



ENHANCING EFFECTIVENESS OF PARLIAMENTS IN AFRICA DURING CRISES

Lessons From the Covid-19 Pandemic



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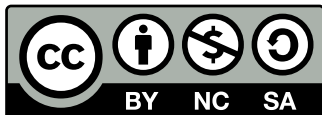


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Cover illustration: Sergio Lacueva on iStock
Design and layout: International IDEA
Copyeditor: Accuracy Matters Ltd

DOI: <<https://doi.org/10.31752/idea.2023.28>>

ISBN: 978-91-7671-630-4 (PDF)

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Abbreviations

CPA	Commonwealth Parliamentary Association
CPDM	Cameroon People's Democratic Movement
KEMSA	Kenya Medical Supplies Authority
ICCPR	International Covenant on Civil and Political Rights
IMF	International Monetary Fund
IPU	Inter-Parliamentary Union
NA	National Assembly (South Africa)
NCOP	National Council of Provinces (South Africa)
NDI	National Democratic Institute
SADC	Southern African Development Community
SADC PF	Southern African Development Community Parliamentary Forum
VAT	Value added tax

Acknowledgements

This study is a demonstration of International IDEA's and SADC Parliamentary Forum's commitment to promoting parliamentary effectiveness in Africa. The success of the study was made possible through the efforts of and expertise of various experts across Africa.

The study was conceptualized by Gram Matenga and Sheuneni Kurasha and written by Justice Mavedzenge. Country case studies were written by Melvis Ndiloseh (Cameroon), Gibairu Janneh (The Gambia), Natalie Leibrandt-Loxton (South Africa), Otive Igbuzor (Nigeria), Belhassen Ennouri (Tunisia), Moses Owur (Kenya) and Egidio Guambe (Mozambique). Other reviewers and contributors included Boemo Sekgomo, Andrea Wolfe, Gram Matenga, Sheuneni Kurasha and Maurice Mboula Jean-Claude Didier Enguelegue. Special thanks to the International IDEA Publication team who facilitated the publication process.

EXECUTIVE SUMMARY

This study was commissioned by International IDEA and the Southern African Development Community Parliamentary Forum (SADC PF) as part of their collaboration to strengthen democratic parliaments in Africa. The objective of this study was to identify and discuss the roles played by parliaments in Africa in response to the outbreak of Covid-19, and to assess the effectiveness of those responses. During a crisis such as a public emergency, the effectiveness of parliaments should be assessed by considering their ability to activate in a timely manner the necessary disaster management legislative framework, and to provide oversight to ensure that such legislation is applied by the executive in a necessary, non-discriminatory and proportional way. In addition, the effectiveness of parliaments should be measured by considering their ability to introduce innovative measures to enable them to continue with their traditional roles and functions to the extent possible, during the public emergency. There are various global and regional frameworks designed to guide parliaments on improving and assessing their effectiveness. The question is whether these guidelines were relevant and helpful as a resource for aiding effective parliamentary responses to the Covid-19 pandemic.

The key findings of this study can be summarized as follows:

1. While there are numerous global frameworks providing guidance to help parliaments be effective in carrying out their mandates, there is only one regional framework in Africa adopted mainly by parliaments in the SADC region. There seems to be no pan-

There are various global and regional frameworks designed to guide parliaments on improving and assessing their effectiveness.

African framework of guidelines on enhancing the effectiveness of parliaments.

2. None of the existing global and regional frameworks provides guidance on the role of parliament during public emergencies and on how parliaments can discharge their roles and functions effectively during a public emergency.
3. Governments and parliaments were generally caught unprepared when the Covid-19 pandemic spread to Africa in March 2020, and parliaments have been struggling to operate since then. However, some of the parliaments have demonstrated resilience in adopting various innovative measures to enable them to continue operating.
4. There is limited awareness among parliamentarians on their role during public emergencies. There is a strong perception among parliamentarians that, during a public emergency, they should defer to the executive with minimum oversight.
5. Some countries lack or have outdated national disaster management legislation.
6. The Covid-19 pandemic disrupted the work of parliaments across the continent. This was evident in (a) parliaments not being able to execute their functions in the first few months after the start of the pandemic; and (b) the executive branch having the power to act unilaterally and, in some cases, abuse their emergency powers while parliaments took a back seat or were undermined.
7. Parliaments took some time to adapt their internal rules and processes to enable them to function during the Covid-19 pandemic. This was partly because the legal frameworks regulating most parliaments limit their ability to react quickly to a public emergency, notably through requirements for parliamentarians to be physically present in chambers for parliamentary sessions.
8. Parliaments' adoption of information communication technologies to allow for virtual and hybrid meetings and public participation has been innovative, although it has led to unequal public accessibility due to inequalities in Internet access and technological knowledge.
9. Covid-19 led to parliaments using new measures to oversee the executive beyond physical meetings—for instance, through the executive sharing reports with parliamentary committees on a regular basis outside of physical committee meeting settings.

Based on these findings, International IDEA and the SADC PF make the following recommendations to regional and international parliamentary organizations, national parliaments, civil society organizations, donors and international cooperating partners and other stakeholders working to support parliamentary democracy in Africa:

1. *Pan-African guidelines on the role of parliament during public emergencies.* There is a need to facilitate the development of pan-African guidelines on enhancing the effectiveness of parliaments, including during public emergencies. The existing SADC PF 'Benchmarks for Democratic Legislatures in Southern Africa' (2010) can be revised and adapted for these purposes. The House Democracy Partnership's 'Guidelines for Parliaments Functioning in a Time of Pandemic' (2021) can also be a useful resource for this exercise. Positioned within the context of article 4 of the International Covenant on Civil and Political Rights (ICCPR), the guidelines should identify the roles of parliament during a public emergency and should suggest benchmark indicators for measuring the effectiveness of a parliament in performing those roles.
2. *Education of parliamentarians, information communication technology and broadcasting of proceedings.* As part of parliamentary capacity-strengthening, there is a need to promote (a) the education of parliamentarians on the role of parliament during public emergencies, particularly in emphasizing that parliamentary oversight on the executive is critical during public emergencies; (b) the acquisition and installation of information communication technology that is adequate for parliamentarians to continue conducting proceedings virtually as an alternative to physical sessions; and (c) transparency in the government's crisis interventions through live-streaming committee meetings and plenary sittings—including the questioning of the head of state and cabinet ministers—on various media platforms, which, in turn, expands public access to the work of parliament.
3. *Model pan-African national disaster management legislation.* There is a need to develop model national disaster management legislation, which can be used by parliaments on the continent to draft and enact their own national disaster management laws and to review and strengthen their existing national disaster

management legal frameworks. The model legislation should include providing a definition of 'public emergency'; setting out procedures for undertaking a declaration of a state of emergency or a state of disaster; setting out the role of parliament in approving the declaration; providing for mechanisms for parliamentary oversight, transparency and public participation or involvement in disaster management; and carving out the role of parliament in the oversight of disaster management resources.

4. *Model guidelines on virtual proceedings.* Model guidelines for virtual and hybrid meeting standing orders should be developed in order to enhance the capacity of parliaments to conduct proceedings virtually during public emergencies, as an alternative to holding physical sessions. These guidelines should include provisions on public participation and transparency.
5. *Review of internal rules.* There is a need for a comprehensive review of and the subsequent adaptation of internal parliamentary rules of procedure to enable parliaments to respond quickly in the event of a public emergency. For example, the rules of procedure should permit the relocation of the seat of parliament, a reduced quorum for certain deliberations, the delegation of certain parliamentary authority to parliamentary subcommittees, remote voting, and the conduct of virtual proceedings during public emergencies.

INTRODUCTION

Just as the Covid-19 pandemic has continued to take a devastating toll on public health, economies and livelihoods globally since December 2019, it has also affected the maintenance and preservation of democracy. Africa as a continent has been severely affected. The need to contain the spread of the Covid-19 pandemic has led governments to invoke and adopt various forms of emergency powers and measures depending on their context. The invoking of emergency powers by governments raises a critical question on the role of parliament during a crisis such as a public emergency. Exactly what roles are required of parliament during a public emergency, and how have parliaments in Africa sought to perform those roles since the start of the Covid-19 pandemic?

Covid-19 has proven to be a highly contagious and deadly virus, which has resulted in the need to limit human contact by restricting gatherings and movement. This has created operational challenges for parliaments because they have found it difficult to continue with physical sessions—their traditional way of conducting their business. How did parliaments in Africa respond to these operational challenges? This Report discusses these questions, with the aim of providing a set of recommendations on how best parliaments can be strengthened to effectively perform their roles during a public emergency.

The invoking of emergency powers by governments raises a critical question on the role of parliament during a crisis such as a public emergency.

Chapter 1

SCOPE OF THE STUDY AND RESEARCH METHODS

The objective of this study was to assess the role played by parliaments in Africa in response to the outbreak of Covid-19.

The objective of this study was to assess the role played by parliaments in Africa in response to the outbreak of Covid-19. The Report documents experiences across Africa, including specific case studies for Cameroon, The Gambia, Kenya, Mozambique, Nigeria, South Africa and Tunisia. It is meant to contribute to the broader discussion on how best to enhance the effectiveness of parliaments globally in discharging their functions during public emergencies.

The study was conducted mainly through a review of relevant literature, which included applicable international law instruments, domestic constitutions and legislations, parliamentary reports and media reports. A total of 12 key informants were interviewed to solicit their views on the role played by parliaments during the pandemic. A thematic expert round-table discussion was conducted virtually, in which 13 experts participated. They engaged with the preliminary findings of this study and provided input on their own experiences of national and regional parliaments in responding to the Covid-19 pandemic.

Chapter 2

CONTINENTAL AND REGIONAL FRAMEWORKS GUIDING PARLIAMENTARY RESPONSES

2.1. THE LEGAL FRAMEWORK

Most countries on the African continent have adopted constitutions which embrace the doctrine of the separation of powers. While the constitutions of different countries subscribe to different models of this doctrine, they are all underpinned by a common feature, which is the division of governmental powers into three branches of the state, namely: the executive, the judiciary and the legislature (Carolan 2009). Under the separation of powers, two of the main roles of the legislature are to enact laws and to provide oversight on the implementation of the laws and public policy by the executive. Across the continent, parliaments enjoy varying levels of institutional independence and capacity to perform these roles, as a result of certain factors and challenges that predate the start of the Covid-19 pandemic.

When faced with a public emergency, such as a national health pandemic, states are permitted under international law to introduce restrictive measures that are consistent with international human rights standards as set out under article 4 of the International Covenant on Civil and Political Rights (ICCPR). As is shown in the case studies provided in Chapter 4 of this Report, the domestic constitutions of most African states permit the imposition of these restrictions as part of either the declaration of a state of emergency or the declaration of a state of disaster (also referred to as a situation of public calamity). The difference between the two is mainly that

Many countries on the African continent have adopted constitutions which divide governmental powers into three branches: the executive, the judiciary and the legislature.

stricter restrictions may be permitted under a state of emergency than a state of disaster. For example, under a state of emergency certain human rights may be suspended, but under a state of disaster derogations from any human rights are not permitted. During a state of disaster, government may only limit (and not suspend) fundamental rights.

