equally between the eligible parties, while the second GBP 1 million is divided into proportional tranches for England, Scotland, Wales and Northern Ireland, and then each nation's tranche is split equally between the eligible parties that stood candidates in at least 50 percent of the constituencies in that nation in the most recent general election¹⁷⁵.

As noted in Section 3.5, opposition parties in several parliamentary systems are permitted to engage in "access talks" with the civil service. This informational resource is often an invaluable tool to support transition preparations.

Post-election period

Virtually all transition frameworks ensure that winners of elections have access to necessary financial, material and human resources in the post-election period to support effective transitions, with some notable exceptions. As noted in Section 3.2, post-election transition timelines vary across jurisdictions depending on the system of government and other factors. This can impact the structure of resource allocations to support transitions in the post-election period. In the **United Kingdom**, for example, where the timing between election results and the formal handover of power may be under 24 hours, much of the preparation work has (or should have) already been done, and transition efforts pivot to setting up the new administration.

In systems with a longer post-election transition period ahead of swearing-in, however, resource allocations must be carefully determined. Such frameworks should include specific rules on the allocation and use of resources in situations where an incumbent leader is returned to office.

While the mechanisms used to ensure sufficient allocation of these resources differ across jurisdictions, it is imperative that such funding and services support is not left to the sole discretion of an outgoing leader. Different countries take different approaches, but prevailing experience indicates that clarity and predictability as to both the types of resources available and the timelines in which they must be allocated or provided are paramount for supporting effective transitions.

As noted above, in the **United States**, the Presidential Transition Act of 1963 provides detailed rules to ensure the adequate and timely provision of financial and services resources for key logistic and operational aspects of a transition in the post-election period. Costs associated with these activities are covered by the GSA through a federal budget allocation, supplemented by private funding regulated by law (as noted earlier in this section). For example, the law requires the GSA to provide:

- ◆ Suitable office space equipped with furniture and supplies;
- ◆ Compensation for transition staff of the president-elect at a specified pay grade tied to the regulated civil service pay scale;
- ◆ Payment of expenses for relevant experts and consultants;
- ◆ Reimbursement of the costs of workshops, briefings and other activities necessary to acquaint the president-elect and key prospective presidential appointees with the types of problems and challenges that they will most typically confront in their future role;
- ◆ Payment of travel expenses and subsistence allowances, including rental of government or hired motor vehicles that are necessary by the president-elect (as authorized);

Virtually all transition frameworks ensure that winners of elections have access to necessary financial, material and human resources in the post-election period to support effective transitions

¹⁷⁵ "Public funding for political parties," UK Electoral Commission, updated May 6, 2025, <https://www.electoralcommission.org.uk/political-registration-and-regulation/financial-reporting/donations-and-loans/public-funding-political-parties>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

- ◆ Payment for printing and binding services;
- ◆ Communications services;
- ◆ Secured information technology services;
- ◆ Printing and binding expenses; and
- ◆ Reimbursement of postage and postal services.¹⁷⁶

Notably, the United States transition framework also contains comprehensive rules on how transition resources may and may not be used in situations where the incumbent executive wins re-election.

“In the case where an apparent successful candidate for the office of President is the incumbent President . . . , except for activities [related to acquainting key prospective presidential appointees with the types of problems and challenges that most typically confront new political appointees when they transition from campaigning to governance] . . . , *there shall be no expenditures of funds for the provision of services and facilities to such incumbent under this Act, and any funds appropriated for such purposes shall be returned to the general funds of the Treasury.*”¹⁷⁷ [emphasis added]

Most transition legal frameworks are less detailed. Policymakers are advised to consider the most optimal way to balance the need for clarity, predictability and accountability to ensure equitable and adequate access to resources and services in the post-election period, against the need for flexibility, adaptability and cost savings within their contexts.

In **Kenya**, for example, the transition legal framework addresses the allocation of resources in broad terms and does not stipulate a specific budget allocation. The Assumption of the Office of the President Act mandates that the ad hoc joint transition committee shall “organise for the necessary facilities and personnel for the president-elect.” Such necessary facilities are defined under the law as including an office, furniture, office machines and equipment, a house and a vehicle.¹⁷⁸



Pictured: The Korean National Assembly building in Yeouido, Seoul, is the seat of South Korea's legislature and the site of presidential inauguration ceremonies. Credit: KoreaKHW - Shutterstock.

¹⁷⁶ United States, Presidential Transition Act of 1963, Sec. 3, <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>.

¹⁷⁷ United States, Presidential Transition Act of 1963, Sec. 3.

¹⁷⁸ Kenya, Assumption of the Office of the President, No. 21 of 2012 as amended 2024, <https://drive.google.com/file/d/1r6pHB-FsE27YGkEKR869opP6yUpTUh-Wj/view?usp=sharing>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

Transition Conditions

Timelines

Actors and Institutions

Powers and Constraints

Coordination Mechanisms

National Security

Ethics

Resources

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

By comparison, the 2025 bill on the Assumption of the Office of President and Transition of Executive Authority would, if adopted, strengthen the reliability and sufficiency of resources available to support future transitions and contribute to enhancing transparency and accountability for their use. The bill mandates the head of the public service to make provision, in the budget estimates of the Executive Office of the President for the presidential election's financial year, "for sufficient funds for the [ad hoc Transition] Committee, Transition Secretariat and Transition Centre."¹⁷⁹ The bill would also require the Transition Committee to include financial statements in its final report, which would be published in the national gazette.¹⁸⁰

In the **Republic of Korea**, the 2003 transition law provides for a series of services and facilities for the transitioning leader and obligates both incumbent political officials and civil service leaders to ensure that adequate resources are timely provided. For example, the law stipulates that the president-elect and their spouse are entitled to honorary treatment, to include transportation and telecommunications, office space, medical care and other services as necessary.¹⁸¹ In addition, the transition committee, which is composed solely of members appointed by the president-elect, is entitled to hire staff, such as expert advisors or clerks, funded by state resources. While no budget allocation is specified, the incumbent minister of the interior and safety is tasked under the law with providing operational support, as are the heads of relevant agencies.

In **Liberia**, executive orders guiding presidential transitions in 2018 and 2024 obligated the incumbent (outgoing) president "to authorize the reallocation of national resources and assets" to support the operations of the joint transition team. However, subsequent discussions among legislators in 2024 on the development of a draft law on presidential transitions considered the comparative merits of whether the incumbent president should have such discretionary power or whether the future transitions law should mandate a specific budget allocation in an election year to support transition processes.

Policymakers are advised to consider the most optimal way to balance the need for clarity, predictability and accountability to ensure equitable and adequate access to resources and services in the post-election period, against the need for flexibility, adaptability and cost savings within their contexts.

¹⁷⁹ Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 28, Kenya Gazette Supplement No. 5 (National Assembly Bills No. 1), February 6, 2025, <https://drive.google.com/file/d/1Aqv1U6YcKFAtetZKSEXuhDCR-0qolqv6B/view?usp=sharing>.

¹⁸⁰ Kenya, The Assumption of Office of President and Transition of Executive Authority Bill, 2025, Section 28.

¹⁸¹ Republic of Korea, Presidential Transition Act of 2002, as amended, Art. 6(1) [unofficial translation], <https://drive.google.com/file/d/1TpsdqW0F0VyUeCzkk5d0fUtDBiV0O56A/view?usp=sharing>.



CONCLUSION

TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Transitions of power are both essential elements of democratic governance and moments of complexity and vulnerability. Across political systems and contexts – parliamentary, presidential or semi-presidential, and in transitioning democracies and those impacted by conflict – transitions present opportunities both for deepening democratic practices and norms, or for weakening trust in the institutions and actors that comprise the government. No matter the outcome of an election or which party or leader is transitioning to power, the foremost responsibility of any government is to ensure continuity of services and stability and security for all citizens and residents – regardless of their political affiliation, national origin, race, color, religion, sex, gender, age or ability. Smooth and effective transitions are therefore a matter of urgent national interest.

In this age of increasing polarization and deepening public distrust in politics, politicians and political institutions, thoughtful and comprehensive frameworks to guide executive transitions are paramount. Whether codified in law or set out in a series of nonbinding but broadly known and respected protocols and guides, transition frameworks provide order and accountability for processes that may otherwise be complex, patently discretionary and unpredictable.

As noted throughout this guide, countries without established protocols or legal frameworks to guide transitions may be (and many have been) caught in challenging positions during complex transitions – especially following contentious or difficult elections. In such situations where leaders lack effective mechanisms to coordinate handovers, or where resources are insufficient or withheld, incoming leaders are less likely to be equipped with the tools necessary to assume power swiftly and effectively and may therefore face greater risks of gaps in effective governance or broader political or civil instability.¹⁸²

In this age of increasing polarization and deepening public distrust in politics, politicians and political institutions, thoughtful and comprehensive frameworks to guide executive transitions are paramount.

