



PARLIAMENTS RESPONDING TO A PANDEMIC:

Lessons Learned for Emergency Planning



Report from the
House Democracy
Partnership and
Swiss Agency for
Development and
Cooperation

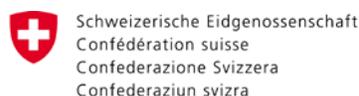
Researched and
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Swiss Agency for Development
and Cooperation SDC





Disclaimer: This report was prepared by Kevin Deveaux, Natália Švecová, and Tim Baker through The House Democracy Partnership (HDP), with the support of the Swiss Agency for Development and Cooperation (SDC), and programming from the National Democratic Institute (NDI). The authors' views expressed in this report do not necessarily reflect the views of The House Democracy Partnership (HDP), The Swiss Agency for Development, and Cooperation (SDC), the National Democratic Institute (NDI).

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LIST OF ACRONYMS USED

BYOD	Bring Your Own Device
ECPRD	European Centre for Parliamentary Research and Documentation
EU	European Union
HDP	House Democracy Partnership
HOR	House of Representatives (U.S. Congress)
MEP	Member of European Parliament
MP	Member of Parliament
NDI	National Democratic Institute
PPE	Personal Protective Equipment
PSP	Parliamentary Support Programme
ROP	Rules of Procedure
SDC	Swiss Agency for Development and Cooperation
WHO	World Health Organization

ABOUT THE REPORT PARTNERS:

The House Democracy Partnership (HDP): The mission of the House Democracy Partnership is to work with countries around the world to promote responsive, effective government, and strengthen democratic institutions. Central to our work is peer-to-peer cooperation to build technical expertise in partner legislatures that will enhance accountability, transparency, legislative independence, access to information, and government oversight. HDP currently has partnerships with more than 20 national legislatures around the world.¹ Areas of cooperation with HDP partner parliaments include addressing budgetary issues, ensuring more effective committee operations, enhancing constituent services, providing tools for stronger oversight, strengthening legislative ethics, and improving IT, library and research, and legislative process and procedure.² HDP programs are implemented by the National Democratic Institute (NDI) and the International Republican Institute (IRI) through a cooperative funding agreement with the U.S. Agency for International Development (USAID).

The Swiss Agency for Development and Cooperation (SDC): The Swiss Agency for Development and Cooperation, as a part of the Swiss Federal Department of Foreign Affairs, is committed to ensuring that public services are performed competently in the interests of all citizens, which means addressing key issues such as decentralization, democratization, corruption, natural resources and human rights. Promoting democracy is a foreign policy priority for Switzerland. In partnership with the Assembly of the Republic of Macedonia, SDC is undertaking the Parliament Support Programme (PSP) to support the Assembly's strategic goals of professional and efficient lawmaking, parliamentary transparency, and effective representation of citizen interests. The PSP is implemented by the National Democratic Institute (NDI), Institute for Democracy Societas Civilis Skopje, and Center for Change Management. PSP interventions are drawing on Swiss, Estonian, EU, German, and other European legislative expertise, among other things, to advance transparency and efficient decision-making processes, citizen participation, and digitalization.

The National Democratic Institute (NDI): The National Democratic Institute (NDI) is a nonprofit, nonpartisan, nongovernmental organization working to support and strengthen democratic institutions worldwide through citizen participation, openness, and accountability in government. Since its founding in 1983, NDI has worked with local partners in 156 countries and territories, bringing together individuals and groups to share ideas, knowledge, experiences, and expertise. Partners receive broad exposure to best practices in international democratic development that can be adapted to the needs of their own countries. NDI's multi-national approach reinforces the message that while there is no single democratic model, certain core principles are shared by all democracies. To that end, NDI focuses technical cooperation on developing sustainable political parties, giving voice to women and underrepresented groups in the political process, enhancing citizen participation at all levels of government and society, developing more effective, open and accountable government in the interest of all citizens and political process participants and identifying new applications for technology in the democratic process.³

EXECUTIVE SUMMARY

As with every institution and organization globally, parliaments have been disrupted by the global pandemic. Public health provisions meant to limit the spread of the COVID-19 virus have also played havoc with traditional ways of working and communicating. But parliaments are unique in some ways as well. The routine travel of members of parliament (MPs) between their district and the capital, the constant engagement of the public in their work, the need for data and information and the need to fulfill a constitutional mandate, among other factors, have resulted in parliaments having to adapt rapidly so the essential business of governing can continue. As important, the global pandemic is a major health, economic and social crisis that should be a wake-up call for all parliaments. There is a need to be resilient not only in response to a pandemic, but also as part of contingency planning prior to a future crisis of this magnitude, whether that be another pandemic, natural disaster, military conflict, economic crisis or cyberattack.