The standards for the restrictive measures imposed are that they must be authorized by legislation; they must be applied only when they are strictly necessary; they must be non-discriminatory; and the nature of the restrictive measures must be proportionate to the threats posed by the public emergency.

However, regardless of whether restrictive measures have been imposed as part of a state of emergency or a state of disaster, there are certain minimum international legal standards with which those restrictions must comply. These minimum standards are set out under article 4 of the ICCPR. In total, 54 African countries have ratified this instrument and are therefore bound by its provisions.¹ The standards for the restrictive measures imposed are that (a) they must be authorized by legislation; (b) they must be applied only when they are strictly necessary; (c) they must be non-discriminatory;² and (d) the nature of the restrictive measures must be proportionate to the threats posed by the public emergency. The African Charter on Human and Peoples' Rights (the African Charter), which is the main human rights convention on the continent, does not make provision for derogations from human rights during crisis, and therefore offers little guidance in this respect.

The standards set out in article 4 of the ICCPR have also been incorporated into the domestic constitutions of most states in Africa. For example, in Southern Africa the Constitutions of South Africa (section 37), Zimbabwe (section 87) and Mozambique (section 282) provide the respective governments with the authority to declare a state of emergency, during which restrictive measures may be imposed—provided that those measures are authorized by a written law and are necessary, and to the extent that they are proportionate to the threats posed by the public emergency. In East, North and West Africa, the Constitutions of Kenya (article 58), Nigeria (section 305) and Tunisia (article 51) provide similar authority to government.

1 See ratification table available at: <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=162&Lang=EN>, accessed 21 September 2022.

2 In the sense that the measures must not directly or indirectly differentiate solely on the basis of any of the grounds listed in article 4 of the ICCPR, which include gender, nationality and race.

Within the context of a state of emergency or a state of disaster as a constitutional response mechanism to a public emergency, the role of parliament can be understood as being twofold. First, it is to enact the necessary laws to enable the state to address the threats posed by the public emergency. On the basis of article 4 of the ICCPR, parliaments have an obligation to enact the legislation authorizing the imposition of restrictive measures. Second, there is the oversight role. On the basis of article 4 of the ICCPR, restrictive measures may only be applied during a public emergency if they are necessary and to the extent that they are proportionate to addressing the threats posed by the public emergency. Therefore, the role of parliament is to monitor the executive branch of government and ensure that it applies those restrictions only when they are necessary and to the extent that they are proportionate.

During a crisis such as a public emergency, the effectiveness of parliament, therefore, should be measured by considering the ability of parliament to enact the necessary disaster management legislative framework in a timely fashion, and to provide oversight to ensure that the legislation is applied by the executive in accordance with the standards of necessity and proportionality. In addition, the effectiveness of parliament should be measured on the basis of its ability to introduce innovative measures to enable it to continue with its traditional roles and functions to the extent possible, during the public emergency.

2.2. GUIDELINES ON PARLIAMENTARY ROLES AND EFFECTIVENESS

Globally and regionally, there are a number of frameworks that have been developed and adopted to help parliaments ensure their effectiveness in discharging their functions and mandate. These include: the Commonwealth Parliamentary Association's (CPA's) recommended 'Benchmarks for Democratic Legislatures', initially developed in 2006 and revised in 2018; the Inter-Parliamentary Union's (IPU's) *Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice* (2006); and the National Democratic Institute (NDI) discussion paper 'Toward the Development of International Standards for Democratic Legislatures' (2007). In

The effectiveness of parliament during a crisis should be measured by its ability to enact the necessary legislative framework in a timely fashion, and its ability to provide oversight to ensure that the legislation is applied by the executive.

Southern Africa, the SADC PF developed and adopted 'Benchmarks for Democratic Legislatures in Southern Africa' (2010). Each of these frameworks identifies a list of benchmark indicators, which can be used to guide: (a) the manner in which parliaments are established or constituted; (b) the way in which they are organized and administered; (c) the scope of the functions assigned to parliament; and (d) the manner in which those functions should be discharged, in order to ensure the effectiveness of parliaments in carrying out their functions under the separation of powers doctrine.

Overall, the frameworks identified set out similar guidelines and benchmark indicators because the development of each one borrowed from the others. In a sense, all these frameworks appear to have been developed from the ones in 2006: the CPA's 'Benchmarks for Democratic Legislatures' and the IPU's *Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice*.

On the African continent, the SADC PF's 'Benchmarks for Democratic Legislatures in Southern Africa' (the SADC PF Benchmarks) is the only existing comprehensive framework. Its development borrowed heavily from the CPA's 'Benchmarks for Democratic Legislatures' (2006), the IPU's *Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice* (2006) and the NDI's 'Toward the Development of International Standards for Democratic Legislatures' (2007).

The SADC PF Benchmarks provide guidelines on the design of a constitutional and legal framework, and suggest political imperatives as well as institutional, financial, material and human resources requirements for genuinely democratic parliaments (SADC PF 2010). They are based on the assumption that the effectiveness of parliament is best measured by considering three essential factors, namely: its impact on public policy, the extent to which it acts independently in setting and executing its own agenda, and the degree to which the diverse interests of society influence parliament's decision-making processes (SADC PF 2010).

The following are set out as the indicators that can be used to benchmark the effectiveness of parliament: accessibility, ethical governance (transparency and integrity), representativeness,

organization of the parliament (rules of procedure, sessions, selection and mandate of presiding officers), parliamentary service commission, legislative function (legislative procedure and delegation of authority), oversight function, representation function, election and status of the national assembly, political parties/groups and caucuses.

While these indicators are critical for the purposes of assessing a parliament's effectiveness in discharging its daily functions under the separation of powers model, they do not incorporate the role of parliament during a period of crisis, such as a public emergency. They do not provide guidance on how parliaments can strengthen their resilience, to enable them to continue operating during a public emergency. As demonstrated by the Covid-19 pandemic, public emergencies may require states to act faster than usual to introduce policies that are needed to save or protect lives, and it may become necessary to impose restrictions. Therefore, parliaments (as is the case with all other branches of government) need to work differently from the way they work outside of public emergencies. For instance, during a public emergency parliaments may need to convene urgently and enact the necessary laws. In the face of threats posed by the public emergency (including threats against life and to the health of legislators), parliaments may need to find other ways of conducting their business without convening sessions in the way they normally do. The SADC PF Benchmarks, as well as the other guidelines, were designed without a public emergency in mind and therefore offer very little guidance on how parliaments can enhance their effectiveness during a period of crisis, such as a public emergency. It is only after the Covid-19 pandemic that stakeholders working on supporting parliamentary democracy have begun to develop additional guidelines, to prepare parliaments for future emergencies. For instance, the House Democracy Partnership and the Swiss Agency for Development and Cooperation have developed 'Guidelines for Parliaments Functioning in a Time of Pandemic' (2021).

Indicators that can be used to benchmark the effectiveness of parliament are: accessibility, ethical governance, representativeness, organization of the parliament, parliamentary service commission, legislative function, oversight function, representation function, election and status of the national assembly, political parties/groups and caucuses.

Chapter 3

OVERVIEW OF CHALLENGES AND PARLIAMENTARY RESPONSES TO COVID-19

During a period of crisis, both domestic laws and international law envisage parliaments playing a critical role in enabling the state to address the threats posed by the public emergency.

During a period of crisis such as a public emergency, both domestic laws and international law applicable in many African jurisdictions envisage parliaments playing a critical role in enabling the state to address the threats posed by the public emergency. The two main roles of a parliament are enacting the necessary disaster management legislation and providing oversight to ensure that the executive adheres to the standards of necessity, non-discrimination and proportionality when implementing the disaster management legislation. In practice, this means that parliament has an obligation to (a) review the existing disaster management legislation and make the necessary amendments; (b) review the regulations promulgated by cabinet ministers as part of parliament's oversight on delegated legislative authority; (c) review and monitor the implementation of policies (including on restrictive measures) adopted by the executive to ensure their conformity with legal standards of lawfulness, necessity, non-discrimination and proportionality; and (d) review policy interventions adopted by the executive to assess their adequacy and make the necessary suggestions to enhance the effectiveness of those policies in addressing the threats posed by the public emergency.

In order to be able to perform and fulfil these obligations, as well as continue with their traditional roles and functions, parliaments had to initiate or engage in two types of response to the outbreak of Covid-19. The first category of response should be classified as 'legislative responses'. This includes disaster management legislation introduced by, or with the approval of, parliaments in response to the pandemic. The second category is 'operational responses'. This

includes innovative administrative changes introduced by parliaments and tailor-made to protect the life and health of the members of parliament as they sought to continue with parliamentary business in the face of the pandemic. Each category of response is discussed in turn in the rest of this chapter.

3.1. LEGISLATIVE RESPONSES

The responses from parliaments in Africa, designed to perform their obligation to ensure the existence and activation of the necessary disaster management legislation, can be summarized as follows: (a) approving the declaration of states of emergencies or similar; (b) enacting new disaster management legislation; and (c) revising existing disaster management legislation.

3.1.1. Declaring states of emergency

In response to the Covid-19 pandemic, some governments declared states of emergency to enable them to undertake certain disaster management measures, including imposing restrictive measures on human gatherings and/or movement, and in order to permit the reallocation of state resources to address certain effects of the pandemic. As of 31 July 2021, at least 27 African states³ had declared states of emergency.

The legal framework of a number of states in Africa requires parliamentary approval for a state of emergency to be declared (ICNL n.d.). For example, in five case study countries considered during this research, a state of emergency may be declared only if parliament approves it with either a simple majority or a two-thirds majority.

Concerns were raised by the key informants interviewed during this study that, in many jurisdictions, parliaments approved the declaration of states of emergency without adequately scrutinizing whether that was the appropriate response to the pandemic. This concern was raised because, in some of the jurisdictions, the executive had an option to declare a state of disaster, which would

In response to the Covid-19 pandemic, some governments declared states of emergency to enable them to undertake certain disaster management measures.

³ These include: Angola, Botswana, Burkina Faso, Cameroon, Chad, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Eswatini, Ethiopia, Gabon, The Gambia, Guinea, Guinea-Bissau, Lesotho, Liberia, Madagascar, Mozambique, Namibia, Niger, São Tomé and Príncipe, Senegal, Mali, Sierra Leone, Sudan and Togo.

permit less restrictive measures and which would (arguably) still be sufficient to address the threats posed by the pandemic. In these instances, parliaments were applauded for performing their role to enable the implementation of disaster management legislation in a timely manner. However, some of them were also criticized for rubber-stamping executive proposals to declare states of emergency prematurely when a declaration of a state of disaster would have sufficed.

3.1.2. Declaring states of disaster or situations of public calamity

Other states avoided declaring a state of emergency but rather declared states of disaster. In some states (such as Mozambique), this is also referred to as a 'situation of public calamity'. Some states, such as Angola and Mozambique, initially declared states of emergency and later replaced them with a declaration of a state of disaster. As at 31 July 2021, at least nine African states⁴ had declared states of disaster.