While all contexts are unique, smooth and effective transitions of power share some common elements. These include, among others:

- ◆ Early preparations, where possible;
- ◆ The establishment of competent and empowered transition teams;
- ◆ The presence of a capacitated, nonpartisan professional civil service empowered to meaningfully engage in and support transition processes;
- ◆ Mechanisms for effective cooperation between incoming and outgoing administrations and between the incoming administration and the civil service;
- ◆ Effective and systematic asset management systems;
- ◆ Effective and systematic information management systems;
- ◆ Sufficient allocation, in a timely manner, of human, financial and material resources to support the transition;

¹⁸² National Democratic Institute, *Global Lessons on Managing Executive Transitions* (NDI, 2021), 66, <https://www.ndi.org/sites/default/files/NDI%20Executive%20Transition%20Guide%20%282021%29.pdf>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

- ◆ Clearly defined roles for various transition actors;
- ◆ Clearly defined powers of, and constraints on, the various transition actors; and
- ◆ Accountability and reporting requirements.

These elements of effective transitions may be most effectively maintained and operationalized across transitions over time when set out in written transition frameworks, which preferably include a range of binding legal instruments and nonbinding or sublegal materials that balance the need for clarity and structure against the need for flexibility and adaptability.

That said, determining the optimal balance of prescriptive rules against preserving flexibility and ensuring that burdens are appropriately carried across the political and civil service in a given context are not easy matters to untangle. In examining evolving transition practices in some older democracies, some scholars have noted that increasing codification and prescription “leads to a focus on interpretation and a loss of flexibility,” giving rise to concerns that such codification “shifts responsibility to adhere to the restraints away from politicians and displaces it to the public service.”¹⁸³

While these observations refer to the development of caretaker convention rules in Australia, the lessons have broader applicability – particularly with respect to implications for any accountability mechanisms, such as sanctions, for noncompliance with transition rules. In countries where the civil service is still in development as an institution, the weight of transition obligations must be carefully balanced across political and civil service actors. As the above report highlights, however, there are many ways that countries have attempted to strike this balance within transition frameworks, and most continue to refine their approaches over time.

Self-reflection, learning from the past and learning from others are also defining features of effective transitions, and this report aims to contribute to that understanding. The work of NDI and its partner to support smooth and effective transitions of power globally is an evolving project. For further comparative information and examples, please refer to the [Transitions of Power](#) website and the annexes provided below.

¹⁸³ Anne Tiernan and Jennifer Menzies, *Caretaker Conventions in Australia: Minding the Shop for Government* (Canberra: ANU E Press, 2007), 72–73, <https://library.oapen.org/viewer/web/viewer.html?file=/bitstream/handle/20.500.12657/33802/458839.pdf?sequence=1&isAllowed=y>



ANNEX 1: TRANSITION CASE STUDY - GHANA¹⁸⁴

TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

“We managed our 2001 transition in a manner akin to a military takeover of government. . . . There was no policy continuity that would help the development of this country. We thought no advanced democracy should operate like that.”

Jean Mensa, executive director of the Institute of Economic Affairs, a Ghanaian public policy think tank focused on good governance¹⁸⁵

Ghana established a legal framework for presidential transitions in 2012, ahead of the transition from President John Atta Mills to President John Mahama in 2013. A decade earlier, Ghana's 2001 post-election transition from the government of Jerry Rawlings to that of John Kufuor – the nation's first democratic transfer of power between opposing parties – had been highly divisive and damaging to the country's administration and policy continuity.

A consensus emerged that new norms and practices were needed to make the process smoother and less contentious in the future.¹⁸⁶ Two groups, working separately but in parallel, took the lead to achieve these aims. One was spearheaded by the Institute of Economic Affairs (IEA), a Ghanaian public policy think tank focused on good governance. The IEA facilitated political party dialogues about the transition process under the auspices of the Ghana Political Parties Programme (GPPP), which had been established in 2002 to discuss challenges to Ghanaian democracy.

The other group consisted of leaders from the Policy Coordination, Monitoring and Evaluation Unit in President Kufuor's office and supported by the Canadian-funded Central Governance Project (CGP). Political party leaders, including those from the New Patriotic Party (NPP) (in power from 2001–2009) and the opposition National Democratic Congress (NDC), civil service leadership, and Canadian, American and British external advisors all contributed to building knowledge, consensus and materials. Over time, these efforts led to the adoption of the 2012 transition law.

As President Kufuor and the NPP won re-election in 2004, work on a transition framework did not begin in earnest until mid-2007 when the IEA and GPPP began developing a multi-party framework to guide the 2008–2009 transition. At the same time, separately, leaders in President Kufuor's administration, which was approaching the end of its second and final term, reflected on lessons gleaned from comparative transition experiences in Canada, the United States and the United Kingdom, which they had studied from 2001–2003 during the planning stages for the CGP program.

Government leaders noted in particular the role of the civil service in Canada in facilitating transitions and their use of fixed procedures, checklists and templates to guide handover processes. Regarding the United States, leaders noted that the 1963 Presidential Transition Act codified the requirement for meetings and information exchanges between incoming and outgoing administrations and established several institutional structures dedicated to transition management.¹⁸⁷

¹⁸⁴ This case study is largely informed by the excellent case study developed by Robert Case as part of Princeton University's Innovations for Successful Societies initiative. See Robert Joyce, “More than Good Elections: Ghana's Presidential Handover, 2007–2009,” Princeton University, 2015, <https://successfulsocieties.princeton.edu/publications/more-good-elections-ghanas-presidential-handover-2007-2009>

¹⁸⁵ Robert Joyce, “More than Good Elections.”

¹⁸⁶ Robert Joyce, “More than Good Elections.”

¹⁸⁷ Robert Joyce, “More than Good Elections.”



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Key challenges identified from the 2001 transition that needed to be resolved through a framework included:

- Reliance on goodwill between members of the outgoing and incoming administrations to effectuate coordination on handover processes;
- Reliance on informal procedures for the preparation and sharing of information between outgoing and incoming governments, resulting in a lack of standardized formats for what information should be included in handover documents, as well as a wide variation in the quantity and quality of materials provided from various institutions;
- Lack of any specified individual or official responsible for compiling reports and sharing them with new office holders, making it impossible for members of the incoming government to identify and continue work on long-term strategic development projects;
- Lack of data transparency across the government, including on reliable budget figures, which exacerbated reliance on goodwill between incoming and outgoing leaders and direct information transfer;
- Lack of procedures to track, manage and return public assets, ranging from laptops to vehicles to offices and residences, leading to “partisan discord” as assets were seized and evictions issued to (re)claim materials, often based on incomplete records; and
- A short, constitutionally mandated transition timeline of one month between the presidential election and the inauguration,¹⁸⁸ leading to (among other challenges) bottlenecks in the selection process for the appointment of ministers and their deputies and the need to push off until after the inauguration several transition activities.¹⁸⁹

Officials in Kufuor’s office, with CGP team support, determined to prepare two key documents: first, guidelines delineating the responsibilities of the outgoing administration, and second, a template for transition reports.¹⁹⁰ In the months leading up to the December 2008 election, the comprehensive guidelines (which required presidential endorsement and potentially parliamentary approval) were ultimately shelved by senior leadership due to the competing priorities of the campaign and limited timelines. Given this, the group focused instead on finalizing a standardized template for information handover in coordination with civil service leaders.

At the same time, the IEA and political parties worked on the political side to build consensus across parties on the need for an institutionalized transition framework. As discussions progressed, the need for a binding law, rather than guidelines, became increasingly apparent. The group agreed on three major points for a transition law:

- 1) Elections should be held a month earlier, on November 7, 2008, to extend the length of the formal transition period to two months (though this would require a constitutional amendment).
- 2) The chief justice of the Supreme Court should be responsible for collecting handover notes and resolving any disagreements between the transition teams of the incoming and outgoing leaders.
- 3) The new president had to fill all cabinet posts within 30 days of the election.

The IEA and the political parties subsequently asked a retired judge and election administrator to help draft the transition bill along with two political party officials. To build broader support for the draft law, the IEA hosted additional workshops to loop in other civil society groups, the Ghana Bar Association and members of the media.

¹⁸⁸ Because Ghana employs a two-round electoral system, the window between elections and inauguration can, in situations where a runoff is required, be further foreshortened. After the runoff in 2000, President Kufuor was declared the winner on December 8, just eight days before the constitutionally prescribed inauguration day of January 7 in 2001.