(Canberra, Australia, April 8, 2020) Prime Minister Scott Morrison delivers a ministerial statement on COVID-19 in the House of Representatives. Source: Photo by Sam Mooy / Getty Images

The House Democracy Partnership (HDP) and the Swiss Agency for Development and Cooperation (SDC), with facilitation from the National Democratic Institute, has produced a guide to help partner parliaments to reflect on their work and how it can be adapted to ensure more resilience in times of severe operational challenge. This handbook provides practical examples and a tool to reference for discussion on the various aspects of the work of parliaments, and provides a series of questions and guidelines for consideration and self-reflection by parliaments and their leadership.

Considering such aspects of the work of parliament allows for a more thoughtful consideration of how lessons have been learned during the pandemic and how those lessons can be applied to legislatures to inform their planning for future work.

Legal Framework: Many parliaments quickly realized that the legal framework — primarily the national constitution and its rules of procedure — were limiting their flexibility to adapt to the emergency. Some countries amended their constitutions to allow their parliaments to meet remotely or in multiple locations. Others made amendments to their rules to reduce quorums or to allow remote voting. No matter the adjustment, if the legal framework does not allow for some adaptability during an emergency, then this will be a significant challenge during a future crisis.

MPs and parliaments have a unique role in governing systems as the representatives of citizens in decision-making. There are specific **parliamentary privileges** that MPs have in order to meet their mandate that are difficult to maintain during an emergency. The right to **freedom of expression** for MPs is often tied to being physically present in the precincts of the parliament. Pipelines for **access to information** were cut or limited during the pandemic. Yet information is the lubricant that ensures the machinery of governance and oversight is functioning properly.

Plenary Sessions: Parliaments can be divided into three groups with regard to their reaction to the pandemic. One group decided to hold plenary sessions fully online and virtually. A second group determined that a hybrid model — limited attendance in person and virtual sessions combined — was the best option. A third group was determined to maintain fully in-person sessions. No matter which option is chosen, each parliament had to adapt their work to ensure the ability to meet constitutional representative, legislative, and oversight mandates.

Specifically, parliaments had to consider their **schedule and agenda** for plenary sessions, as routine schedules were not feasible, and some items were more prominent on each daily agenda. A key challenge for those parliaments that worked, in whole or in part, virtually was **remote voting**. Some legislatures used procedures to maintain secure

voting on draft laws and motions, such as proxy voting and party bloc voting. Others moved quickly to allow remote voting by electronic means. Some developed bespoke apps, while others used more rudimentary methods to record votes from MPs who were not in the chamber. No matter the option chosen, there are significant security and authentication protocols that are required to ensure MPs are voting and are doing so transparently.

Committees: To a great extent, parliamentary committees have provided the flexibility that many parliaments required to function during the pandemic. **Special emergency committees** were established by a number of parliaments to both manage their affairs and to allow some flexibility in how plenary sessions could be held. Many parliaments prioritized key oversight **permanent committees** to ensure they were functioning virtually and rapidly. As capacity was enhanced parliaments managed multiple committees, which required a significant adaptation to their work and extra human and financial resources to ensure the committees were functioning effectively.

Core Functions: As unprecedented funding was approved and expended by governments globally in response to the pandemic, parliaments were hard-pressed to maintain effective **oversight** and monitoring of such spending. One positive was that where a parliament had provision for a routine question time it was easy to maintain under hybrid and fully virtual systems. There were indications that interpellations also continued. Many parliaments were faced with short timelines to pass supplementary budgets to cover the extraordinary expenses proposed by governments.

With regard to **lawmaking**, parliaments were at first willing and able to expedite necessary legislation to address the emergency. But this has raised concerns about when a more robust scrutiny of draft laws should be reinstated to ensure the quality of legislation is not impacted in the long-term.

There are indications that with regard to **representation**, there was significant innovation. Individual MPs adapted their work to the con-g platforms were used to meet with citizens and civil society.

Gender Impact: The pandemic exposed the extraordinary challenges faced by women who are in the workforce while bearing the burden of increasing caretaking responsibilities, and women MPs were no different. The pandemic provided a case study in both positive and negative adaptations to the work of parliaments. But a key lesson learned has been the need to consider the impact of all such changes on both men and women to ensure issues such as technology and new rules did not negatively affect women more than men. This will likely require a more thoughtful and inclusive approach to decision-making in the parliament and has exposed the need for women to assume leadership roles and are represented in political processes to ensure their voices are heard “at the table” when changes are being considered.