Generally, a state of disaster or situation of public calamity permits the executive to impose less strict restrictions than a state of emergency.

Generally, a state of disaster or situation of public calamity permits the executive to impose less strict restrictions than a state of emergency. For example, under a state of emergency, restrictions may be imposed that suspend human rights, while under a state of disaster, human rights may only be limited but not suspended. At least nine states⁵ imposed a state of disaster on the basis of disaster management laws that existed prior to the start of the Covid-19 pandemic. Declarations of states of disaster rarely require parliamentary approval before they take effect. Where states of disaster have been imposed, the role of parliament is largely to provide oversight on the promulgation and enforcement of disaster management regulations by the executive. For example, upon the declaration of a state of disaster by the governments of Mozambique and South Africa, their respective parliaments focused on monitoring and enforcing accountability from the executive, and on the implementation of disaster management policies and regulations.

4 Angola, Cabo Verde, Guinea, Guinea-Bissau, Malawi, Mozambique, São Tomé and Príncipe, South Africa and Zimbabwe.

5 Angola, Cabo Verde, Guinea, Guinea-Bissau, Malawi, Mozambique, São Tomé and Príncipe, South Africa and Zimbabwe.

There was a general concern across Africa—seen both in the views of the key informants consulted and in the literature reviewed during this study—that parliaments did not do well in providing oversight to ensure that the restrictive measures implemented during the state of national disaster were not excessive and disproportionate. For example, in some jurisdictions, the police and security forces were criticized for using excessive force when enforcing lockdown regulations, and very little was done by parliament to call the responsible members of the executive to account (Bachelet 2020). However, in some jurisdictions, parliaments performed well in providing oversight on the use of the Covid-19 disaster management resources.

3.1.3. Enacting new disaster management legislation

Apart from constitutional provisions permitting the declaration of states of emergency, some states did not have legislation permitting them to declare states of disaster. In those countries, parliaments had to enact new legislation. For example, in Mozambique, the President declared a state of emergency in March 2020 and this was extended until August, when the parliament passed the Law on Disaster Risk Management and Reduction (Law No. 10/2020; see Club of Mozambique 2020b), to allow the management of situations of public calamity, including pandemics such as Covid-19, without having to resort to declaring a state of emergency.

3.1.4. Revising existing disaster management legislation

In some countries, parliaments had to amend existing disaster management legislation in order to address certain gaps that existed in the law. For example, in Malawi the then President, Professor Peter Mutharika, declared a state of disaster, but this was overruled by the High Court on several grounds, including that the legislation was archaic and inadequate for addressing national disasters as it did not make any provision for social protection in the event of a state of disaster declaration (*Kathumba v President of Malawi*). Subsequently, the Malawian Parliament amended the Disaster Preparedness and Relief Act, correcting the defects identified by the court. Similarly in Kenya, the Senate established the Ad Hoc Committee on the Covid-19 Situation in Kenya, which drafted the Pandemic Response and Management Bill (Senate Bill No. 6 of 2020b), to allow the government to implement disaster management measures through

There was a general concern across Africa that parliaments did not do well in providing oversight to ensure that the restrictive measures implemented during the states of national disaster were not excessive and disproportionate.

a declaration of a state of disaster rather than a state of emergency. Although the Bill was not eventually passed into law, its provisions were introduced as amendments to various existing pieces of legislation.

None of the parliaments had a detailed plan laid out to guide them on how they would continue with their duties during the crisis.

3.2. OPERATIONAL ADMINISTRATIVE RESPONSES

None of the parliaments had a detailed plan laid out to guide them on how they would continue with their duties during the crisis. For instance, in the face of the constraints on human gatherings and movement imposed by governments in response to Covid-19, none of the parliaments had a plan laid out on how they would continue with sessions to discharge their legislative and oversight functions or how they would continue with their constituency work. Although there are global and regional frameworks to help parliaments ensure their effectiveness in discharging their functions and mandate, none of these could offer much guidance to parliaments because they do not include the role of parliaments during a crisis such as a public emergency. Faced with these challenges, most parliaments on the continent trudged along and introduced some of the following changes to allow them to continue with their functions, albeit with difficulties.

3.2.1. Temporary suspension of proceedings

When the Covid-19 pandemic broke out, some parliaments temporarily suspended their business as a precautionary measure to protect their members from the virus, while providing themselves with an opportunity to revise their internal rules and adopt the changes that would make them able to resume operations under the circumstances of the pandemic. For example, the Parliament of South Africa suspended its business following the declaration of a state of disaster on 15 March 2020 and resumed operations in the middle of April 2020 (South African Government 2020). However, some suspended their business temporarily in compliance with executive orders which placed government departments under lockdown. For example, the Parliament of Nigeria temporarily adjourned its business for two weeks from 3 March 2020, upon the President's declaration of a Covid-19 pandemic lockdown, on the

basis of the Quarantine Act of Nigeria, which placed parliament and other government departments under lockdown.

3.2.2. Virtual sittings

Some parliaments adopted special rules to permit themselves to conduct sessions virtually, also known as virtual sittings. Through virtual sittings, they deliberated and adopted supplementary budgets proposed by the executive to finance the implementation of policies to combat the spread of Covid-19 and to cushion citizens against the socio-economic repercussions caused by the pandemic. For example, in June 2020, the Parliament of South Africa reviewed and adopted the government's response package for Covid-19, also known as the Supplementary Adjustments Budget. Similarly, the Parliament of Mozambique introduced virtual sittings through which members debated the government's policy responses to the pandemic.

Special rules were also introduced to allow parliament and its subcommittees to perform oversight roles on the executive. For example, in South Africa, the Portfolio Committee on Health conducted virtual sessions to receive and debate briefings from the Minister of Health on the government's response to the pandemic (South African Parliament 2020c). Later on, virtual sittings were used to conduct other parliamentary business not related to the Covid-19 pandemic, such as passing legislation and recommending appointments. These virtual sittings were live-streamed on social media, as well as on national television and radio stations, to enable the public to access them.

3.2.3. Relocating parliament to bigger venues

Other changes introduced as parliaments trudged along were decisions to move parliamentary sittings to bigger venues that would allow members to conduct sessions while observing social distancing. For example, in order to continue with its sittings, Cameroon's National Assembly convened both ordinary and extraordinary sessions at the more spacious Yaoundé Conference Centre instead of at the more confined National Assembly building.

3.2.4. Adopting Covid-19 health protocols

In addition to these changes, other parliaments (including Cameroon, The Gambia, Kenya, South Africa and Zimbabwe) adopted Covid-19

Some parliaments adopted special rules to permit themselves to conduct sessions virtually, also known as virtual sittings.

protocols to enable them to continue operating while protecting members and staff from the virus. The Covid-19 protocols included the requirement for members and staff to wear masks during sessions, the installation of sanitization booths within the parliament building, requiring members and staff to regularly sanitize their hands, prohibiting public access to the parliament building, and conducting health screening on all members and staff entering the parliament building.

In an effort to continue operating, some parliaments adjusted their rules to permit the establishment of subcommittees to which parliament delegated certain authority and responsibilities.

3.2.5. Delegating power

In an effort to continue operating, but without exposing the members of parliament and staff to Covid-19, some parliaments adjusted their rules to permit the establishment of subcommittees to which parliament delegated certain authority and responsibilities. For example, in Kenya, the Senate established the Ad Hoc Committee on the Covid-19 Situation in Kenya, to work with the Parliamentary Committee for Health (National Assembly) to oversee actions and measures taken by the national and county governments in addressing the spread and effects of the pandemic. Similarly, in The Gambia, the National Assembly established a Special Select Committee and delegated to it the authority to oversee the implementation of Covid-19 disaster management measures undertaken by the executive.

Chapter 4

CASE STUDIES

Seven countries were considered as case studies for this research. In this chapter of the Report, the applicable domestic legal frameworks and responses made by the parliaments of these countries to the outbreak of Covid-19 are discussed in greater detail.

4.1. SOUTH AFRICA

4.1.1. Legal framework

South Africa's legal framework gives government two options for responding to a public emergency such as the outbreak of Covid-19. The Constitution of South Africa (1996) provides government with the powers to declare a state of emergency when confronted with a public emergency. However, such powers may be invoked only in response to public emergencies of a specific nature. On the basis of section 37(1) of the Constitution, a state of emergency may be declared through an Act of Parliament when '(a) the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and (b) the declaration is necessary to restore peace and order'. During a state of emergency, restrictive measures that derogate from certain human rights are permissible (section 37(4) of the Constitution).

Alternatively, government may declare a state of disaster on the basis of the Disaster Management Act No. 57 of 2002 (South Africa 2002). In response to the outbreak of Covid-19, the government chose to declare a state of disaster. The Disaster Management Act empowers the President of the Republic to appoint a cabinet minister to oversee

South Africa's legal framework gives government two options for responding to a public emergency: (a) declare a state of emergency; or (b) declare a state of disaster.

the operation of the Act (section 3 of the Act) and to announce disaster management regulations, which are to be adopted by cabinet in accordance with the Act. The Minister of Cooperative Governance and Traditional Affairs, Dr Nkosazana Dlamini-Zuma, was appointed in this role by the President.

During a period of state of disaster, the constitutional powers and functions of parliament are not suspended.

During a period of state of disaster, the constitutional powers and functions of parliament are not suspended. The legislature is supposed to continue with its functions, especially performing legislative and oversight functions to strengthen government's disaster management responses. The Constitution of South Africa articulates the role and powers of South Africa's bicameral parliament, comprising the National Assembly (NA) and the National Council of Provinces (NCOP) as follows:⁶

1. Both houses participate in the law-making process, as South Africa's legislative authority.
2. The NA elects the president, serves as a national platform for issues to be publicly debated and oversees the actions of the executive.
3. The NCOP ensures that provincial interests are considered at the national level through law-making, and it publicly debates issues affecting the provinces.
4. Both houses are responsible for ensuring public participation in the law-making process and taking the necessary measures to ensure public access to their meetings.
5. Both houses have the authority to make their own rules and orders, and to determine their own internal proceedings.

4.1.2. Parliamentary responses since the outbreak of the Covid-19 pandemic

Following the announcement of a declaration of a state of disaster by the president, parliament temporarily suspended its operation as a precautionary measure against Covid-19 (PMG 2020; South African Government 2020). It resumed in mid-April 2020 after introducing certain changes to its internal rules, policies and processes for conducting its business, to fulfil its constitutional obligations

⁶ For detailed provisions, see sections 42 to 72 of South Africa's Constitution (South Africa 1996).

during the circumstances of a pandemic (PMG 2020; South African Government 2020; South African Parliament 2020b).