¹⁸⁹ Robert Joyce, “More than Good Elections: Ghana’s Presidential Handover, 2007–2009,” Princeton University, 2015, <https://success-fulsocieties.princeton.edu/publications/more-good-elections-ghanas-presidential-handover-2007-2009>

¹⁹⁰ Robert Joyce, “More than Good Elections.”



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Ultimately, the draft legislation came too late to be tabled ahead of the December 2008 election. Rather, the 2009 transition – which marked the second democratic transfer of power between opposing parties in Ghana's history – relied primarily on the preparations and templates developed by actors within the Kufuor government as part of the CGP. However, leaders from both sides who had participated in the drafting of the IEA bill followed many of its provisions.¹⁹¹

The 2008 transition, like that in 2001, was highly contentious and exacerbated partisan acrimony. However, observers noted that the parallel efforts by the IEA and political parties on the one hand, and leaders in the Kufuor administration under the CGP on the other, improved understanding of critical transition processes and helped streamline an otherwise fraught transfer of power.

Following the inauguration of John Atta Mills of the NDC, the draft transition bill was revised to, among other adjustments, remove the recommendation to shift the election date since this would require a constitutional amendment, and also to establish an administrator general to oversee handover processes and asset management, rather than the chief justice.

The legislation was eventually passed into law as the Presidential (Transition) Act, 2012 (Act 845), in time for the 2012 elections and handover of power in 2013.

The 2012 law attempts to resolve the key challenges identified in the 2001 and 2009 transitions and to reflect lessons learned from comparative transition processes. It provides, among other matters, for:

- The establishment of a **joint transition team**, within 24 hours of the declaration of election results, composed of an equal number of persons representing the outgoing and incoming presidents and co-chaired by the president-elect and the incumbent president or their delegates (Representatives of the outgoing president are appointed in an ex officio capacity and consist primarily of senior political appointees);
- Specified transition team **functions**, including to ensure the provision of daily national security briefings for the president-elect, making arrangements for the transfer of power and ensuring the provision of benefits due to outgoing officials under the law;
- Transition **team meetings and rules of procedure** and designation of subcommittees;
- The establishment of an **Advisory Council** comprising the speaker of parliament (as chair) and one member each appointed by the outgoing and incoming presidents, charged with **resolving disputes** that may arise within the transition team;
- The establishment of the **Presidential Estates Unit** charged with inventorying and managing government assets and recommending budget allocations for a possible transfer of power in an election year;
- The appointment of an **administrator general** by the incumbent president as a standing position, to head the Presidential Estates Unit, oversee the information handover process and manage procurement related to the transition;
- **Rules on the vacating of official residences** occupied by outgoing officials; and
- Transitional provisions.

Following the application of the law to the 2013 transition, the IEA produced an assessment report on the law's performance with recommendations for revision. While overall the law contributed to a more efficient (intraparty) transition, key challenges included: lack of sufficient enforcement power for the administrator general to ensure compliance with the law and lack of sanctions for noncompliance; lack of limitations on the size of the transition team and adjustments to the composition of the Advisory Council in the event

¹⁹¹ Robert Joyce, "More than Good Elections."



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

that an incumbent president is returned; late appointment of the administrator general by the incumbent; missed deadlines for the provision of handover notes and noncompliance with submission procedures; constitutional inconsistency with respect to the sequencing of the dissolution of the outgoing parliament and the swearing-in of the new one; and limited clarity on timelines for vacating offices and residences.¹⁹²

In October 2016, in light of the IEA report and other assessments of the law's operation, parliament amended the Presidential (Transition) Act ahead of the December elections.¹⁹³ Scholars of governance in Ghana have noted that, while the timeliness and objectives of the amendment are laudable, the revisions do not address all transition challenges.

Particularly, there is no regulation of the growing trend of “midnight” actions by lame-duck outgoing presidents. Midnight actions are those that have substantial and long-term institutional, budgetary or policy implications for incoming administrations. Examples include last-minute appointments, public sector and civil service wage increases, and signing new contracts, among others. Such actions have increased under the last two intraparty transfers of power, leading to calls for further amendments to limit these activities – potentially akin to caretaker conventions used in many countries with parliamentary systems.¹⁹⁴ Additionally, continuing challenges with the timeliness and quality of handover notes and asset management remained evident during the 2016 transition.¹⁹⁵

At the time of writing, amendments to the 2012 Presidential (Transition) Act, as amended in 2016, have not been proposed.



Flags fly near Independence Arch at Black Star Square, site of presidential inaugurations, in Accra, Ghana. Credit: Rosn123 - Shutterstock.

¹⁹² Michael Ofori-Mensah, *Implementing the Presidential (Transition) Act: Lessons, Challenges and the Way Forward* (Institute of Economic Affairs, Ghana, 2013), https://drive.google.com/file/d/1LqjMkyhGND1_uAX-Rv2fgBzndL9WfUFy/view?usp=sharing.

¹⁹³ Sixth Parliament of the Fourth Republic of Ghana, “Report of the Committee on Constitutional, Legal and Parliamentary Affairs on the Presidential (Transition) (Amendment) Bill, 2016,” July 2016, <https://drive.google.com/file/d/15whqsvKhuTc5SAk0cYNoslO4Mh-g0h6jQ/view>; Musah Yahya Jafaru, “Parliament Passes Presidential (Transition) Amendment Bill,” Graphic Online, October 27, 2016, https://drive.google.com/file/d/1Oit7SqlD_IKLbgx7vXD7JxezDR14x93X/view?usp=sharing.

¹⁹⁴ Maame Efua Addadzi-Koom, “‘Midnight’ Actions During Transition Period in Ghana: A Rising Tide,” *African Journal of Comparative Constitutional Law* (2019): 25–54, <https://drive.google.com/file/d/1TLPe9jtmQvL-mbf8ohpvOXxpg7-tHVse/view>.

¹⁹⁵ Jacob Asante, “Assessment of Ghana’s Presidential (Transition) Act, 2012 (Act 845): A Case Study of the 2016 Presidential Transition,” a supervised research project submitted to the KDI School of Public Policy and Management, 2019, <https://drive.google.com/file/d/1omHBuiTUBNJEfxMIS6y-JiReF8N4Iipz/view>.



ANNEX 2: OVERVIEWS OF SELECTED TRANSITION FRAMEWORKS

TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

1. BRAZIL

System overview	Type(s) of instruments	Key transition timelines	Specified transition actors and institutions	Specified resources	Other matters
<p>Constitution of 1988 (rev. 2017)</p> <p>Federal, presidential republic</p> <p>President, as head of state and government, directly elected to a 4-year term. No constitutional limit on the number of terms but may not serve more than two terms consecutively</p>	<p>Primary legislation and regulatory directives (multiple instruments)</p>	<p>Formal transition processes begin with the certification of election results.</p> <p>Before an election, political parties, coalitions and presidential candidates may request information from federal institutions.</p> <p>The period between the election and inauguration is approximately three months if no second round is required, or two months in the case of a run-off. Most handover activities take place during this window.</p>	<p>The president-elect has sole authority to set up a transition team comprising 50 members. These may be requisitioned from the federal civil service and are entitled to remuneration and privileges set out in the law.</p> <p>The president-elect may also select a transition coordinator to facilitate information exchange between transition team members and federal institutions and agencies.</p>	<p>The Civil House of the Presidency¹⁹⁶ must provide the president-elect and vice-president-elect with location, infrastructure and administrative support during the transition.</p> <p>Budget proposals for election years must provide for specific allocations to cover transition expenses.</p> <p>Personal security may be provided for transition team members, upon request.</p>	<p>The heads of federal public administration entities are obliged to provide information requested by the transition team coordinator, and to provide necessary technical and administrative support.</p>

2. CANADA

System overview	Type(s) of instruments	Key transition timelines	Specified transition actors and institutions	Specified resources	Other matters
<p>Constitution of 1867 (rev. 2011)</p> <p>Federal, parliamentary constitutional monarchy</p> <p>Monarch, as hereditary head of state, is represented by the appointed Governor General</p> <p>Prime Minister, as head of government, is appointed by the Governor General. Accountable to parliament.</p>	<p>Guidelines and conventional practices</p>	<p>Up to a year before a scheduled election, civil service leaders take stock of transition preparations through regular meetings of the entire government corporate community (once a month), then more frequently as the election approaches.</p> <p>3-6 months before an election, the civil service may engage in access talks with opposition leaders</p> <p>Cazetaker convention applies from the dropping of the writ (formal call for the election) through government formation.</p>	<p>Civil service leaders are primarily responsible for transition facilitation. Coordination is led by the Office of the Privy Council.</p> <p>The obligations and rights of incoming and outgoing political actors are specified under a range of written policies, regulations and laws.</p>	<p>No specific budget allocations. Transition expenses are absorbed within the existing operating budgets of various government departments and are subject to the standard parliamentary and Treasury Board approval processes. For example, the PM is provided with a budget to appoint political advisers.</p> <p>Upon government formation, the civil service facilitates onboarding and offboarding, organizes welcome calls, provides key briefings, assists with swearing in ceremonies and organizes cabinet retreats.</p>	<p>Subject to exemptions under Canada's access to information law, briefing materials and guides used by elected officials and the civil service are publicly available.</p>