Transparency: Over the past decade there has been a growing number of parliaments that have recognized the value of a more open and transparent approach to their work. This is not only about broadcasting session and committee meetings, but also implementing a more systemic approach to ensuring data and information is accessible to citizens and civil society to allow them to hold MPs to account for their decisions. The pandemic expedited such work for some parliaments, while others struggled to meet expectations.

Information Technology: The “golden thread” running through all of the issues noted above is the need for a shift to digitalization by parliaments to enhance their resiliency, to become more open and transparent and to maintain core functions. Those parliaments



Edinburgh, Scotland, May 18, 2021). Scottish Labour party leader Anas Sarwar, who is self-isolating as a result of a member of his household testing positive for Covid-19, speaks remotely during the session to elected Scotland’s First Minister. Source: Jane Barlow / Gettyimages.com

that had already begun the shift to digitalizing their workflows, with access to information and committee proceedings, were best able to adapt to the pandemic. There were many issues that arose as a result of the emergency as IT became more prevalent in the work of parliaments. First, the pandemic exposed a technology deficit amongst MPs, especially women and those from remote areas who have previously faced challenges in the use of IT. Each parliament also had to consider how it would ensure all MPs had access to the hardware and software they needed to function and participate equally in proceedings. On top of these challenges, it became clear quickly that addressing security issues — including the authentication of MPs prior to voting and preventing cyberattacks — were critical to the successful transition to a more digital legislative process. It also became clear that skill development and technical support was required to ensure that all MPs could access and use technology equally.

As parliaments evaluate how they adapted to the pandemic, it is an opportunity to consider how to build a permanent resilience into everyday work to ensure preparation for the next major emergency. By sharing stories and case studies from other parliaments, HDP and PSP hope that all parliaments can recognize best practices and begin the process of planning for a more robust institution that can quickly adapt to any emergency that may impact their role as the national decision-making body.

I. INTRODUCTION

Background

Since March 2020, the coronavirus pandemic has touched practically every aspect of people's lives worldwide. Every country, institution and individual has had to make adjustments to their normal way of working and living in order to suppress the virus. Yet, as can be seen, there are as many methods and approaches to adaptation and mitigation of the harms of the virus as there are countries and institutions. With the pandemic still having a significant impact around the world, it is critical that core government institutions, including legislative bodies, make the adjustments that are required to continue their work in such challenging times while also learning lessons that can be applied in future emergency contexts.

As 2020 drew to a close, the United States alone experienced nearly 20 percent of all cases of infection and almost the same percentage of global deaths since the outbreak began early this year.⁴ Worldwide, of the nearly 50 million cases and 1.2 million deaths reported and recorded to date, the top five most-infected countries — the United States, India, Brazil, Russia and France — account for nearly half of all cases.⁵ These rapidly changing statistics have a very real impact on the daily lives of citizens and demand adaptive government in response. The longer-term impact on parliaments around the world will become evident even with the introduction of a vaccine to inoculate the world's populace.⁶



(Barcelona, Catalonia, Spain, May 13, 2021). Session Of Control To The Government In The Parliament Of Catalonia

Source: Europa Press / Gettyimages.com

Political success in legislatures is often measured by the relationships and coalitions built to achieve positive change through policymaking, representation and oversight of the executive. To achieve this, MPs are required to interact with voters, civil society, academia, government officials, foreign dignitaries, and others on a daily (if not hourly) basis. At the beginning of the pandemic in March 2020, numerous news reports emerged of MPs contracting COVID-19.⁷ This resulted in a serious concern that parliamentarians, and parliaments more generally, were potential “superspreaders” given their level of travel to and from the capital to constituencies and local offices. As public and government awareness increased with scientific evidence of the cause and catalyst for the virus's spread, parliaments worldwide began adapting to the unique challenges each faced throughout this year and will continue to face in the next.

As the COVID-19 pandemic has forced countries around the world to implement measures to stop the spread of the virus, often limiting or prohibiting in-person gatherings, legislatures have grappled with how to continue to conduct legislative business when the current context has strained and challenged usual operations. In response, parliaments have implemented procedural changes, moved to remote work and passed emergency legislation to assist citizens, businesses and the most vulnerable populations affected by the crisis.

Yet the political context is different for each country and this has resulted in a variety of reactions from parliaments as they adapt their work to the pandemic. Examples range from fully virtual meetings to fully in-person sessions. Each parliament has had to consider what will work in its context, considering a number of variables, including the legal framework under which it operates, its communications and physical IT infrastructure and the managerial procedures of the administration of the parliament and political party factions.