Since then, parliament's experience in ensuring accountability during the Covid-19 pandemic has been characterized by (a) adopting special rules for virtual meetings; (b) conducting virtual and hybrid committee oversight meetings; (c) approving a Supplementary Adjustments Budget; (d) conducting hybrid plenary sessions; (e) conducting hybrid public engagements; (f) continued constituency work; and (g) virtual parliamentary diplomacy activities. To facilitate all these, the parliamentary administration had to initiate the necessary safety policies and protocols.

Adopting special rules for virtual meetings

The NA and NCOP both developed special rules to permit both houses and their portfolio committees to conduct their sessions virtually (virtual sittings). These rules were adopted in April 2020 (South African Parliament 2020d; PMG n.d.) and remain in force at the time of this publication.

Virtual and hybrid committee oversight

Following the resumption of its business, parliament prioritized virtual committee meetings, which had oversight of departments driving the implementation of the government's Covid-19 disaster response measures (PMG 2020). The first virtual meeting was conducted by the Portfolio Committee on Health who received briefings from the then Minister of Health, Dr Zweli Mkhize, and his team, on South Africa's response to the pandemic (South African Parliament 2020c).

Shortly after this, parliamentary business was expanded to provide oversight to other government departments and to discharge certain core constitutional duties, such as approving budgets, passing pending legislation and recommending constitutional appointments. By the end of the parliamentary year in December 2020, an estimate of 1,278 NA and NCOP committee meetings had been held (PMG 2020). These were largely committee meetings to oversee the implementation of the Covid-19 disaster management responses.

Approving a Supplementary Adjustments Budget

In addition to the main Budget and Medium-Term Budget tabled annually, the Minister of Finance tabled the South African Government's response package for Covid-19, also known as the Supplementary Adjustments Budget, before the Parliament of South Africa on 24 June 2020. Before adoption, this budget was reviewed by the Standing and Select Committees on Finance in the NA and NCOP through virtual briefings by the executive, the Parliamentary Budget Office and the Financial and Fiscal Commission.⁷ Parliament also held virtual public hearings on the budget that enabled various organizations and individuals to provide input (South African Parliament 2020f, 2020g, 2020h). The Supplementary Adjustment Budget was approved virtually by the NA on 29 July 2020 and the NCOP on 4 August 2020.

Parliamentary oversight on the implementation of this budget has also been provided through subsequent committee meetings. For example, on 5 August 2020 the Standing and Select Committees of Finance of both houses were briefed by the National Treasury on the procurement of personal protective equipment for Covid-19 following allegations of corruption. The Committees emphasized the need for internal audit committees at all levels of government to proactively audit Covid-19-related procurements on a regular basis to curb corrupt practices (South African Parliament 2020j). Parliamentary committees continue to receive briefings concerning ongoing investigations into Covid-19-related corruption (South African Parliament 2021a).

Both the NA and NCOP conducted their plenary business through hybrid sessions where some members of parliament would be physically present and others would connect through virtual platforms.

Hybrid plenary sittings

Both the NA and NCOP conducted their plenary business through hybrid sessions where some members of parliament would be physically present in the parliamentary chambers and others would connect through virtual platforms. In 2020, a total of 116 plenary sittings were held by both the NA and NCOP, where the order of business was dominated by debates, ministerial statements, events and questions to the president and ministers on the implementation of the Covid-19 disaster management measures (PMG 2020).

⁷ The Financial and Fiscal Commission is established on the basis of section 220 of the South African Constitution. It is mandated to make recommendations to organs of state at the national, provincial and local spheres of government on financial and fiscal matters (South Africa 1997).

Public engagements

To ensure compliance with its constitutional duty to serve as a platform for the public consideration of issues (see section 42(3) of the Constitution), parliament's virtual committee meetings and hybrid parliamentary sittings have been live-streamed on the parliament's YouTube channel, Parliament TV on DSTV Channel 408, and Twitter, among other platforms. Parliament's programme of business is also easily accessible on its website, and press releases on forthcoming activities are shared with the media and other interested stakeholders at least once a week (South African Parliament 2021b).

Parliament continued with public hearings on key legislative proposals, some of which were held virtually and others in person. The public could follow public hearings on the same media platforms mentioned above (South African Parliament n.d., 2020i, 2020j).

Constituency work

The constituency engagement work was postponed from June to July 2020 to allow parliament to focus on overseeing the government's response to the pandemic (South African Parliament 2020i). However, it resumed in August 2020 as members of parliament directly engaged with their constituencies and updated them on the business of parliament.

Parliamentary diplomacy

As a member of numerous multilateral international parliamentary institutions, parliament continued its international relations work virtually. Delegations actively participated in various multilateral conferences, including those organized by the SADC PF and the IPU, to share knowledge and experiences with their peers on their experiences under Covid-19, and deliberated on the role of parliaments in ensuring accountable and transparent governance during the pandemic (SADC PF 2010; IPU 2021a, 2021b).

The parliamentary administration

Parliament's administration also needed to adapt to the realities of the Covid-19 pandemic. Some of the interventions undertaken included:

Parliament continued with public hearings on key legislative proposals, some of which were held virtually and others in person.

- developing a Management of Covid-19 Policy, which aimed to minimize exposure and risk to the health and safety of all people directly involved in the business of parliament (South African Parliament n.d.);
- the development of protocols to ensure the health screening of all people needing to access the parliamentary precinct, the sanitization of all areas and the utilization of venues, without compromising social distancing and other health protocols (South African Parliament n.d.);
- redesigning staff offices, allowing remote work by some staff, and modernizing the NCOP chamber and some committee rooms to enable hybrid sessions (South African Parliament n.d.); and
- the development of Covid-19 travel guidelines in line with government regulations.

When faced with a public emergency, the Constitution of Mozambique permits the government to declare a state of emergency.

4.2. MOZAMBIQUE

4.2.1. Legal framework

When faced with a public emergency, the Constitution of Mozambique permits the government to declare a state of emergency. On the basis of sections 282(1) and 284 of the Constitution, a state of siege or of emergency may be declared, subject to ratification by parliament for a period not exceeding 30 days, only 'in cases of actual or imminent aggression, cases of disruption of or serious threat to the constitutional order, or in the event of a public disaster'. During the period of a state of emergency, the Constitution (article 289) requires the country's sovereign institutions (which include parliament) to remain operational, discharging their functions.

In order to continue in operation (albeit with difficulties), parliament (through its Permanent Committee) adopted a few measures listed in the next section.

4.2.2. Parliamentary responses since the start of the Covid-19 pandemic

The following are the key responses made by the parliament to the outbreak of Covid-19.

Ratifying the state of emergency

In response to the outbreak of Covid-19, the President of Mozambique invoked the emergency powers and declared a state of emergency (ICNL n.d.). As is required by articles 282(1) and 284 of the Constitution, parliament ratified the declaration and extended the state of emergency several times until August 2020.

Delegating oversight functions

In order to reduce the risk of its members contracting Covid-19 through gathering for sessions, and in order to enable it to act faster, the parliament delegated all its oversight functions to the Permanent Committee, which monitored the implementation of emergency measures undertaken by the executive.

Sessions occurred virtually

Because of the small size of the parliamentary chamber and the need for respecting physical distancing, as well as the fact that some members had tested positive for Covid-19, the parliament changed its internal rules to permit virtual sessions. For these, members participated through Zoom or Skype, which allowed them to interact from their own constituencies, from their home or from larger rooms, such as meeting rooms in hotels, where they could access decent information and communication technology. However, limited knowledge or skills in using such technology undermined the smooth and productive interaction between members of parliament during sessions.

Reduced work done by the Comissões de Trabalho (Work Committees)

Some activities undertaken by the Work Committees, mainly those related to visits to state institutions, not only were reduced but also began to be done virtually. Oversight functions were the most affected by this shift to virtual activity.

In response to the outbreak of Covid-19, the President of Mozambique invoked the emergency powers and declared a state of emergency.

The re-adaptation of parliament's working models to respond to the pandemic was not always recorded in a detailed plan. Some activities were added as the crisis worsened. The nature of the emergency, and the absence of a specific working plan for the management of the crisis, did not allow parliament to execute all its tasks.

New disaster management law enacted

In August 2020, although five months into the pandemic, parliament enacted new disaster management legislation, permitting the president to declare a state of disaster (situation of public calamity) and discontinue the state of emergency. Under the new law (Law No. 10/2020 of 24 August), a state of disaster can subsist as long as the public emergency persists. However, it permits the implementation of less severe restrictions compared with what is permitted under a state of emergency.

4.2.3. The overall impact of the pandemic on parliamentary effectiveness

The crisis caused by the Covid-19 pandemic has conditioned the normal functioning of parliament. Its traditional working models were modified and some scheduled activities even cancelled. The effects of the pandemic on the main functions of the parliament are listed below.

Legislative function

Despite some amendments made to allow the parliament to continue with its legislative functions, the pandemic has greatly reduced the performance of such functions. The parliament produced only three main pieces of legislation: the first was on the state of emergency; the second was the Law of Public Calamity; and the third was the Presidential Decree, which has been ratified successively. Other documents approved include: the government's Five-Year Plan, Plano Quinquenal (2020–2024); the Economic and Social Plan; and the Amendment Budget. These were operational instruments—documents urgently needed for the operation of the state. Parliament's power to make laws is heavily dependent on the executive (Shenga 2014). Since March 2020, parliament's legislative function has been limited to addressing only issues related to the Covid-19 pandemic.

Despite some amendments made to allow the parliament to continue with its legislative functions, the pandemic has greatly reduced the performance of such functions.

Oversight under heavy restrictions

Activities designed to oversee the government were also affected by the Covid-19 pandemic. With limited budgets, all the Comissões de Trabalho (Work Committees) faced difficulties in visiting constituencies (Club of Mozambique 2020a). The state institutions usually inspected had put in place limitations on receiving members of parliament, due to the restrictions imposed as a result of Covid-19. Most of the oversight tasks previously scheduled were cancelled and the ones carried out were done on an ad hoc basis, in order to meet specific and urgent demands. For example, the 21 supervisory visits scheduled by the Work Committees—to oversee the government's priority sectors (education and health)—were cut down to 15 visits. The supervisory activities were also focused only on institutions in the capital cities, excluding other important districts. During parliamentary Work Committees' supervisory visits to state institutions, their supervisory activities were limited to presentations of reports by members of the executive on the use of the Covid-19 funds. In other words, questions raised by members of parliament were not followed up with audits based on fieldwork, and no assessment was made of the compliance with the measures adopted.

Representative function

According to the members of parliament interviewed, the representative function was one of those that received the least attention (AM 2021). Even in ordinary contexts—where there is no crisis—the relationship between parliamentarians and citizens is relatively invisible. The civil society organizations involved in implementing activities with parliament found there was uncertainty in their work with the house (ES 2021). Only a few awareness-raising activities were carried out by parliament's Women's Office, which worked with the Committee on Social Affairs, Gender, Technology and Media (known as the Third Commission). However, these awareness-raising activities have been neither systematic nor continued.