¹⁹⁶ The Casa Civil da Presidência da República [Civil House of the Presidency of the Republic] is responsible for managing, coordinating and promoting the president's public policies. <https://www.gov.br/casacivil/pt-br/aceso-a-informacao/institucional>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

 3. FRANCE

System overview	Type(s) of instruments	Key transition timelines	Specified transition actors and institutions	Specified resources	Other matters
<p>Constitution of 1958 (rev. 2008)</p> <p>Unitary, semi-presidential republic</p> <p>President, as head of state, is directly elected to a five year term using a two-round majority system. May serve no more than two consecutive terms.</p> <p>Prime Minister, as head of government, is appointed by the President. Accountable to parliament.</p>	<p>Guidelines and conventional practices</p>	<p>Before an election, the General Secretariat of the Government (SGG) updates the Dossier du travail gouvernemental (handbook on the legal and practical aspects of government work).</p> <p>After (second round) election results are declared, an outgoing prime minister (PM) tenders the resignation of their government and serves as caretaker until a new government is formed.</p> <p>After inauguration, the president appoints a new PM. The outgoing PM receives the new PM for a transfer ceremony.</p> <p>The president then appoints a new government on the basis of a proposal from the PM.</p>	<p>The SGG is the guarantor of government action through political change processes and oversees the administrative and legal aspects of transitions.</p> <p>Upon formation of a new government, the SGG prepares decrees of attribution and delegation that define the powers of each member of the government; allocates logistical resources to new ministerial teams; initiates directives on the staffing of ministerial offices; provides updates on the status of various elements of government business; disseminates the the Dossier du travail gouvernemental, organizational charts, and contact information; and advises on institutional procedure and legal compliance.</p>	<p>There is no standalone budgetary process for a transition. Resources are drawn from the operational budgets of the ministries, agencies and departments as set out in the annual budget and budget annexes and amendments.</p> <p>The SGG is tasked with facilitating staffing and equipping the offices of new members of government.</p>	<p>Staffing levels for ministerial offices are capped by decree. As of 2024, numbers vary from 10 staff for a junior minister to 15 staff for ministers, with specified exceptions. The PM may have a larger staff, due to the importance of the role as head of government. Security detail and other resources are considered separately.</p>

 4. GHANA

System overview	Type(s) of instruments	Key transition timelines	Specified transition actors and institutions	Specified resources	Other matters
<p>Constitution of 1992 (rev. 1996)</p> <p>Unitary, presidential republic</p> <p>President, as head of state and head of government, is directly elected to a four year term, renewable once.</p>	<p>Primary legislation</p>	<p>No fewer than 30 days prior to an election, political and civil service leaders prepare hand-over notes and submit them to the Administrator General (AG).</p> <p>30 days before inauguration, the AG inventories public assets held by officials and updates the national registry.</p> <p>Within 24 hours of election results, a transition team is constituted and remains in place for up to 8 weeks.</p> <p>The swearing in of members of parliament and election of the speaker must be done within 12 hours before the presidential inauguration.</p>	<p>The AG (a standing officer) heads the Presidential Estates Unit (PEU) and coordinates the transition but is not a member of the transition team. The PEU oversees specified public assets inventories.</p> <p>The transition team is composed of specified ex officio members appointed by the incumbent president and an equal number of members appointed by the president-elect. The outgoing and incoming presidents co-chair.</p> <p>An advisory council, consisting of the Speaker of Parliament and one person each appointed by the outgoing and incoming presidents, resolves disputes referred to it by the transition team.</p>	<p>The AG makes recommendations to the incumbent president on budgetary allocations for the transition. Budgets for election years typically include specific allocations (subprograms) to support transition processes through the AG office.</p> <p>The Presidential Estates Unit is responsible for procuring any assets and properties.</p>	<p>Ghana's 2012 transition law was amended in 2016 to address gaps observed during the 2013-2014 transition process.</p> <p>Transition team size is capped upon incumbent reelection.</p> <p>Parliament, the Chief Justice, the Council of State and the Public Records and Archives Administration Department are entitled to copies of all handover notes.</p> <p>Timelines for outgoing officials to vacate offices and residences are specified in law.</p>

¹⁹⁷ Office of the Administrator General, Ghana, n.d., <https://administratorgeneral.wordpress.com/functions/>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

 5. KENYA

System overview	Type(s) of instruments	Key transition timelines	Specified transition actors and institutions	Specified resources	Other matters
<p>Constitution of 2010</p> <p>Unitary, presidential republic.</p> <p>President, as head of state and head of government, is directly elected to a five-year term. May serve no more than two terms.</p>	<p>Primary legislation</p>	<p>The formal transition period begins upon certification of election results when the transition team (committee) is established.</p> <p>If adopted, the 2025 draft bill would commence the transition period 90 days before an election and mandate specified preparatory activities to be completed by civil service and political leadership.</p>	<p>The ad hoc joint transition team is composed of members appointed by both the outgoing and incoming presidents. Under the 2012 law, the incoming president appoints 6 of the 23 members; under the 2025 bill, the president-elect would appoint 9 of 25 members, including the co-chair and secretary. The head of the civil service is a member (2012 law), but would be a co-chair under the 2025 bill, if adopted.</p> <p>Public officers are obligated to provide information requested by transition actors within a reasonable time. Failure to comply constitutes a criminal offense punishable, upon conviction, by a fine or imprisonment.</p>	<p>No specific budget is provided for transition activities, but the transition team is required to report to parliament, within one month of inauguration, financial statements and description of activities.</p> <p>A president-elect is entitled to personal and facilities (defined as office space, equipment, a house and vehicle) as well as security briefings, under the law.</p>	<p>If adopted, the 2025 bill would repeal and replace the 2012 law (as amended 2024), and substantially adjust transition timelines, preparation requirements, transition team obligations, and other elements of transition processes.</p> <p>Notably, the 2025 draft bill would codify caretaker rules for the outgoing government, applicable from 90 days before the date of a scheduled presidential election.</p>

 6. REPUBLIC OF KOREA

System overview	Type(s) of instruments	Key transition timelines	Specified transition actors and institutions	Specified resources	Other matters
<p>Constitution of 1987</p> <p>Unitary, presidential republic.</p> <p>President, as head of state and head of government, is directly elected to a single five-year term.</p>	<p>Primary legislation</p>	<p>Following declaration of election results, a transition team (committee) is established and remains in place for not more than 30 days following the new president's assumption of office.</p> <p>The president-elect may nominate candidates for Prime Minister and members of the State Council to enable personnel hearings by the National Assembly prior to commencement of the presidential term; the head of the central personnel agency is obligated to comply with related records requests.</p>	<p>The president-elect is empowered with the sole authority to establish a transition team of up to 24 members and to issue requests to the heads of relevant agencies to requisition staff.</p> <p>The transition team may hire staff and advisers.</p>	<p>Provisions for budgets, staff members and operations of the transition team are prescribed by Presidential Decree. The team must provide a report on activities and budget execution within 30 days of the dissolution of the body.</p> <p>A minister is designated to support committee operations; heads of agencies are obligated to provide support and information.</p> <p>The president-elect and spouse may be provided with honorary treatment.</p>	<p>Transition team members are obligated, under the transition law, to keep confidential any information obtained in connection with their duties.</p> <p>Non-public official members are considered public officers, and may be held liable for misdeeds under relevant laws.</p>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