To that end, the House Democracy Partnership and the Swiss Agency for Development and Cooperation,⁸ are providing this resource for use by partner parliaments to highlight the impact of the COVID-19 pandemic on the work of parliaments globally, while providing practical guidance based on current experience as a roadmap of options for parliaments to utilize as they determine how to continue to operate under the pandemic context. But beyond the impact of the pandemic, it is hoped that this paper will also provide some lessons learned for parliaments as they consider their work in light of future major emergencies that may have a similar level of disruption to legislative work.

This guide is intended to provide lessons learned for parliaments to adapt to the challenges posed by the pandemic and possible future disruptive emergencies, along with best practice examples reflecting geographic and systemic diversity worldwide. These include specific, innovative case studies from relevant parliaments as to how they have adapted their work as a result of the pandemic. It also includes short briefs from a number of parliaments that describe their responses and identify alternative methods for allowing MPs and staff to engage safely to fulfill their parliament's representative, legislative and oversight roles.

This paper is also intended to provide a balanced overview of how parliaments can continue to fulfill their core functions during a major emergency while identifying specific modalities for engaging in plenary sessions, continuing committee work and engaging constituents both remotely and in person. This guide is also a tool for discussion and analysis within HDP partner parliaments, with reference to the topic-specific questions, short case studies and best practice examples cited throughout. HDP and SDC hope to encourage reflection on how each parliament will respond to these good practices while adapting the content to their own unique and country-specific circumstances.

Goals of the Research Paper

This paper provides evidence of how parliaments are adjusting to the COVID-19 pandemic since the worldwide outbreak began in early 2020. To that end, it identifies key issues that require attention by parliaments to adjust to present circumstances while adapting new tools and techniques (such as information technology (IT) to daily operations and management of key roles and responsibilities.

With legislative, representative and oversight functions in mind, this guide introduces lessons learned and techniques applied since the declaration of a global pandemic and identifies key guidelines for institutionalizing changes to parliamentary processes and procedures that may provide for more effective core functions even after the pandemic has passed and parliaments seek ways to reset their operational structure to a more effective and efficient government in the best interests of the citizens they represent.

To that end, examples of parliaments that have already implemented such changes are highlighted, and these short case studies are intended to inform potential adaptations by those using this guide for their own circumstances. The adoption of reliable information technology, for example, is just one way that parliaments can not only improve their internal operations on a permanent basis, to support resilience in the case of a major emergency and also allow a parliament to more effectively and broadly engage citizens who may not have direct access to parliamentary premises, committees or their MP on a regular basis.

This paper will also provide an opportunity for reflection. Each section will have a set of guidelines based on experiences that have been successful to date. It will also pose a small set of questions for each section that can form the basis of a discussion amongst key actors in a parliament as to how they should think about their work, given the need to adjust to the pandemic

II. KEY FACTORS IN BUILDING RESILIENT PARLIAMENTS

When exposed to an emergency situation such as a pandemic or natural disaster, the resilient parliament is able to resist and adapt to novel and challenging circumstances in an efficient and timely manner through preservation and restoration of its essential functions (lawmaking, oversight and representation) and structures (plenary and committees). The cornerstone of any such adaptation is a solid and foreseeable legal framework comprised of a constitution and parliamentary rules of procedure that guarantee the rights of the opposition and minority MPs, while bringing operational clarity to the parliamentary process.

Legal Framework

A nation's legal framework (mostly notably its constitutional provisions and parliamentary rules and procedures) has a strong impact on the ability of parliaments to adapt their procedures to comply with public health requirements while still meeting core functions. A strong legal framework is critical to an effective parliament that is able to fulfill its constitutional mandate to make laws, monitor government activities and spending and to represent citizen issues and concerns in government decision-making. But a legal framework that is too prescriptive can also create challenges in an emergency circumstance, such as a pandemic.

Since the pandemic was declared, there have been clear examples of how flexibility built into a legal framework can have a positive impact on the ability of a parliament to continue to effectively function.

Delegation of Lawmaking Authority

In almost all political systems, it is the parliament that has the ultimate authority to adopt laws. But in an emergency, there may be a need to be more flexible in how those laws are approved and scrutinized.