In general, the context of the crisis created by the Covid-19 pandemic has seriously limited parliament's functions. Budgetary constraints have restricted parliamentarians' movement. The pandemic has put severe limitations on Mozambique's parliament, a house conceived

Even in ordinary contexts, the relationship between parliamentarians and citizens is relatively invisible.

as being more reactive than proactive and structurally dependent on the executive.

4.3. CAMEROON

4.3.1. Legal framework

Cameroon has a bicameral system, which consists of the Senate and the National Assembly. Combined, both houses have a membership of 280. The ruling party—Cameroon People’s Democratic Movement (CPDM)—wields an absolute majority in both houses. Parliament’s oversight and law-making roles, as well as its relationship with the executive, are specified in Parts III and IV of the Cameroonian Constitution (1972), its Standing Orders (Cameroon 1973).

The Constitution does not delineate the role of parliament in national emergencies.

The Constitution does not delineate the role of parliament in national emergencies. This is the exclusive prerogative of the executive. To respond to the Covid-19 pandemic, the government arrogated to itself de facto emergency powers, which constitutionally complicate parliament’s role to carry out its oversight function of executive activities. Article 9 of the 1996 Constitution of Cameroon broadly deals with the issue of emergency powers, with articles 9(1) and 9(2) granting the president sweeping authority to assume special powers as they sees fit to preserve the national integrity and to manage the perceived threat, and being only required to inform the nation of any decision by decree (Chofor 2020). In particular, the government has, on different occasions, implemented a broad range of restrictive measures, including: social distancing; restrictions on social/public gatherings (including churches and mosques); the closure of learning institutions, non-essential offices, businesses, restaurants and other facilities; curfews; travel bans; the closure of ports of entry and exit (land, air and sea); and the deployment of security forces—including the police and para-military—to ensure adherence to Covid-19 control measures (Cameroon n.d.). More recently, on 7 June 2021, despite allegations of mismanagement, President Paul Biya signed a decree adjusting the 2021 budget to allow for the provision of an extra XAF 200 billion (about USD 400 million) in the National Solidarity Fund for the fight against Covid-19. The initial budgetary allocation for the fund contained in the national budget voted by the

National Assembly in November 2020 stood at XAF 150 billion (about USD 300 million).

The legal and constitutional interpretation of article 9 of Cameroon's Constitution is unambiguous. With the Constitution's conspicuous silence on the roles of the parliament and judiciary during national emergencies, the president is granted overwhelming powers. Those powers—and the decisions made by the president under them—are deemed not to be subject to either legal review or parliamentary oversight, thereby granting the executive wide discretion to make and execute public policy, with little or no accountability and oversight from the National Assembly (Chofor 2020). The parliament and judiciary are unfortunately incapable, under the present Constitution, of even evaluating the validity of a state of emergency, including the duration of such emergencies imposed by the executive arm or the scope of what constitutes an 'emergency' (Chofor 2020). The situation in Cameroon is thus akin to what Clinton Rossiter (2002) has described as a constitutional dictatorship. Against this backdrop, it comes as little surprise then that the Cameroonian Parliament has had very limited impact on influencing the content, accountability or oversight of the de facto special emergency powers exercised by the country's executive branch during the Covid-19 crisis.

4.3.2. Parliamentary responses since the start of the Covid-19 pandemic

Murphy (2020) has outlined a baseline set of functions which most parliaments have focused on during the Covid-19 pandemic. These include: (a) decision making, especially with respect to the current health crisis; (b) demonstrating leadership in the performance of their constitutional functions, especially in ensuring accountability of government; (c) role-modelling behaviour for the rest of the nation to follow, such as publicly and privately observing health regulations themselves; and (d) protecting themselves collectively and individually as representatives of their constituencies (Murphy 2020).

With regard to role-modelling behaviour, in adherence to the government's social distancing measures, Cameroon's National Assembly convened both ordinary and extraordinary sessions at the more spacious Yaoundé Conference Centre instead of the more confined National Assembly building, ensuring that the house

The Cameroonian Parliament has had very limited impact on influencing the content, accountability or oversight of the de facto special emergency powers exercised by the country's executive branch during the Covid-19 crisis.

The Cameroonian Parliament remained operational, with sessions held on schedule, and Covid-19 concerns prioritized on the agenda.

remained in full sitting (Hilton 2020). This example is in opposition to actions taken by other countries in the Central African region, such as Gabon—where parliamentary committees still sat, albeit in limited numbers, with the extraordinary step taken to reduce parliamentary proceedings to just matters of absolute necessity—or other countries where parliamentary activities ground to a halt due to the pandemic (IPU 2020). The Cameroonian Parliament remained operational, with sessions held on schedule, and Covid-19 concerns prioritized on the agenda. Mask mandates and social distancing requirements were instituted to ensure the safety of members of parliament and to model good behaviour for the rest of the nation. Parliamentary election re-runs were held in 11 constituencies in Cameroon on 22 March 2020. The President of the National Assembly, Cavayé Yéguié Djibril, a senior member of Cameroon’s ruling CPDM party, was re-elected on 18 March 2021 with 142 out of 162 votes and 15 voids (Xinhua 2021). However, the parliament’s model behaviour has been scrutinized, for not strictly complying with the gathering restriction of 50 people or fewer during its March 2020 session. Also, by refusing to quarantine for 14 days, as stipulated by the Ministry of Health guidelines, following a trip to France (a high-risk country) in March 2020, the Speaker of the National Assembly also failed to model law-abiding behaviour.

In exercise of its convening functions, the Cameroonian Parliament, through its House Speaker, addressed Cameroonians in a call to national solidarity to fight against the Covid-19 pandemic. In a veiled reference to the discord in the Anglophone regions of the country, the Speaker declared that ‘fighting the coronavirus challenges us all. United we stand, divided we fall’, adding that Cameroonians must adhere to what he called ‘a sacred union’ in defeating the pandemic (Xinhua 2021). The Speaker also hailed the government for ‘the satisfactory results obtained in the fight against the coronavirus pandemic’, and seized the opening of the parliament’s November 2020 plenary session to ‘propose a series of recovery measures to tackle the economic and social effects of the pandemic’ (Emmanuel 2020).

Earlier in June 2020, Cameroonian law-makers had approved changes to the country’s 2020 finance law to grant the executive branch greater flexibility in dealing with the socio-economic

consequences of the Covid-19 pandemic on the country in their budgetary processes. However, the 11 per cent downsizing of the budget from XAF 4,951 billion to XAF 4,409 billion meant that there was really limited wiggle room for greater government expenditure from budgetary sources (Journal du Cameroon 2020).

Following the June 2020 changes in the finance law, a group of opposition law-makers from the Social Democratic Front (SDF) criticized the government's tender and award process for Covid-19-related contracts, for not respecting the norms of transparency and agreed procurement procedures and for creating space for the occurrence of massive corruption. This incentivized local media outlets in the country to shine a spotlight on the matter, with networks like Radio Équinoxe and Royal FM extensively alleging cases of embezzlement, overbilling and regular violations of service provision agreements and contracts (Kindzeka 2021). These concerns proved to be warranted when the government itself, at the instructions of President Paul Biya, through the Audit Bench of the Supreme Court, launched investigations into missing Covid-19 funds from an International Monetary Fund (IMF) grant amounting to over USD 335 million (Kindzeka 2021). The funds, disbursed through the IMF's Rapid Credit Facility on 2 May 2020, were allegedly misappropriated across 24 government ministries, in a total of 30 filings on irregularities (Bongben 2021). Investigations are ongoing, and while at least 15 officials have appeared before commissions of investigation, Cameroonian religious bodies, human rights groups, and representatives of opposition parties and the press are intensifying calls on the government to publish findings of its investigations. The report, which was expected to be presented during a special plenary sitting of the National Assembly on 25 June 2020 by the Minister of Finance, was removed from parliament's agenda 24 hours before the plenary sitting, thereby depriving parliament of an important oversight opportunity.

In a context like Cameroon where a meaningful oversight role for parliament is enfeebled by its domination by a fully assenting CPDM legislative majority, and where the political order and constitutional prescriptions favour a very powerful executive branch, continuous vigilance on the part of civil society and the international community is necessary. Members of parliament who support greater

transparency and accountability of government actions, especially in the context of the Covid-19 pandemic, must establish strategic accountability compacts with Cameroonian civil society, and with external partners, to ensure that the necessary pressure to be more accountable is brought to bear on the government, from both within and without.

On 19 April 2021, the World Bank approved a USD 100 million Development Policy Operation to resource the Government of Cameroon's capacity to address the Covid-19 pandemic (World Bank 2021). Against the backdrop of the lingering accountability problems currently hovering over the IMF disbursements to Cameroon, it is important for Cameroon's parliament (or at least opposition parliamentarians) to apply legislative creativity to ensure that oversight mechanisms are in place to pressure government departments and ministries to observe greater accountability in the disbursement of these and other funds.

The Constitution empowers the president to declare a state of emergency for 21 days when the National Assembly is not in session, or for 7 days when the Assembly is in session.

4.4. THE GAMBIA

4.4.1. Legal framework

Section 100 of The Gambia Constitution (1997) establishes the National Assembly, and it is granted legislative and oversight powers in sections 101 and 102 respectively. When faced with a public emergency, section 34 (6) of the Constitution empowers the president to declare a state of emergency for 21 days when the National Assembly is not in session, or for 7 days when the Assembly is in session. The National Assembly can extend or terminate the state of emergency. In response to the Covid-19 pandemic, the president declared a state of emergency.

4.4.2. Parliamentary responses since the outbreak of Covid-19

In spite of the unexpected nature of the pandemic, the National Assembly was able to institute some swift innovative plans to ensure its effective functions during the pandemic. The first strategic measure taken by the National Assembly was to put in place the Covid response emergency committee which was charged with monitoring and implementation of Covid response strategies. Key interventions include the following measures.

Ratifying the state of emergency

When the president declared a state of emergency, parliament (on the basis of section 43 of the Constitution) approved and extended it up to 45 days, to permit the implementation of disaster management measures to combat the spread of Covid-19 in The Gambia.

Delegating oversight functions

In addition, the National Assembly established a Special Select Committee with the objective of holding the executive to account on the implementation of emergency measures during the 45-day period of the state of public emergency.

Adoption of the Covid-19 management protocols

In order to reduce the risk of its members contracting Covid-19 during sessions, the National Assembly of The Gambia continued with in-person sittings and committee engagements, but it limited the number of people that could attend such sittings. It also introduced Covid-19 management protocols, which included mandatory sanitization of hands, health screening of all people entering parliament and restricting public access to the parliament building. In the National Assembly chamber, the seating arrangements of members were altered to accommodate social distancing. Parliament also permitted its employees to work from home, thereby reducing on-site activity by 50 per cent each day.