 7. LIBERIA

System overview	Type(s) of instruments	Key transition timelines	Specified transition actors and institutions	Specified resources	Other matters
<p>Constitution of 1986</p> <p>Unitary, presidential republic</p> <p>President, as head of state and head of government, is directly elected in a two-round run-off system to a six-year term. May serve no more than two terms.</p>	<p>Executive orders guiding individual transitions</p>	<p>Within 24 to 48 hours of certification of election results, a joint transition team is established (timelines differ across respective decrees).</p> <p>The joint transition team ceases to function shortly before or shortly after the inauguration of the new president (different rules under different decrees).</p> <p>Both decrees also specify a timeline for submission of a final report relative to the inauguration.</p> <p>Outgoing officials are obligated to vacate offices on or before inauguration day.</p>	<p>An ad hoc joint transition team is co-chaired by the incoming and outgoing presidents and composed of members appointed by each; the outgoing president appoints specified ex-officio members. The Director General of the Cabinet serves as Secretary. The team oversees the transition, negotiates handover of information, and ensures national security briefings for the president-elect.</p> <p>Non-tenured appointees are presumed to have resigned as of inauguration day; senior civil servants serve as officers-in-charge pending new appointments.</p>	<p>The president reallocates resources and assets to support the operations of the transition team upon establishment of the body.</p> <p>Members of the team appointed by the president-elect who are not public servants are entitled to honorariums of amounts to be jointly decided by the president and president-elect.</p>	<p>Legislative bills to guide presidential transitions have been drafted for consideration by parliament in 2017 and again in 2025.</p>



8. UNITED STATES

- TABLE OF CONTENTS
- EXECUTIVE SUMMARY
- KEY FINDINGS
- GLOSSARY OF TERMS
- INTRODUCTION
- WHY LEGAL FRAMEWORKS**
- TYPES OF LEGAL INSTRUMENTS
- ESSENTIAL ELEMENTS
- CONCLUSION
- ANNEX 1: Ghana's Experience**
- ANNEX 2: Selected Overviews**
- ANNEX 3: Comparative Frameworks**
- ANNEX 4: Additional Resources**

System overview	Type(s) of instruments	Key transition timelines	Specified transition actors and institutions	Specified resources	Other matters
<p>Continuation of 1978 (rev. 1992)</p> <p>Federal, presidential republic</p> <p>President, as head of state and head of government, is indirectly elected by a college of state electors (the electoral college) to a four-year term. May serve no more than two terms.</p>	<p>Primary legislation ¹⁹⁸ (multiple instruments)</p>	<p>One year before an election, the Federal Transition Coordinator (FTC) and agency leads develop a report summarizing past transition activities and relevant informational resources, and produce a transition directory with updated departmental information.</p> <p>Around six months before an election, transition councils are established, agency transition leads are designated and transition planning and briefing materials are prepared.</p> <p>No later than 15 days following their nomination by parties, eligible candidates begin receiving informational and services support and establish MOUs with specified institutions.</p> <p>Fast-tracked security clearance investigations commence for transition team members identified by eligible candidates (by law). By convention, candidates receive non-classified security updates.</p> <p>Following election results, fast-tracked security clearance processes commence for candidates for national security and other positions provided by the president-elect.</p>	<p>General Services Administration (GSA) manages and provides funding, facilities and services.</p> <p>The FTC, (a standing official at the GSA, is responsible for coordinating, planning and liaising between federal agencies and the transition teams of eligible candidates, reporting to Congress on the status of transition activities, and co-chairing the Agency Transition Directors Council; member of the White House Transition Council ¹⁹⁹</p> <p>Agency Transition Directors Council (ATDC), consisting of the FTC (co-chair), Deputy Director of the Office of Management and Budget (OMB) (co-chair), senior representatives from other key agencies (who also lead agency transition teams), and representatives from each eligible candidate.</p> <p>The White House Transition Coordinating Council (WHTRC), consisting of the FTC, a transition representative for each eligible candidate, and senior executive branch employees selected by the President (i.e. Chief of Staff, Director of OMB, GSA Administrative, Archivist of the United States, and others).</p>	<p>The transition law authorizes public funds for transition activities and obligates the incumbent president to include, in the budget transmitted to Congress in an election year, a proposed appropriation for the transition. The law also provides guidance on calculating appropriate allocation amounts and requires inflation adjustments. ²⁰⁰</p> <p>The GSA provides services and facilities assistance such as office space, furniture, IT equipment and supplies. Transition team staff and consultants are compensated according to specified roles and travel and subsistence allowances are provided, where applicable.</p> <p>In the pre-election period, eligible candidates are also entitled to specified material and informational support.</p> <p>Private funding is also allowed for specified transition activities, as defined and regulated by law.</p>	<p>In the pre-election period, MOUs are signed between the transition teams of eligible candidates, GSA, the White House and the Department of Justice, respectively. The MOUs include provisions on ethics and serve to formalize the transition process, facilitate access to crucial resources, and initiate essential security and background checks.</p> <p>Classified national security briefings are provided to the president-elect as soon as possible by right of office.</p> <p>Guidance and coordination is provided through the WHTRC and the ATDC, but individual federal agencies must also prepare briefing materials and succession plans for when outgoing appointees depart.</p>

¹⁹⁸ Center for Presidential Transition, “Presidential Transition Act Summary”, March 13, 2024, <https://presidentialtransition.org/reports-publications/presidential-transition-act-summary/>.

¹⁹⁹ Partnership for Public Service, “Transition and Agency Directors Coordinating Councils”, 2016, <https://presidentialtransition.org/wp-content/uploads/sites/6/2016/04/95340ab204c5849f119a10e7b7a80489-1461881375.pdf>

²⁰⁰ Center for Presidential Transition, “The Cost of a Presidential Transition: Who Foots the Bill?”, December 10, 2024, <https://presidentialtransition.org/the-cost-of-a-presidential-transition-who-foots-the-bill/>.



ANNEX 3: COMPARATIVE TABLE OF SELECTED TRANSITION FRAMEWORKS

TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Transition Process / Element	Brazil	Canada	France	Ghana	Kenya	Republic of Korea	Liberia	The Philippines	United States	Zambia
1. Existence of written legal framework	<p>✓</p> <p>Law No. 10,609 of December 20, 2002</p> <p>Directive No. 4,199 of April 16, 2002</p> <p>Directive No. 7,221 of June 29, 2010</p> <p>Directive No. 4,298 of July 11, 2002</p> <p>Complementary Law No. 101 of May 4, 2000</p>	<p>✗</p> <p>Unwritten conventions and written guides govern transition processes.</p> <p>Caretaker rules are rooted in constitutional norms and strong conventions</p>	<p>✗</p> <p>Unwritten conventions and practices guide political handovers (from outgoing officials) and transition practical matters.</p> <p>Caretaker rules are rooted in constitutional norms and strong conventions</p>	<p>✓</p> <p>Presidential (Transition) Act 845 of 2012, (rev. 2016)</p>	<p>✓</p> <p>Assumption of the Office of President Act of 2012, (rev. 2024)</p> <p>See also: Assumption of the Office of President and Transition of Executive Authority Bill of 2025, which would replace the 2012 Act</p>	<p>✓</p> <p>Presidential Transition Act No. 6854 of 2003, as amended through 2017</p>	<p>✓</p> <p><i>series of ad hoc decrees</i></p> <p>Exec. Order No. 91 of 2017 – Establishing the Joint Presidential Transition Team</p> <p>Exec. Order No. 123 of 2023 – Establishing the Joint Presidential Transition Team</p>	<p>✓</p> <p><i>series of ad hoc decrees</i></p> <p>Admin. Order No. 277, April 13, 1992</p> <p>Admin. Order No. 386, March 17, 1998</p> <p>Admin. Order No. 285, May 9, 2010</p> <p>Admin. Order No. 49, May 12, 2016</p> <p>Admin. Order No. 47, May 10, 2022</p>	<p>✓</p> <p>Presidential Transition Act of 1963 (rev. 2022)</p> <p>Pre-election Presidential Transition Act of 2010</p> <p>Presidential Transitions Improvements Act of 2015</p> <p>Intelligence Reform and Terrorism Prevention Act of 2004</p>	<p>✓</p> <p>The Transitional Period and Inauguration of President Act, 2016</p>
2. Timeline to establish transition committee	<p>Upon declaration of election results, the designated president-elect may appoint members</p>	<p>Not applicable.</p> <p>Ongoing preparations led by the career civil service</p>	<p>Not applicable.</p> <p>Ongoing preparations led by the career civil service</p>	<p>Within 24 hours after election results are announced</p>	<p>Upon declaration of a president-elect</p> <p>With necessary adjustments, when the deputy president or speaker of the national assembly succeeds to the presidency under the constitution</p>	<p>Upon declaration of election results, the designated president-elect may appoint members</p>	<p>Under both ad hoc decrees, no later than 48 hours following declaration of election results</p>	<p>Orders to establish a transition committee are generally issued within 24-72 hours of the declaration of election results, with some variation across individual transition processes</p>	<p>Multiple committees</p> <p>(i) White House Transition Coordinating Council (WHTCC) must be established no later than 6 months before an election.</p> <p>(ii) Agency Transition Directors Council (ATDC) is a standing body.</p>	<p>60 days before a presidential election</p> <p>With necessary adjustments, when the vice president succeeds to the presidency under the constitution</p>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Transition Process / Element	Brazil	Canada	France	Ghana	Kenya	Republic of Korea	Liberia	The Philippines	United States	Zambia
3. Timeline to terminate transition committee	Up to 10 days after the swearing in of the president-elect	Not applicable	Not applicable.	Within 6 weeks of the declaration of election results (though a proposed amendment would make the tenure 8 weeks)	Unspecified but aligned with reporting rules (within 1 month of swearing in) Under the 2025 bill, until 90 days after swearing in	Up to 30 days after swearing in	48 hours before inauguration (2023 decree) Around 10 days after inauguration (2017 decree)	Unspecified	WHTCC: Upon inauguration of the president-elect. ADTC: No termination (standing body)	Unspecified but linked to reporting requirement (within 1 month of swearing in)
4. Appointing authority of transition committee	President-elect	Not applicable.	Not applicable.	President and president-elect	Statutory and president-elect	President-elect	President and president-elect	President (via ad hoc admin. orders)	Statutory; president and president-elect	Statutory
5. Transition committee structure and decision rules	No structure specified; determined by president-elect. The committee is supervised by a coordinator established under a decree law	Not applicable	Not applicable.	Leadership structure and quorum specified. Decisions determined by consensus. Where consensus fails, disputes are referred to the Advisory Council. Meeting procedures are set by the committee. Three sub-committees are required; Additional sub-committees are permitted	Leadership structure, secretariat and quorum specified. Decision rules are set by the committee but members appointed by the president-elect may call extra-ordinary meetings. Sub-committees permitted. (NB 2025 bill would alter)	Leadership structure detailed in law; No decision-rules specified	Leadership structure and secretariat specified. Decisions are by consensus. Dispute resolution by incumbent president and president-elect	Leadership determined by individual admin. decrees; no decision rules specified	WHTCC: Chair selected by incumbent president (usually chief of staff); No decision rules specified. Consensus/collaboration is the norm ADTC: Leadership structure specified; no decision rules specified. Consensus/collaboration is the norm	Leadership structure, secretariat and quorum specified. Decision-rules determined by the committee. Sub-committees permitted
6. Final report required on committee activities and finances	✗ No specific requirement but a final report is typically made public	Not applicable but transition records are maintained and normal financial reporting rules apply	Not applicable but transition records are maintained and normal financial reporting rules apply	✗ Not specified in law but intermittent public reporting is typical	✓ Report must be submitted to parliament within 1 month after swearing in. Content detailed in law. Report must also be published in the National Gazette.	✗ Not specified	✓ Final report required and submitted to the president. Transition reports from 2018 and 2024 have not been made public	✗ Not specified	✓ Law requires regular reporting to the legislature on transition activities through the Federal Transition Coordinator, who co-chairs the ATDC and is a member of the WHTCC	✓ Report must be submitted to the vice president within 1 month after swearing in, and the vice president must present it to parliament. Content detailed in the law.