Certain constitutional systems in the world enable the parliament to grant, in an emergency situation, special decision-making powers to the government (delegated legislation or decree-making). For example, on March 11, 2020, the Hungarian Government declared, pursuant to the Constitution, the state of emergency, which provided for governmental decrees — in force for 15 days — which may deviate from or suspend existing legislation, except for the fundamental rights and freedoms. The Parliament passed Act XII of 2020, which authorized such decrees to be extended until the end of the emergency state, while retaining the Parliament's right to revoke this mandate at any time. The Act also set forth the government's continuous obligation to inform the Parliament about its decisions on a weekly basis until the end of the state of emergency. On June 16, 2020, the Parliament unanimously decided to terminate the state of emergency and lift the emergency powers ceded to the government in March.⁹

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Similarly, on March 21, 2020, the Norwegian parliament adopted the Enabling Act, empowering the government to temporarily assume a number of constitutionally mandated powers of the Parliament. The Act was valid for a month but could have been repealed by the Parliament at any time.¹⁰

Nevertheless, even in such a compelling situation, it is still crucial to ensure the democratic performance of parliaments. The lawmaking and oversight functions of parliaments cannot be neglected or reduced as parliaments and parliamentarians are the direct representative voice of citizens. Thus, the delegation of powers should be carefully considered, especially in developing democracies.

Constitutionally Mandated Location for Parliamentary Sessions

A second challenge is that a number of jurisdictions were limited in their ability to shift to virtual sittings of their parliament (and even for some committees) due to a constitutional provision that requires that the parliament sit in the capital or that MPs must attend in person at the parliament precinct. These provisions drew very little attention until COVID-19 forced many parliaments to adapt and decide to meet either virtually or in a hybrid fashion (i.e., both in-person with limited attendance and remotely online).

Given that many constitutions require the presence of MPs in the parliament building or adjacent meeting space, assessing the need to amend the constitution to meet the standard of “present in parliament” is crucial. Rigid interpretation would mean physical presence in a ‘plenary hall,’ while a more flexible understanding might include an MP’s virtual presence during plenary sessions. It may also be important to consider if such a provision should be permanent or if it should be provisional — the exception to meeting in person would be allowed if an emergency or pandemic is declared or where the Speaker¹¹ makes a determination that the provision needs to be applied.

In Singapore, for example, the response to the initially identified infection was decisive. A ministerial task force was formed early on based on the government’s response to the 2003 SARS pandemic.¹² Thereafter, public health and safety protocols were instituted and enforced, including contact tracing and quarantine. As part of its response, a decision was made to ensure the Parliament of Singapore could continue to meet in person. Singapore amended its Constitution in May 2020 in order to accommodate adjustments to its work and the privileges of its MPs. Article 64(2) of the Constitution states:

Article 64(2): *The sessions of Parliament shall be held in such places and shall commence at such times as the President may, from time to time, by Proclamation in the Gazette, appoint.*¹³

Concerns were raised regarding whether or not the relevant clause in the Constitution precluded virtual sessions or even whether to enforce social distancing in locations other than the parliament’s chamber. Therefore, in order to ensure that the institution could continue to function during the pandemic, a constitutional amendment was approved by the parliament. The amendment states that where the parliament has passed a motion declaring it unsafe to meet in one location or where the Speaker has received a letter from an absolute majority of MPs to the same effect, then for a six-month period the parliament can meet in two or more locations simultaneously, thereby allowing social distancing during in-person sessions and the possibility of virtual or hybrid sessions remotely.¹⁴

Chile Amended the Constitution to Enable Virtual Meetings

By the end of March 2020, Chile was the only country to have made a constitutional change during the pandemic in order to permit virtual parliamentary decision-making. The constitutional reform, valid for a period of one year from its adoption on March 24, 2020, added a new article to the Constitution, stating: “*For a period of one year from the publication of this reform, the Chamber of Deputies and the Senate may function through telecommunication once a health quarantine or a state of constitutional exception due to public calamity that represents a serious risk to health or life of the inhabitants of the country or one or more regions, that prevents them from meeting, totally or partially, has been declared and while this impediment subsists. For this, the agreement of the committees that represent two thirds of the members of the respective chamber will be required. They may meet, vote on bills and constitutional reform and exercise their exclusive powers. The telecommunications procedure must ensure that the vote of the parliamentarians is personal, justified and cannot be delegated.*”

Source: Jonathan Murphy, *Parliaments and Crisis: Challenges and Innovations*, (International Institute for Democracy and Electoral Assistance, 2020), <https://www.idea.int/sites/default/files/publications/parliaments-and-crisis-challenges-and-innovations.pdf>.