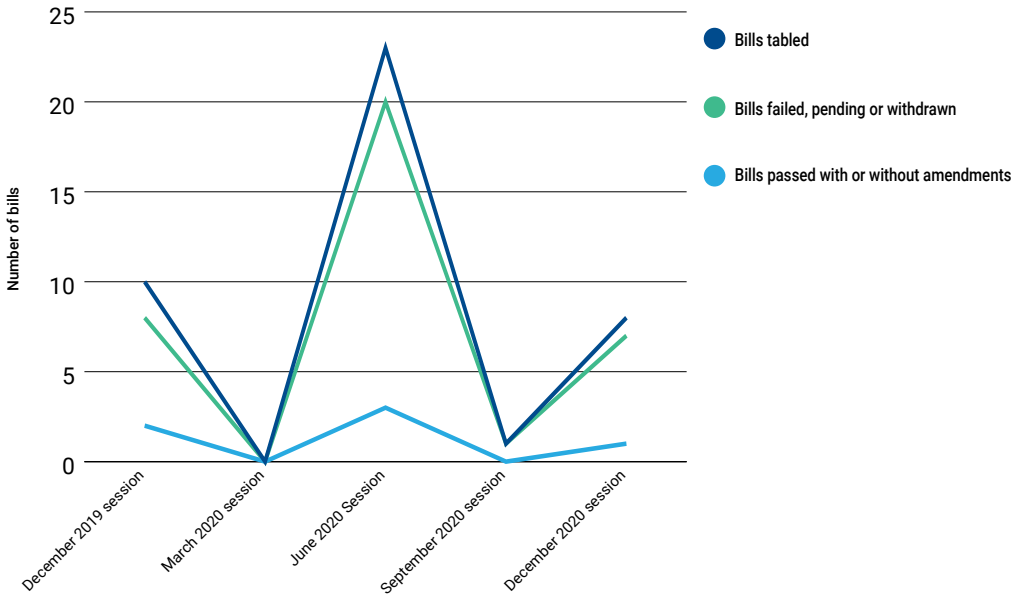
Legislative work

Parliament continued with its legislative work. However, its rate of productivity was seriously disrupted by the pandemic, as demonstrated by Figure 4.1.

Figure 4.1 shows that the highest number of bills tabled was in the June 2020 session: 23 bills were tabled before the National Assembly and increase from zero bills in the March 2020 session. This was due to a surge in Covid-19 cases meaning that all parliamentary business scheduled for the March 2020 session—during the peak period of Covid-19 cases—was moved to the June 2020 session, which triggered the upward slope of the ‘Bills tabled’ line on Figure 4.1 from March 2020 to June 2020.

Parliament continued with its legislative work, but its rate of productivity was seriously disrupted by the pandemic.

Figure 4.1. Number of bills handled in the National Assembly in The Gambia



Source: Adapted from Cousins, C., 'How Parliaments are Working during the Covid-19 Pandemic', L&RS Note, Oireachtas Library & Research Service, 29 April 2020, <https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2020/2020-05-01_l-rs-note-how-parliaments-are-working-during-the-covid-19-pandemic_en.pdf>, accessed 30 September 2022.

In addition, the number of bills tabled before the National Assembly drastically reduced again in the September 2020 session, down to 1 bill from 23 in the June 2020 session. This reduction in the number of bills tabled was attributed to the second wave of Covid-19 experienced in The Gambia around September 2020 (Mbowe 2021).

The restrictions and social distancing limitations imposed as precautionary measures to curb the spread of the pandemic posed great challenges to how the Assembly operated. It has greatly weakened the capacity of parliament in terms of oversight and government accountability (Barrow 2021).

4.5. TUNISIA

4.5.1. Legal framework

The Constitution of Tunisia (2014) provides the legal framework for the role of parliament in national emergencies in Tunisia and gives the legislative branch the possibility to delegate its prerogatives to the executive branch for a limited span of time (article 70). Acts by the executive, in applying this delegation, must be reviewed thoroughly by parliament as soon as possible (article 70). The president is allowed in emergencies to take actions, but only after consulting with the speaker of the parliament. In this situation, the speaker or 30 members of parliament have the right to file a suit to the constitutional court to determine if the situation really constitutes an exceptional state (article 80). If legislative elections are impossible due to exceptional circumstances, the parliamentary mandate can be extended. During exceptional circumstances, the parliament can hold its sessions at any place in the country (article 51); however, when parliament is unable to function, the president can use the legislative competence given to them, but their acts are to be thoroughly scrutinized by parliament as soon as possible (article 70). During emergencies, the president cannot dissolve the parliament (article 80), while the parliament can create Investigation Commissions at any point in time (article 59 of the Constitution; article 63 of the Internal Rule of the Parliament of Tunisia 2015).

The legal framework of the relationship between the branches of government in emergencies is clearly outlined in the Constitution, but the Constitution does not delineate the relationship between the state and the individuals during national emergencies. Currently, this relationship is defined by a presidential decree (No. 50 of 1978). Some say that this is a violation of the Constitution, which specifies that rules related to freedoms and human rights shall be organic laws (article 65). According to Presidential Decree No. 50, the executive has very large powers that are simply unreviewable by any other institution. In 2018, the president presented a bill of law to the parliament, for an organic law organizing the state of emergency; this bill has not yet been put to the plenary for discussion and vote. At the time of drafting this Report, the government was preparing a bill of law on the health state of emergency (Abdessamad 2021).

According to Presidential Decree No. 50, the executive has very large powers that are simply unreviewable by any other institution.

4.5.2. Parliamentary responses since the outbreak of the Covid-19 pandemic

Delegating legislative authority

Parliament delegated part of its prerogatives to the president of the government, for a period of two months in order to counter Covid-19 (Law No. 19/2020), following a request from the president. The president issued a series of 34 decree-laws. The months following delegation witnessed an impressive reduction in the spread and impact of Covid-19. The government was able to make general confinement, give subsidies to poor families, and provide help and incentives for some affected enterprises. This delegation fulfilled the requirement for efficiency. During the delegation, parliament continued its normal mandate. Unfortunately, parliament did not renew the delegation. Due to political conflicts, the majority of the members of parliament started a process of withdrawing confidence from the government, and such a move resulted in the early resignation of the government.

Approving international loans

Parliament approved international loans for Tunisia intended to help in combating Covid-19. It also approved Tunisia's enrolment with COVAX (Law No. 4/2021). Those laws represent parliament's approval of the conventions signed by the executive on behalf of the country. Those funds helped the government to ensure subsidies went to affected enterprises and individuals, among other things. The finance law of 2021 also gave a small subsidy to workers in the tourism industry that had been made redundant, to allow them to undertake vocational training as a way of retraining and repurposing that workforce.

Cell of crisis intervention to guarantee continuity of parliamentary work

A 'cell of crisis' was created in order to track the evolution of the pandemic, and to enable government representatives and experts on matters related to Covid-19 to discuss the situation and propose measures. It recommended: limiting the legislative role of parliament to only enacting laws concerning Covid-19; starting deliberations even without the legal quorum; permitting online sessions and online votes; limiting the length of deliberations; and giving the 'cell of crisis'

a decisive role in determining what bills passed to the plenary. Those recommendations were adopted by the plenary.

Efforts of the Health Technical Commission

The Health Technical Commission of parliament remained particularly engaged in contributing to the role of government accountability. It organized many hearings with government representatives and also invited experts and civil society representatives, seeking a wider participatory approach.

4.5.3. Assessing effectiveness

The legal framework

The legal framework for emergencies does not provide parliament with enough tools to perform an efficient accountability role. Because of that, parliament did not perform its primary role of fixing the terms and conditions of the relationship between individuals and the state in national emergencies, and since parliament has no fast-track mechanism for intervention in crisis, its interventions remain ex-post and time consuming.

Legislation to counter Covid-19 and the decree-laws

Parliament is not expected to plan the day-to-day management of the crisis; instead, parliament needs to provide the basic legislation that gives enough leeway and a safe starting point for the government to take action against the pandemic. This legislation should reflect that rule of law is important, even in exceptional circumstances, and that there is an important degree of responsiveness from parliament. Delegating prerogatives is a factor of institutional cooperation and trust. The substance of the decree-laws reflects an awareness of not leaving anyone behind, given the constraints on the financial capacity of the country. The parliament should have reviewed all the decree-laws enacted under the delegation and should have built upon them. Only six decree-laws were scrutinized and approved by parliament.⁸ There remain 28 decree-laws uncontrolled. This reflects a low level of oversight on the side of parliament.

The legal framework for emergencies does not provide parliament with enough tools to perform an efficient accountability role.

⁸ These are Law No. 7/2020, Law No. 18/2020, Law No. 23/2020, Law No. 24/2020, Law No. 28/2020 and Law No. 31/2020.

The 'cell of crisis'

The 'cell of crisis' aims to ensure the continuity of the mandate of the parliament. First, it tries to be as representative as possible in its composition, but unfortunately it does not mirror the real composition of the parliament. Independent members of parliament have no voice in the cell, and this undermines the representation aspect of parliament. Second, the prerogatives of the 'cell of crisis' are important and rely on its absolute discretion, mainly in deciding what bill is presented to the plenary, so therefore, instead of securing the function of the house, the cell can sometimes be used as a blockage tool. Third, some of its suggestions are in stark contradiction to the laws and internal rules of parliament, which is a violation of the rule of law and an abuse of majority position.

Health Technical Commission

Unfortunately, all the data and information gathered by the Health Technical Commission was not structured into a public policy for the fight against Covid-19. Moreover, meetings of the commission are generally determined by trending issues among public opinion: there is no methodological structure to meetings.

When faced with a public emergency, the Constitution of Kenya permits the president to declare a state of emergency.

4.6. KENYA

4.6.1. Legal framework

When faced with a public emergency, the Constitution of Kenya permits the president to declare a state of emergency. On the basis of article 58(1) of the Constitution, a state of emergency may be declared only when '(a) the State is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and (b) the declaration is necessary to meet the circumstances for which the emergency is declared'. However, the President of Kenya did not declare a state of emergency in response to the outbreak of Covid-19. Instead, he imposed restrictive disaster management measures, grounded in various pieces of legislation, mainly section 8 of the Public Order Act 2020, on the basis of which he imposed a curfew from dusk until dawn; and the Public Health Act 2012, on the basis of which various health regulations were introduced.

4.6.2. Parliamentary responses since the start of the Covid-19 pandemic

Legislative work

On 31 March 2020, the Senate established the Ad Hoc Committee on the Covid-19 Situation in Kenya to oversee actions and measures taken by the national and county governments in addressing the spread and effects of the pandemic (Kenyan Senate 2020b). Following a review of the legislative responses from other jurisdictions (Kenyan Senate 2020a),⁹ the Committee undertook to drafting the Pandemic Response and Management Bill (Senate Bill No. 6 of 2020b). The main object of the bill was to outline: an effective and efficient response mechanism to pandemics whenever they arise; prevention, mitigation and containment measures; and a strategy to support the most afflicted victims of the pandemic and its effects.