²⁰¹ Partnership for Public Service, "Transition and Agency Directors Coordinating Councils", 2016, <https://presidentialtransition.org/wp-content/uploads/sites/6/2016/04/95340ab204c5849f119a10e7b7a80489-1461881375.pdf>



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

Transition Process / Element	Brazil	Canada	France	Ghana	Kenya	Republic of Korea	Liberia	The Philippines	United States	Zambia
7. Who the committee ultimately reports to	No specific designation	Not applicable	Not applicable.	No specific designation	Parliament via reporting rules	No specific designation	Incoming president, via reporting rules after swearing in	No specific designation	WHITCC ²⁰ reports to incumbent president ADTC reports to WHITCC	Parliament via Vice President via reporting rules
8. Members of transition committee	President-elect selects members. Up to a total of 50. Committee is supervised by a coordinator designated by decree as the Minister of State Chief of Staff of the Presidency of the Republic	Not applicable	Not applicable	Joint committee. The incumbent president appoints 9 specified ex officio members and the president-elect appoints an equal number. The law also specifies 4 statutory members. When an incumbent is re-elected, the committee is capped at 13 specified members.	Joint committee composed of 17 statutory ex officio members and 6 appointed by the president-elect	President-elect determines members. Up to a total of 26 (chair, vice chair and 24 members).	Joint committee. An equal number of members are appointed by the president-elect and the outgoing president, who appoints both specified ex officio plus discretionary.	By admin. decree, ex officio members	WHITCC: transition coordinator, senior officials and others selected by incumbent president; representatives of president-elect (advisory role). ATDC: specified co-chairs; officials from specified agencies; officials selected by the incumbent president and co-chair; In an election year, representatives from each eligible presidential candidate (in advisory role)	Statutory, 21 ex officio members. Members are required to engage with eligible candidates in situations where a second ballot is required, prior to a president-elect being determined
9. Allocation for committee support staff and facilities and services assistance	✓ The 50 members of the transition team typically include politicians and technicians. Those not otherwise employed by the state are entitled to salaries. The Coordinator provides facilities and logistics support as needed	Not applicable	Not applicable	✗ Members of the civil service and public service are obligated to provide support, but no specific designation is made	✓ Staff are assigned to the committee but no specific facilities or logistics support is designated	✓ Staff may be hired or seconded from agencies. Budget for salaries (for non-seconded staff) and other operational costs to be provided by decree	✓ Admin. Services provided through the designated secretariat. Designation is made for facilities and services support. Committee members appointed by the president-elect are entitled to salaries if not otherwise in government employ	✗ Staff of ex officio committee members provide support	✗ Facilities and services support, cost reimbursement and other coverage provided for the transition teams of eligible candidates and the president-elect. Facilities and logistics support for WHITCC and ATDC provided by civil and public service	✓ Committee staff assigned from within the government. The law provides security and facilities support for temporary staff of the president- and vice president-elects



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Transition Process / Element	Brazil	Canada	France	Ghana	Kenya	Republic of Korea	Liberia	The Philippines	United States	Zambia
10. Functions of transition committee	Not detailed	Not applicable	Not applicable	Detailed	Detailed	Not detailed	Detailed	Detailed broadly	Detailed	Detailed
11. Co-chairs of transition committee	✓ Chair selected by president-elect. May establish co-chairs if preferred.	Not applicable	Not applicable	✓ President and President-elect	✗ Secretary to the Cabinet is sole chair	✗ Chair and vice chair selected by president-elect	✓ President and President-elect	✗ Executive secretary is typically the sole chair (some variation across decrees for individual transitions)	✓ ADTC: Federal Transition Coordinator and Deputy Director for Management of the Office of Management and Budget	✗ Secretary to the Cabinet is sole chair
12. Status of transition committee	Ad hoc	Not applicable	Not applicable	Ad hoc committee. Administrator General and Presidential Estates Unit are standing	Ad hoc	Ad hoc	Ad hoc	Ad hoc	WHTCC: ad hoc ADTC: standing	Ad hoc
13. Conflict resolution mechanism	✗	Not applicable	Not applicable	✓ Ad hoc Advisory Council: Speaker of Parliament (chair) plus 2 citizens (1 each appointed by incumbent and president-elect). In case of incumbent re-election, president appoints both citizen members	✗	✗	✓ Disputes shall be resolved by the incumbent president and president-elect, acting jointly	✗	✗	✗
14. Permanent office to manage transition	✗	Office of Privy Council	General Secretariat of the Government (SGG)	Administrator General; Presidential Estates Unit	✗	✗	✗	✗	Federal Transition Coordinator (under the General Services Administration (GSA); GSA; and the ADTCC	✗



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Transition Process / Element	Brazil	Canada	France	Ghana	Kenya	Republic of Korea	Liberia	The Philippines	United States	Zambia
15. Designated transition lead or coordinator	✓ Minister of State Chief of Staff of the Presidency of the Republic	Not applicable	Not applicable	✓ Administrator General	✗	✗	✗	✗	✓ Federal Transition Coordinator	✗
16. Specified deadline for submitting handover notes	✗	✗	✗	✓ No later than 30 days before the election. Shared with Administrator General, president-elect, parliament, chief justice, council of state and archives	✗	✗	✗	✗	✓ No later than November 1st in an election year (election on November 20th)	✗
17. Content/ structure of handover notes	Not specified	Extensive conventional practice, checklists and templates	Not specified	General content provided in law; Minister of Justice prescribes structure via regulations (as per 2016 amendment)	Not specified	Not specified	Not specified	Not specified	Not specified (but extensive conventional practice)	Not specified
18. Security briefings for executive-elect and candidates	✓ For president-elect	✓ By convention, involving fast-tracked security clearance review processes for contesting party leaders	Not specified	✓ For president-elect	✓ For president-elect	✓ For president-elect	✓ For president-elect	Not specified	✓ For eligible candidates (non-classified) unless possess security clearance, as a convention. For president-elect as a matter of law. Procedure for fast-tracked security clearance established	✓ For president-elect
19. Formalized caretaker period	✗	✓ Written guidelines	✓ Unwritten conventions rooted in constitutional norms	✗	✗ NB: would be formalized under 2025 bill	✗	✗	✗	✗	✗ Guided by constitution but referenced in law