Key Questions to Consider:



- *If a parliament delegates its authority to the executive to adopt laws and/or decrees during an emergency, what provisions are in place to ensure the authority is temporary and can be revoked by the parliament?*
- *Is there any official legal interpretation of the constitution and/or laws stipulating the presence of MPs in the parliament (e.g., by the Constitutional Court)? If not, is there a need to amend the constitution or is there already flexibility to allow virtual or other sessions?*

Guidelines:



- *Rulings of the Constitutional Court and/or any other official legal interpretation of the provisions concerned may guide the legislators to draft amendments. However, such legal changes would have to go hand in hand with tailor-made technical solutions with unquestionable authentication of MPs (especially with regard to quorum and voting), so that the personal exercise of the parliamentary mandate is credibly demonstrated.*
- *Where a parliament needs to amend its legal framework to build more flexibility into how it functions, it is crucial that such provisions are time-bound and limited in scope to ensure the institution does not shirk its constitutional responsibilities but allows the capacity to continue to function.*

Rules of Procedure

In all democratic parliaments, the rules of procedure (ROP) (also known in some parliaments as the standing orders or internal regulations) are the cornerstone of parliamentary operations, describing not only the manner in which core parliamentary functions are managed and implemented, but also stipulating the rights and obligations of parliamentarians. Moreover, rules of procedure have to bring clarity to legislative, oversight and other parliamentary processes, acknowledging the rights of democratic opposition, and enabling the public to follow the parliamentary work in a structured and accessible way.

The legal form and content of the parliamentary rules stem from the constitutional and political system of the respective state and are influenced by historic and legal traditions and political culture. Some rules of procedure have been adopted as a law (e.g., Czechia, Lithuania, Slovakia); some have been passed as written rules formulated by the parliament or its house to regulate its own proceedings (e.g., the UK). Certain rules are concise, providing discretionary power to the Speaker and/or parliamentary leadership (e.g., Standing Bureau, Speakers' Conference, etc.). Others are detailed, regulating almost every possible situation that may occur.¹⁵ For example, the Croatian Constitution does not regulate the legislative process *per se*, instead stipulating in Article 80 that the internal organization and operation of the Croatian Parliament shall be regulated by the rules of procedure. Therefore, the legislative process is fully governed by the parliamentary rules.¹⁶

Fast-tracking legislation should not preclude some allocation of time for debate and scrutiny.

All of these presumptions are essential when addressing the need to amend the parliamentary rules while responding to disruptive events like a pandemic or natural disaster. Thus, not only do the legal forms vary from country to country (e.g., ROPs have to be amended, decisions may be made by the parliament or parliamentary leadership, no legal changes are necessary), but also the individual responses of parliaments to the COVID-19 pandemic are different (e.g., social distancing, plexiglass barriers, proportional reduction of the number of MPs present in the plenary hall, hybrid or fully virtual plenary sessions and/or committee meetings, etc.).¹⁷

From the examples below, it is evident that many parliaments have taken measures to reduce the risk of coronavirus transmission inside the chamber, with a preference to find a legal way to use new IT technologies to support parliamentary work. Some changes were stand-alone temporary decisions adopted specifically in relation to the coronavirus crisis (such as in the UK or Brazil). Other modifications were taken from a wider perspective to be



(Nairobi, Kenya, May 5, 2021). A general view showing Kenyan Members of Parliament and Senators attending an address by Tanzanian President Samia Suluhu Hassan at the Parliament Building.

Source: Simon Maina / Gettyimages.com

prepared for any similar disruptive event in the future (such as in Slovenia). Nevertheless, many parliaments still have not passed any legal modifications, mainly due to two reasons. Firstly, few parliaments already had procedural rules enabling or not prohibiting remote sessions. For instance, the Standing Orders of the Hellenic Parliament in Greece does not provide for or forbid remote sittings; thus, there was no need to amend the orders. In the Spanish Congress of Deputies since 2012, remote voting has been allowed in case of pregnancy, maternity/paternity leave or serious illness. Secondly, several parliaments (such as the Austrian National Council, Hungarian National Assembly or Slovak Parliament) decided to continue regular parliamentary work under the inevitable preventive anti-pandemic measures (e.g., face masks, plexiglass barriers, social distancing, etc.).