The bill included overarching provisions on the following areas, among others: establishment of a National Pandemic Response Committee, its composition, functions and powers; establishment of County Government Response Committees, their composition, functions and powers; establishment of a Pandemic Response Fund, upon declaration of a pandemic by the president, and its purpose, expenditure, sources and winding up at the end of a pandemic; and socio-economic measures during pandemics, including tax incentives, measures to cushion the public in meeting their financial obligations and guidelines for that, a moratorium on penalties by financial institutions, guidelines on tenancy agreements, guidelines on labour relations, waiver of water and electricity charges, suspension of trade licence renewal fees and payment of property rates. Provisions for non-compliance included description of different offences related to the interpretation of the bill and management of pandemics and the penalties that follow such offences.

Parliament did not enact the bill. However, the bill informed several piecemeal amendments to other existing legislation. Parliament introduced amendments to tax legislation and adapted the Finance

⁹ The committee reviewed measures taken in Argentina, Australia, China, Denmark, India, Italy, Mexico, Nigeria, Rwanda, South Africa, South Korea, Uganda, United Arab Emirates, United Kingdom and the United States.

Following a review of the legislative responses from other jurisdictions the Committee undertook to drafting the Pandemic Response and Management Bill. Parliament did not enact the bill.

Act 2021 purposely to respond to the pandemic. In addition, the proposed Health (Amendment) Bill 2021 is intended to enable expanded right to health in accordance with the Constitution.

The Tax Laws (Amendment) Bill 2020a came into effect on 25 April 2020 and made significant amendments to the tax regime.¹⁰ The legislation overhauled the capital and investment allowances and tax exemption regime under the Income Tax Act, reduced the corporate tax rate, pay as you earn tax bands, and value added tax (VAT) rate, expanded the list of items that are subject to VAT with previously exempted supplies, and provided VAT exemption for personal protective equipment. The act provided for reduction of income tax from 30 per cent to 25 per cent; gave complete tax relief to people earning less than KES 24,000; reduced the corporate income tax rate from 30 per cent to 25 per cent; reduced the turnover tax rate for small and medium-sized enterprises from 3 per cent to 1 per cent; and stipulated an immediate reduction in the VAT rate from 16 per cent to 14 per cent. The Finance Act 2020c came into effect on 30 June 2020 and introduced further tax measures and a revised exemptions regime under the Income Tax Act 2018.

As part of their oversight capacity, the Ad Hoc Committee and the Parliamentary Committee for Health (National Assembly) have reviewed the interventions by the executive.

Oversight functions

As part of their oversight capacity, the Ad Hoc Committee and the Parliamentary Committee for Health (National Assembly) have reviewed the interventions by the executive. They have looked into the necessity, scope, practicability and effect of the government measures on public order and restrictions on freedoms. The measures taken between March and May 2020 have been continued with different variations taking into account the changing severity of the pandemic. The measures include: travel bans; dusk until dawn curfews; closure of schools, workplaces and places of worship; bans on public/social gatherings, including political rallies; spread precautionary directives, including social distancing, mask-wearing, handwashing and reduced passenger capacity in public service vehicles; food aid; expanded health insurance; an increase in capacity, supply and human resources in the health sector; and healthcare worker training.

¹⁰ The act introduced amendments to various different tax legislation, including: the Income Tax Act 2018, Value-Added Tax Act 2013, Excise Duty Act 2019, Tax Procedures Act 2020, Miscellaneous Fees and Levies Act 2016, and the Kenya Revenue Authority Act 2018.

The Senate Health Committee conducted a probe into allegations of corruption and misappropriation of funds intended for response to the pandemic by Kenya Medical Supplies Authority (KEMSA). The Committee delivered its report in March 2021, after months of interviews and investigations, and noted serious defects in the procurement procedures and notable malpractices by top KEMSA officials. The Committee recommended that the Directorate of Criminal Investigations and the Director of Public Prosecutions embark on an investigation of the companies that received tenders from KEMSA, to ascertain whether there was collusion (Oruko 2021). In its report issued in June 2021, the Committee further recommended that all medical supplies in KEMSA storage be sold at market price, despite the predicted loss in value. It also recommended a review of the KEMSA Act to allow counties to procure their medical supplies from private sector and non-governmental agencies (Wangira 2021).

Sittings and committee meeting protocols the during Covid-19 pandemic

Following the pandemic, parliament put in place various measures to ensure the continuance of parliamentary functions while mitigating the spread of the virus. The speakers of both houses released guidelines for members of parliament and senators during the pandemic (Kenyan Parliament 2020). These included: a ban on foreign travel; conferences, retreats and workshops to be held within the precincts of parliament; the suspension of school party visits; the restriction of the entrance or movement of other visitors to parliament; and encouraging committees to defer their sittings and visits outside parliament. These were complemented by the usual sanitization measures, including handwashing, observing social distancing, and testing and quarantine of affected members of parliament.

Parliament put in place various measures to ensure the continuance of parliamentary functions while mitigating the spread of the virus.

4.7. NIGERIA

4.7.1. Legal framework

The parliament in Nigeria is made up of a bicameral National Assembly at the centre in the Federal Capital Territory, Abuja, while each of the 36 constituent states of the federation has a state

House of Assembly. This branch of government is saddled with the responsibility for making laws for the welfare and good governance of the country within their respective domains, as delineated by the 1999 Constitution (as amended) in sections 4(1) and 4(6).

The National Assembly consists of 109 senators of the Federal Republic of Nigeria and a 360-member House of Representatives. In the Senate, each of the 36 states is represented by three senators, while the Federal Capital Territory has one. The need to account for the equality of the states that make up the Nigerian federation is the rationale for this type of representation. However, in the House of Representatives, representation is on a proportional basis, according to the landmass and population of each state.

The Constitution provides that the legislative powers of both the National Assembly and the states' Houses of Assembly must be exercised to achieve good governance and welfare of citizens. Accordingly, the National Assembly has been imbued with the three key functions of law-making, oversight and appropriation. The Constitution further provides for the president to proclaim the National Assembly into being at the first sitting of the first session (section 64(3)). The current 9th National Assembly was proclaimed into being on 11 June 2019. Less than one year into the four-year tenure of the Assembly saw the start of the Covid-19 pandemic in Nigeria.

When faced with a public emergency, the Constitution of Nigeria permits the president to declare a state of emergency.

When faced with a public emergency, the Constitution of Nigeria permits the president to declare a state of emergency. However, according to section 305(3), in conjunction with the Emergency Powers Act 1961, these emergency powers may only be invoked when the public emergency constitutes:

... a war, imminent danger of invasion or involvement in a war; actual breakdown of public order and safety in the Federation to such extent as to require extraordinary measures to restore peace and security; clear and present danger of an actual breakdown of public order and safety requiring extraordinary measures to avert such danger; occurrence or imminent danger, or the occurrence of any disaster or natural

calamity; or other public danger which clearly constitutes a threat to the existence of the Federation.

The president's proclamation of a state of emergency is subject to approval by two-thirds of all the members of both chambers of the National Assembly and can only be in force for a maximum period of six months unless extended by the National Assembly (section 305 (6) of the Constitution).

Alternatively, when faced with a public emergency such as a health pandemic, the government has an option to institute disaster management measures on the basis of specific legislation. In response to the Covid-19 pandemic, the President of Nigeria decided to institute measures on the basis of the Quarantine Act of 1926. Although a colonial piece of legislation that has been in need of review for many decades, the Quarantine Act provided a legal framework for the activation of emergency measures to combat the spread of Covid-19. It gives the president wide-ranging powers to help in 'preventing the introduction into and spread in Nigeria, and the transmission from Nigeria, of dangerous infectious diseases'. It also gives the president power to make broad and targeted regulations or other forms of quasi-legislation for containing the outbreak of an infectious disease.

President Muhammadu Buhari relied on the Quarantine Act to issue the first Covid-19 control measures in 2020 (Covid-19 Regulations 2020), which declared Covid-19 a 'dangerous infectious disease' and imposed a lockdown in the states of Lagos, Ogun and the Federal Capital Territory in March 2020. Under this act, a president is not required to obtain legislative approval for emergencies designed to control the spread of dangerous diseases. However, parliament enjoys the powers to exercise oversight on the implementation of disaster management measures introduced on the basis of this act.

4.7.2. Parliamentary responses since the start of the Covid-19 pandemic

Temporary adjournment

In compliance with the lockdown declared by the President in response to the Covid-19 pandemic, on the basis of the Quarantine

Act, parliament adjourned its business temporarily for two weeks, starting from 3 March 2020. Parliament resumed its business following pressure from society after legal experts questioned the legality of the decision by the President to include parliament among those placed under the lockdown measure.

It must be noted that before the adjournment, both chambers of the National Assembly were conducting their business, particularly in providing oversight on the executive's responses to the outbreak of Covid-19.

Oversight actions

However, it must be noted that before the adjournment, both chambers of the National Assembly were conducting their business, particularly in providing oversight on the executive's responses to the outbreak of Covid-19. Figure 4.2 and Figure 4.3 illustrate the oversight actions taken by parliament between January and March 2020.

Since resuming business, parliament has established an Ad Hoc Parliamentary Committee on Covid-19 to liaise with and provide oversight on the disaster management measures undertaken by the President, through the Presidential Task Force on Covid-19 (which later transmuted into a Presidential Steering Committee).

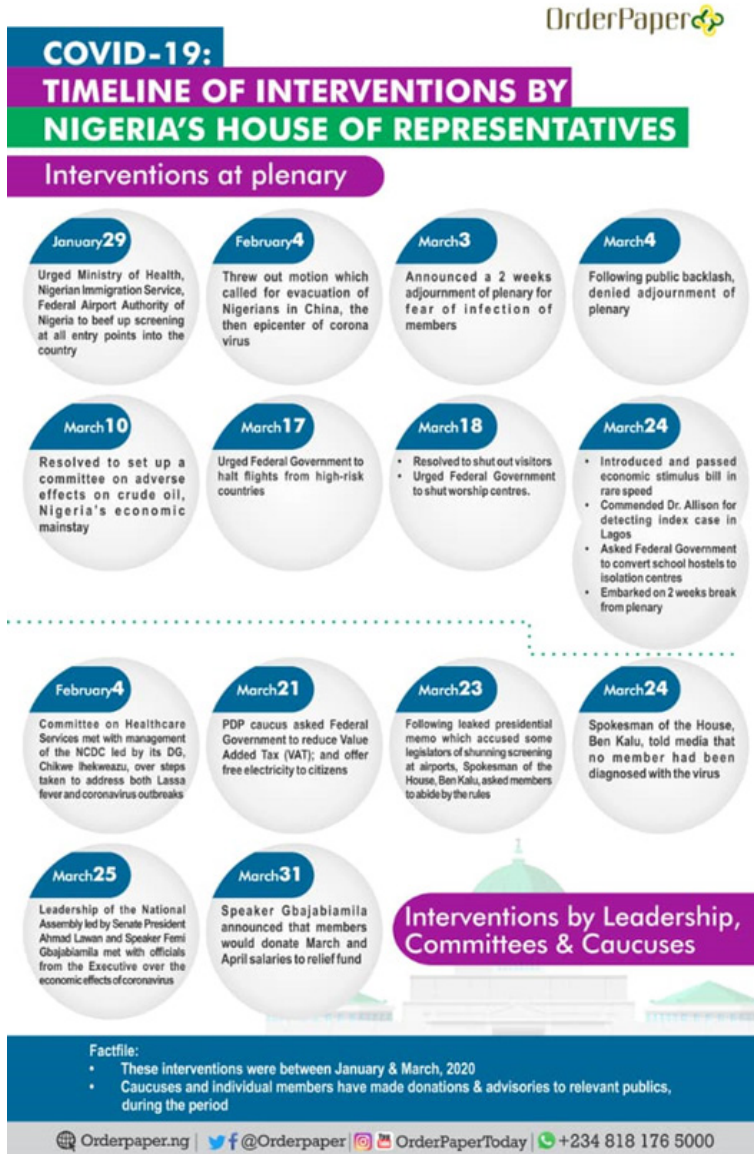
Law-making

Since the outbreak of Covid-19, the National Assembly has considered and proactively developed a couple of legislative proposals mainly targeted at addressing the pandemic. These include the Control of Infectious Diseases Bill 2020, and the Economic Stimulus Bill 2020, both of which were sponsored by the Speaker of the House of Representatives. While the former became very controversial and got lost in the melee, the latter was actually passed speedily and transmitted to the Senate for concurrence. The executive also introduced the Supplementary Appropriation Bill 2020, to attend to fiscal hiccups occasioned in the national budgeting process as a result of Covid-19, and this was passed by parliament. Notably, a constitutional alteration bill (see Iroanusi 2020) is now working its way through the law-making processes under the rubric of the Senate Ad Hoc Committee on the Review of the 1999 Constitution, to allow for virtual conduct of judicial proceedings in both criminal and civil matters, as may be necessary.