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Transition Process / Element	Brazil	Canada	France	Ghana	Kenya	Republic of Korea	Liberia	The Philippines	United States	Zambia
20. Ethics rules	Confidentiality required by law	Not specified but standing government ethics rules apply	Not specified but standing government ethics rules apply	Not specified	Each transition committee member must sign confidentiality agreement	Confidentiality required by law	Not specified	Not specified	Law requires MOUs to be negotiated between each eligible candidate's transition team, GSA and the White House, (if practicable). MOUs must include ethics provisions	Every member of transition committee must sign a confidentiality agreement
21. Specified timeline or rules on inventory inspections of national assets and for vacating official offices and residences	✗ Not specified in transition law. Guided by standard state asset laws	✗ Guided by standard state asset management laws	✗ Guided by standard state asset management laws	✓ Mandate of Administrator General (AG) under transition law. Law specifies timelines for vacating of offices and return of assets. 2016 amendment empowers AG to evict	✗ Not specified in transition law. Guided by standard state asset management laws	✗ Not specified in transition law. Guided by standard state asset laws	✗ Transition decrees mandate surrender of assets and vacating of offices do not specify inventories. Inventory and asset management are guided by standard laws	✗ Not specified in transition admin. orders. Guided by standard state asset laws	✓ Under standard federal property management system rules overseen by the GSA and National Archives office (NARA). Both bodies are part of transition committees.	✗ Not specified in transition law. Guided by standard state asset laws
22. Dedicated budget allocation for the transition	✓ Budget proposals in an election year must include allocations for transition expenses	✗ Provided by relevant agencies and offices; conventions guide budget preparations	✗ Provided by relevant agencies and offices; conventions guide budget preparations	✓ Administrator General recommends budgetary allocations to the incumbent president for consideration as part of the annual budget process for an election year	✗ Not required under transition law but a transition budget is generally included in the national budget allocation for election years	✗ Ad hoc budget provision, by decree, and through heads of agencies is specified in the law	✗ Ad hoc reallocation of resources and assets by incumbent president is specified in the law	✗ Not specified	✓ Budget proposals in an election year must include allocations for transition expenses	✗ Not specified



ANNEX 4: ADDITIONAL COMPARATIVE RESOURCES

TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1:
Ghana's Experience

ANNEX 2:
Selected Overviews

ANNEX 3:
Comparative Frameworks

ANNEX 4:
Additional Resources

Where to find constitutions referred to in this resource:

The constitutional texts referred to in this resource, unless otherwise stated, are drawn from the website of the Constitute Project, <https://www.constituteproject.org/>.

◆ Australia

- Government of Australia, Cabinet Handbook: 15th Edition – Department of the Prime Minister and Cabinet (Commonwealth of Australia, 2022), https://www.pmc.gov.au/sites/default/files/resource/download/cabinet-handbook-15th-edn-august-2024_1.pdf

◆ Brazil

- Lei No. 10.609 de 20 dezembro de 2002 [Law No. 10.609 of December 20, 2002], <https://www.jusbrasil.com.br/legislacao/98963/lei-10609-02>. For a PDF, see <https://drive.google.com/file/d/1dC32SPan4tAgBusdZV4HGmrwNZSDH7LM/view?usp=sharing>. For an unofficial English translation, see https://drive.google.com/file/d/1V0_1km3fS21rAbvcgrGap8NTa-JUnmj-/view?usp=sharing.
- Decreto No. 4.199, de 16 de abril de 2002 [Directive No. 4.199 of April 16, 2002], <https://www2.camara.leg.br/legin/fed/decret/2002/decreto-4199-16-abril-2002-380769-publicacaooriginal-1-pe.html>. For a PDF, see <https://drive.google.com/file/d/1BB2ww3BQjkd83HD4jDmjWQEhY2bpgbGx/view?usp=sharing>. For an unofficial English translation, see <https://drive.google.com/file/d/117xyPI7DQyX3IYi8HR9bUfhkQfbtxUqT/view?usp=sharing>.
- Decreto No. 7.221, de 29 de junho de 2010 [Directive No. 7.221 of June 29, 2010], <https://www.jusbrasil.com.br/legislacao/823651/decreto-7221-10>. For a PDF, see <https://drive.google.com/file/d/1P8RaKAAJPIdxHYDKRM8hctTPj15nLW/hb/view?usp=sharing>. For an unofficial English translation, see <https://drive.google.com/file/d/1aYp6h0TYpjLz618N8CyBgeszv62CiKOO/view?usp=sharing>.
- Decreto No. 4.298, de 11 de julho de 2002 [Directive No. 4.298 of July 11, 2002], <https://www2.camara.leg.br/legin/fed/decret/2002/decreto-4298-11-julho-2002-458605-publicacaooriginal-1-pe.html>. For a PDF, see <https://drive.google.com/file/d/1CfngSfXIH50z7QjLl69mYHqGgKVq2cP/view?usp=sharing>. For an unofficial English translation, see https://drive.google.com/file/d/1koBLE31OizbTim_MNKA7sasVg_hUv6Pp/view?usp=sharing.
- Lei Complementar No. 101, de 4 de maio de 2000 [Complementary Law No. 101 of May 4, 2000], <https://drive.google.com/file/d/1LXSRpDB8-Z2T1SpNg6EH4xwJDxPIJS5K/view>. For an unofficial English translation, see https://drive.google.com/file/d/1nsrr3IsN_s1P5WAgNq-mWdoujzG06w9O/view?usp=sharing.

◆ Canada

- “Guidelines on the Conduct of Ministers, Ministers of State, Exempt Staff and Public Servants during an Election,” Government of Canada, March 2025, <https://www.canada.ca/en/privy-council/services/publications/guidelines-conduct-ministers-state-exempt-staff-public-servants-election.html>
- David Zussman, *Off and Running, The Prospects and Pitfalls of Government Transitions in Canada* (University of Toronto Press, 2023), <https://utorontopress.com/9781442667273/off-and-running/>.



TABLE OF CONTENTS

EXECUTIVE SUMMARY

KEY FINDINGS

GLOSSARY OF TERMS

INTRODUCTION

WHY LEGAL FRAMEWORKS

TYPES OF LEGAL INSTRUMENTS

ESSENTIAL ELEMENTS

CONCLUSION

ANNEX 1: Ghana's Experience

ANNEX 2: Selected Overviews

ANNEX 3: Comparative Frameworks

ANNEX 4: Additional Resources

◆ France

- See Section 6 in OECD, “Management Challenges at the Centre of Government: Coalition Situations and Government Transitions,” SIGMA Papers, No. 22, (OECD Publishing, Paris, 1998), <https://doi.org/10.1787/5kml614vl4wh-en>.

◆ Ghana

- Presidential (Transition) Act, 2012 (No. 845), https://drive.google.com/file/d/10xQyAhtVyfdq1sCRGQCsOlo_7S464sR/view?usp=sharing.
- Report of the Committee on Constitutional, Legal and Parliamentary Affairs on the Presidential (Transition) (Amendment) Bill, July 2016, <https://drive.google.com/file/d/15whqsvKhuTc5SAk0cYNoslO4Mhg0h6jQ/view?usp=sharing>.
- Michael Ofori-Mensah, Implementing the Presidential (Transition) Act: Lessons, Challenges and the Way Forward (Institute of Economic Affairs, Ghana, 2013), https://drive.google.com/file/d/1LqjMkyhGND1_uAX-Rv2fgBzndL9WfUFy/view?usp=sharing.
- Robert Joyce, “More than Good Elections: Ghana’s Presidential Transition Handover, 2007–2009,” Princeton University, 2015, <https://successfultsocieties.princeton.edu/publications/more-good-elections-ghanas-presidential-handover-2007-2009>

◆ Kenya

- The Assumption of the Office of President Act of 2012, as amended in 2024, <https://drive.google.com/file/d/1r6pHBFsE27YGkEKR869opP6yUpTUh-Wj/view?usp=sharing>.
- The Assumption of the Office of President and Transition of Executive Authority Bill, 2025, <https://drive.google.com/file/d/1Aqv1U6YcKFAtetZKSEXuhDCR0qolqv6B/view?usp=sharing>.