Yet as important, the reduction of the numbers of MPs might be a questionable solution from constitutional and democratic perspectives. For instance, a decision of the Croatian Parliament was repealed by the local Constitutional Court in October 2020. Therefore, the Parliament amended the ROPs again on November 11, 2020 to allow all MPs to participate in plenary sessions via video link if socially distanced and attending in several meeting rooms in Croatia's expansive parliament building. MPs who are infected or in self-isolation may participate in debates and vote via a video link from their homes.¹⁸

Finally, with regard to changes to the ROPs, in the early days of the pandemic there was a desire to expedite the passage of legislation to ensure support for those impacted by the shutdown of economies. Rules were abrogated and interim decisions were made to fast-track the approval of draft laws. Though such measures are, and will be, considered in the early stages of any emergency, it is important to balance expediency with the need to ensure the democratic legitimacy of parliament and its decisions. Fast-tracking legislation should not preclude some allocation of time for debate and scrutiny. This is a good example of why planning for emergency situations can allow for a more thoughtful discussion with regard to special rules for lawmaking during an emergency, and the institution of such rules when an emergency is declared.

Rules of Procedure (ROP) amendments (select examples)

On March 17, 2020, ROP were amended by the Lithuanian Parliament to enable virtual committee and parliamentary board meetings.

- On March 24, 2020, the UK House of Commons adopted a temporary order to allow committee members to participate in proceedings by electronic means, subject to authorization from the Speaker. Subsequently, on April 21, 2020, the House unanimously approved temporary changes to Standing Orders to allow hybrid sittings of the House.
- On March 25, 2020, the German Bundestag approved ROP amendments to temporarily lower the quorum to 25 percent of MPs and to allow remote participation during committee meetings.
- On March 26, 2020, ROP were modified by the Belgian House of Representatives to enable hybrid meetings.
- In April 2020, the Slovenian National Assembly added a completely new article to its ROP to provide legal grounds for remote sessions in the event of natural or other serious disasters.
- On November 11, 2020, the Croatian Parliament changed ROP to allow all MPs to participate in plenary sessions via video link by staying in several meeting rooms in the parliament.

Adaptations made by parliamentary resolutions or decisions of parliamentary leadership, group leaders or Speaker (select examples)

On March 17, 2020, the Brazilian Chamber of Deputies adopted resolution No. 14/2020 establishing so called Virtual Plenary.

- On May 15, 2020, the U.S. House of Representatives passed House Resolution 965, authorizing remote voting by proxy in the House and providing for official remote committee proceedings.
- In the Swedish Parliament, the parliamentary group leaders have agreed that only 55 MPs are to be present for votes in the Plenary Hall. Before each vote, the parties decide which members are to be present to vote.
- The Speaker of the Argentinian Chamber of Deputies has approved working remotely through a digital platform and videoconferencing.
- On March 23, 2020, the Australian House of Representatives agreed to meet in a manner and form not otherwise provided in the Standing Orders with the agreement of the Speaker and opposition leader, with the manner in which MPs may be present, to be determined by the Speaker.
- Based upon the Speaker's statement, the plenary sessions of the Spanish Congress of Deputies have been held with limited presence of the speakers appointed by the groups and government and minimum number of Bureau members. Other MPs may follow the sessions and vote by telematic means.

Key Questions to Consider:



- *Are there any rules in place allowing for remote plenary sessions and committee meetings in an emergency situation, including in a prolonged emergency? Are there any relevant practices in other countries?*
- *Is there a need to adopt special rules to facilitate safe organization of plenary sessions and committee meetings during a major crisis like a pandemic?*
- *How would any proposed changes to rules of procedure affect (positively or negatively, directly or indirectly) women and other members from marginalized communities?*

Guidelines:



- *Analyze the existing legal framework and good practices from other countries. Parliamentary research services should provide briefings on various solutions applied in other parliaments to facilitate fact-based decisions.*
- *Consider adopting long-term solutions that might be applicable in any critical situation rather than stand-alone temporary decisions.*
- *Strengthen effective committee operations by using advanced IT tools to conduct at least the oversight activities remotely.*

Parliamentary Privileges

Preserving Freedom of Expression

The right of an MP to speak openly without fear of prosecution or civil lawsuit is integral to the functioning of a parliament. This right ensures that MPs can speak in debates in plenary sessions and committees and the only limit to that right of expression is defined by the parliament itself (e.g., unparliamentary language; *sub judice* rule), but otherwise allows MPs to speak freely without threat of repercussion.

Freedom of expression in terms of MPs and parliament is critical to ensuring an effective system of checks and balances. If MPs cannot raise concerns or speak freely in conducting their work, then they will be challenged to ensure effective oversight of the executive. This right is particularly important during an emergency when MPs may not be physically present in the parliament building, offices or committee rooms and yet still must perform their constitutional duty as elected representatives who are officially recognized and recorded in the parliamentary record.

If MPs cannot raise concerns or speak freely in conducting their work, then they will be challenged to ensure effective oversight of the executive.