Since the outbreak of Covid-19, the National Assembly has considered and proactively developed a couple of legislative proposals mainly targeted at addressing the pandemic.

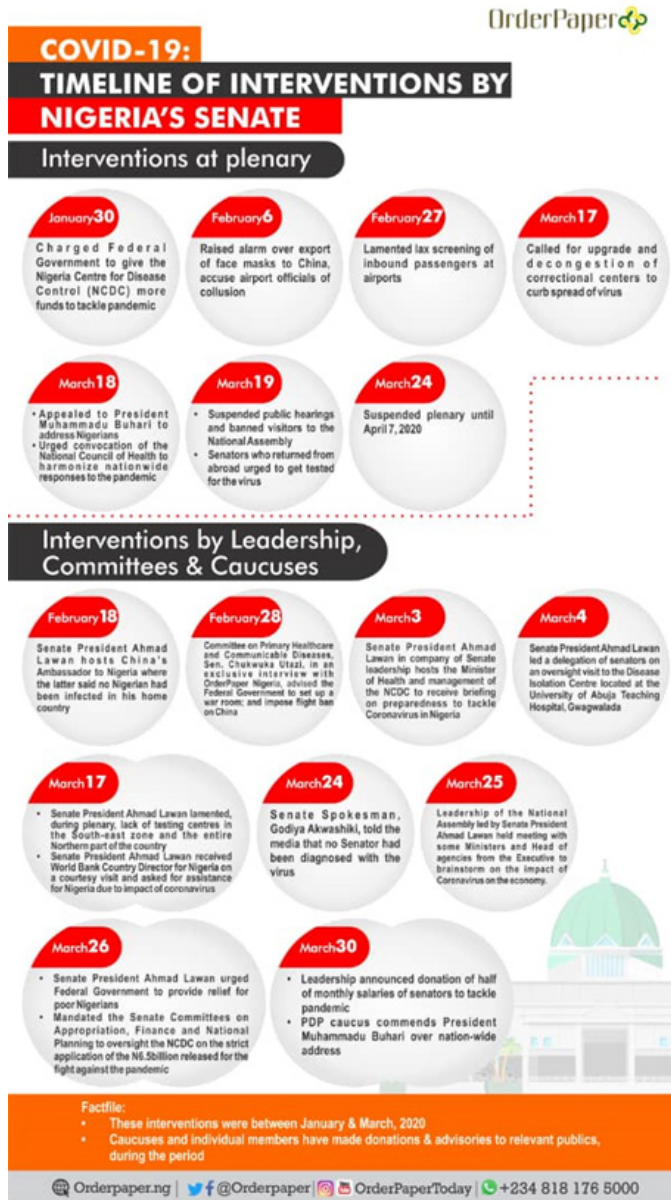
However, in general terms, the pandemic slowed down parliament's productivity in discharging its law-making functions. The impact becomes clear when a comparison is made between the number

Figure 4.2. Covid-19 actions taken by the House of Representatives, Nigeria, January–March 2020



Source: OrderPaper Nigeria, 'Parliament and Pandemic: Shifts in Citizen Participation and Inclusion. A Prognosis on Nigeria Post-Covid-19', OrderPaper Intelligence Unit, May 2020, <<https://www.ipu.org/file/9334/download>>, accessed 9 August 2022.

Figure 4.3. Covid-19 actions taken by the Senate, Nigeria, January–March 2020



Source: OrderPaper Nigeria, 'Parliament and Pandemic: Shifts in Citizen Participation and Inclusion. A Prognosis on Nigeria Post-Covid-19', OrderPaper Intelligence Unit, May 2020, <<https://www.ipu.org/file/9334/download>>, accessed 9 August 2022.

of bills introduced in the House of Representatives before and after the pandemic-imposed lockdowns. Records accessed from the National Assembly for the purpose of this study reveal that a total number of 853 bills were sponsored between June 2019 and May 2020, representing 62.49 per cent of the grand total of 1,365 bills introduced in the first two years of the tenure. By contrast, only 511 bills representing 37.34 per cent of the grand total were gazetted between June 2020 and May 2021. While the precise figures for the Senate could not be immediately ascertained, this study reveals that the story was not any different with the upper chamber. This clearly shows how much more work could have been done by the legislators if the lockdowns and other Covid-19 protocols were not compulsorily introduced for parliament.

Chapter 5

KEY FINDINGS AND RECOMMENDATIONS

The key findings of this study can be summarized as follows:

1. While there are numerous global frameworks providing guidance to help parliaments be effective in carrying out their mandates, there is only one regional framework in Africa adopted mainly by parliaments in the SADC region. There seems to be no pan-African framework of guidelines on enhancing the effectiveness of parliaments.
2. None of the existing global and regional frameworks provides guidance on the role of parliament during public emergencies and on how parliaments can discharge their roles and functions effectively during a public emergency.
3. Governments and parliaments were generally caught unprepared when the Covid-19 pandemic spread to Africa in March 2020, and parliaments have been struggling to operate since then. However, some of the parliaments have demonstrated resilience in adopting various innovative measures to enable them to continue operating.
4. There is limited awareness among parliamentarians on their role during public emergencies. There is a strong perception among parliamentarians that, during a public emergency, they should defer to the executive with minimum oversight.
5. Some countries lack or have outdated national disaster management legislation.
6. The Covid-19 pandemic disrupted the work of parliaments across the continent. This was evident in (a) parliaments not being able to execute their functions in the first few months after the start of the pandemic; and (b) the executive branch having the power to

act unilaterally and, in some cases, abuse their emergency powers while parliaments took a back seat or were undermined.

7. Parliaments took some time to adapt their internal rules and processes to enable them to function during the Covid-19 pandemic. This was partly because the legal frameworks regulating most parliaments limit their ability to react quickly to a public emergency, notably through requirements for parliamentarians to be physically present in chambers for parliamentary sessions.
8. Parliaments' adoption of information communication technologies to allow for virtual and hybrid meetings and public participation has been innovative, although it has led to unequal public accessibility due to inequalities in Internet access and technological knowledge.
9. Covid-19 led to parliaments using new measures to oversee the executive beyond physical meetings—for instance, through the executive sharing reports with parliamentary committees on a regular basis outside of physical committee meeting settings.

Based on these findings, International IDEA and the SADC PF make the following recommendations to regional and international parliamentary organizations, national parliaments, civil society organizations, donors and international cooperating partners and other stakeholders working to support parliamentary democracy in Africa:

1. *Pan-African guidelines on the role of parliament during public emergencies.* There is a need to facilitate the development of pan-African guidelines on enhancing the effectiveness of parliaments, including during public emergencies. The existing SADC PF 'Benchmarks for Democratic Legislatures in Southern Africa' (2010) can be revised and adapted for these purposes. The House Democracy Partnership's 'Guidelines for Parliaments Functioning in a Time of Pandemic' (2021) can also be a useful resource for this exercise. Positioned within the context of article 4 of the International Covenant on Civil and Political Rights (ICCPR), the guidelines should identify the roles of parliament during a public emergency and should suggest benchmark indicators for

measuring the effectiveness of a parliament in performing those roles.

2. *Education of parliamentarians, information communication technology and broadcasting of proceedings.* As part of parliamentary capacity-strengthening, there is a need to promote (a) the education of parliamentarians on the role of parliament during public emergencies, particularly in emphasizing that parliamentary oversight on the executive is critical during public emergencies; (b) the acquisition and installation of information communication technology that is adequate for parliamentarians to continue conducting proceedings virtually as an alternative to physical sessions; and (c) transparency in the government's crisis interventions through live-streaming committee meetings and plenary sittings—including the questioning of the head of state and cabinet ministers—on various media platforms, which, in turn, expands public access to the work of parliament.
3. *Model pan-African national disaster management legislation.* There is a need to develop model national disaster management legislation, which can be used by parliaments on the continent to draft and enact their own national disaster management laws and to review and strengthen their existing national disaster management legal frameworks. The model legislation should include providing a definition of 'public emergency'; setting out procedures for undertaking a declaration of a state of emergency or a state of disaster; setting out the role of parliament in approving the declaration; providing for mechanisms for parliamentary oversight, transparency and public participation or involvement in disaster management; and carving out the role of parliament in the oversight of disaster management resources.
4. *Model guidelines on virtual proceedings.* Model guidelines for virtual and hybrid meeting standing orders should be developed in order to enhance the capacity of parliaments to conduct proceedings virtually during public emergencies, as an alternative to holding physical sessions. These guidelines should include provisions on public participation and transparency.
5. *Review of internal rules.* There is a need for a comprehensive review of and the subsequent adaptation of internal parliamentary rules of procedure to enable parliaments to respond quickly in the event of a public emergency. For example, the rules of procedure should permit the relocation of the seat of parliament, a reduced

quorum for certain deliberations, the delegation of certain parliamentary authority to parliamentary subcommittees, remote voting, and the conduct of virtual proceedings during public emergencies.

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During a crisis such as a public emergency, the effectiveness of parliaments should be assessed by considering their ability to activate in a timely manner the necessary disaster management legislative framework, and to provide oversight to ensure that such legislation is applied by the executive in a necessary, non-discriminatory and proportional way.

There are various global and regional frameworks designed to guide parliaments on improving and assessing their effectiveness. The question is whether these guidelines were relevant and helpful as a resource for aiding effective parliamentary responses to the Covid-19 pandemic.

ISBN: 978-91-7671-630-4 (PDF)