◆ Korea (Republic of)

- Presidential Transition Act No. 6854 of 2003, as amended through 2017, <https://drive.google.com/file/d/1TpsdqW0F0VyUeCzkk5d0fUtDBiV0O56A/view?usp=sharing>.

◆ Kosovo

- Law on Government No. 08/L-117, Art. 31, <https://drive.google.com/file/d/1aB3T7sHBIoifovC0pJ4wL8kBUk2VqJnS/view?usp=sharing>.

◆ Liberia

- Executive Order No. 91 – Establishing the Joint Presidential Transition Team of 2017, https://drive.google.com/file/d/1pS_eNe5OAU5_V9dsikrQhCBz62f1bGM9/view?usp=sharing.
- Executive Order No. 123 – Establishing the Joint Presidential Transition Team 2023, <https://drive.google.com/file/d/1DE5uCKVh1D2j97lCaaFKy7MhrhQEnMKs/view?usp=sharing>.

◆ Mexico

- Acuerdo por el que se establecen las bases para la transición de la Administración Pública Federal, con motivo del cambio de gobierno para el periodo 2024–2030, que entrará en funciones a partir del 1 de octubre de 2024 [Agreement establishing the bases for the transition of the Federal Public Administration, due to the change of government for the period 2024–2030, which will take office on October 1, 2024], August 21, 2024, https://drive.google.com/file/d/1uQFniBRXAKJJIYrXUmP_f3t1XiA-wT/view?usp=sharing. For an unofficial English translation, see https://drive.google.com/file/d/1DMxU_F62TQ5hSQ1YcG-3_XWJRVWOiro/view?usp=sharing.



TABLE OF
CONTENTS

EXECUTIVE
SUMMARY

KEY FINDINGS

GLOSSARY OF
TERMS

INTRODUCTION

**WHY LEGAL
FRAMEWORKS**

**TYPES OF LEGAL
INSTRUMENTS**

**ESSENTIAL
ELEMENTS**

CONCLUSION

**ANNEX 1:
Ghana's Experience**

**ANNEX 2:
Selected Overviews**

**ANNEX 3:
Comparative
Frameworks**

**ANNEX 4:
Additional
Resources**

- Robert Joyce, “Mexico’s Moment: The 2012 Presidential Transition,” Princeton University, 2015, <https://successfulsocieties.princeton.edu/publications/mexicos-moment-2012-presidential-transition>.

◆ The Netherlands,

- “Forming a New Government,” Government of the Netherlands, n.d., <https://www.government.nl/government/about-the-government/forming-a-new-government>.

◆ New Zealand

- New Zealand Government, Cabinet Manual (Cabinet Office, Department of the Prime Minister and Cabinet, 2023), Chapter 6, <https://www.dpmc.govt.nz/sites/default/files/2023-06/cabinet-manual-2023-v2.pdf>.

◆ Nigeria

- Donatus Anichukwueze, “Buhari Approves Transition Council, Signs Executive Order No 14,” Channels Television, February 9, 2023, <https://drive.google.com/file/d/16N77QOeGv8iocFUFv73wO-eYloqNPLbe/view?usp=sharing>.
- (House) Transition Bill, 2015 [H.B. 15.10.109], https://drive.google.com/file/d/18J54L8DGBzCB44OgV_qXHUKfaI8H1v14/view?usp=sharing.
- (Senate) Presidential Transition Bill, 2016 [S.B. 274], <https://drive.google.com/file/d/13z-UXQjLsX1NzQUq74rH0Pe-2rwMlpv4/view?usp=sharing>.
- (House) Transition Bill, 2021 [H.B. 1274], https://drive.google.com/file/d/19ptImdBuFqtCoYiaWuWM_2IJ_-7XQ-Nh/view?usp=sharing.
- (House) Transition and Assumption of Office Bill, 2020 [H.B. 1149], <https://drive.google.com/file/d/143MPZKkES7CmGq5R9pPJHJvSl5vcm0Op/view?usp=sharing>.

◆ The Philippines

- Administrative Order No. 277, April 13, 1992, Creating a National Committee to Take Charge of the Presidential Inauguration Ceremonies on June 30, 1992, https://drive.google.com/file/d/1Frml3nXzVBdyMhRfwLrJ7sRuq-T5c_9/view?usp=sharing.
- Administrative Order No. 386, March 17, 1998, Constituting a Transition Committee in the Office of the President, https://drive.google.com/file/d/1eTyb_FadRjZZSy8PjvCfCAo_Xa1kQTFJ/view?usp=sharing.
- Administrative Order No. 285, May 9, 2010, Setting up a Transition Cooperation Team and Introducing the Transition Blueprint, <https://drive.google.com/file/d/1ERJ9L7mJP7fMH2WLLQuqEM22RbbgiN6u/view?usp=sharing>.
- Administrative Order No. 49, Creation of a Presidential Transition Committee and Other Agency Transition Committees, May 12, 2016, <https://drive.google.com/file/d/156VjcnqfjbvBBAiom9QSVTREoFNEQzh/view?usp=sharing>.
- Administrative Order No. 47, May 10, 2022, Creating a Presidential Transition Committee and Internal Transition Committees in Departments and Agencies in the Executive Branch, <https://drive.google.com/file/d/1zLzKt2nO7rre7-Ni49yEXheAzw6wf1Ki/view?usp=sharing>.
- Robert Joyce, “A Tense Handover: The 2010 Presidential Transition in the Philippines,” Innovations for Successful Societies, Princeton University, 2015, <https://successfulsocieties.princeton.edu/publications/tense-handover-2010-presidential-transition-philippines>.



TABLE OF
CONTENTS

EXECUTIVE
SUMMARY

KEY FINDINGS

GLOSSARY OF
TERMS

INTRODUCTION

**WHY LEGAL
FRAMEWORKS**

**TYPES OF LEGAL
INSTRUMENTS**

**ESSENTIAL
ELEMENTS**

CONCLUSION

**ANNEX 1:
Ghana's Experience**

**ANNEX 2:
Selected Overviews**

**ANNEX 3:
Comparative
Frameworks**

**ANNEX 4:
Additional
Resources**

◆ United Kingdom

- Catherine Haddon and Peter Riddell, *Transitions: Preparing for Changes of Government* (Institute for Government, 2009), <https://www.instituteforgovernment.org.uk/sites/default/files/publications/Transitions%20-%20preparing%20for%20changes%20to%20government.pdf>
- Catherine Haddon and Fin Baker, “Caretaker Government,” Institute for Government, December 11, 2009, <https://www.instituteforgovernment.org.uk/article/explainer/caretaker-government>

◆ United States

- Presidential Transition Act of 1963 [Public Law 88-277, 78 Stat. 153 (3 U.S.C. 102 note)], <https://www.govinfo.gov/content/pkg/COMPS-1612/pdf/COMPS-1612.pdf>.
- Presidential Transition Act of 2000 [Public Law 106-293, 114 Stat. 1035, 3 U.S.C. 101 note], <https://www.congress.gov/106/statute/STATUTE-114/STATUTE-114-Pg1035.pdf>.
- Pre-election Presidential Transition Act of 2010 [Public Law 111-283, 124 Stat. 3045 (3 U.S.C. 1 note)], <https://www.congress.gov/111/plaws/publ283/PLAW-111publ283.pdf>.
- Edward “Ted” Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015 [Public Law 114-136, 130 Stat. 301, 5 U.S.C. 101 note], <https://www.govinfo.gov/content/pkg/PLAW-114publ136/pdf/PLAW-114publ136.pdf>.
- Presidential Transition Enhancement Act of 2019 [Public Law 116-121], <https://www.congress.gov/116/plaws/publ121/PLAW-116publ121.pdf>.
- Intelligence Reform and Terrorism Prevention Act of 2004 [Public Law 108-458], <https://www.govinfo.gov/content/pkg/PLAW-108publ458/pdf/PLAW-108publ458.pdf>.
- “Presidential Transition Act,” Center for Presidential Transition, n.d., <https://presidentialtransition.org/wp-content/uploads/sites/6/2024/03/Presidential-Transition-Act-Summary.pdf>
- Center for Presidential Transition, <https://presidentialtransition.org/>.

◆ Zambia

- The Transitional Period and Inauguration of President Act, 2016 [No. 32 of 2016], <https://drive.google.com/file/d/1sjhy9IZ-IMYqQHjiof2zDHkqDHkLMp-6/view?usp=sharing>.