This is an evident challenge when utilizing remote technology and remote MP participation vote on pending legislation, committee business and participation in plenary. For example, in the UK, freedom of speech is a key element of parliamentary privilege, which is guaranteed by Article 9 of the Bill of Rights of 1689. MPs and members of the House of Lords have legal immunity for what they say or do during proceedings in parliament.¹⁹

In South Africa, MPs are guaranteed freedom of speech, subject only to the rules of both houses of parliament, when they participate in committees or debates which includes the right to bring important matters to the attention of the parliament and the public. To protect this right, members enjoy certain privileges and protection in terms of an Act of Parliament called the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004.²⁰ However, during the COVID-19 pandemic, this right can be challenged due to remote participation in parliamentary business. In response, the South African Parliament, whose members are regarded as providing an essential service, has the authority to execute its oversight functions during a lockdown or social distancing period by, for example, carrying out constituency work in various communities while wearing PPE to protect them from contracting or transmitting the virus while still engaging in their representative function.²¹

The amendment to the Constitution of Singapore noted in a previous section also included wording to allow the privileges of MPs and the parliament to be preserved even where the parliament or a committee of the parliament held sessions in locations other than the precincts of the parliament.²² This has ensured that the protection for freedom of expression provided to MPs will be extended to other locations when the provisions of the relevant Article of the Constitution are initiated.

Access to Information

Access to information when referring to MPs refers to the right to receive information from the state institutions through requests made via parliamentary rules. This is usually through question time, written requests for information tabled in parliament and committees requesting documents and witnesses to testify.

Amid COVID-19, however, parliaments have had to adjust their regular business and in so doing, modalities for accessing information have been modified. For example, the ability of MPs to access information remotely requires the implementation of remote access security and privileged information protocols. As is described in a case study on the Latvian parliament, for example, a proprietary software application allows MPs to access, review and obtain information essential to their ability to perform their constitutional duties when not physically present in the parliamentary precinct utilizing the e-Saeima electronic platform.²³

Oversight is one of the core parliamentary functions and critical responsibilities of parliament, which has to be respected especially in times of crisis. Therefore, it will also require during an emergency a commitment from the executive to maintain its systems for information sharing. Annual reports should still be tabled in a timely manner. Annual state budgets and supplementary budgets need to be debated and approved with the same level of various

stakeholder input and information and data collection as is expected in normal circumstances. In Malaysia, for example, the annual state budget has been submitted to parliament for approval on the same schedule as would normally occur, despite the challenges of the pandemic.²⁴

Likewise, it is important to ensure that parliamentary research services continue under the pandemic, as it is crucial for parliament to receive information from government and other state institutions, and particularly so during a state of emergency. It is also very important to have independent and reliable information available (such as accurate and reliable statistics directly from the source) and not mediated by the government.

Moreover, the parliamentary research services provide committees and MPs with comparative analyses and briefings on policy options and legal regulations adopted in other countries (in the same region and/or under comparable circumstances), which are needed especially during disruptive events like a pandemic. In an emergency situation, when the reaction time is limited, it is reasonable to build upon best practices and lessons learned from abroad. Thus, many parliamentary research departments provided their parliamentarians with comparative research papers, factsheets or survey summaries focused on anti-pandemic and socioeconomic measures adopted in response to COVID-19 in the region or worldwide. Therefore, during any disruptive events like a pandemic, the parliamentary research services have to be proactive keeping the committees and MPs informed to facilitate fact-based decision-making.

Hungary: Members' Rights to Access to Information

“Members of the [Hungarian] National Assembly can only perform their duties effectively if they stay informed and avail themselves of the facts and figures required for their work. The Act on the National Assembly provides two means of achieving that end. First, the Act obliges state institutions to support Members in performing their duties by supplying them with the information they require. Second, the Act confers upon Members the right to gain access to all public institutions, their documents and publications and related services. Interpellations and questions are two important vehicles enshrined in the Fundamental Law to ensure Members access to information. The obligation of the addressee to respond to an interpellation or question guarantees that this right will be enforced effectively.”

Source: <https://www.parlament.hu/web/house-of-the-national-assembly/the-legal-status-of-members>

An even better approach is to build IT systems to allow MPs to receive fiscal and spending updates in real-time, so as to allow them to access the information without requiring executive interventions. In Brazil and Serbia,²⁵ systems have been built to allow for this to occur before the current emergency, and they have been valuable tools for MPs to use this year during the pandemic.

Right to Attend Sessions

In adjusting to the realities of adapting to COVID-19 while maintaining the constitutional rights and responsibilities of representative government, the right to attend sessions has been maintained in many parliamentary democracies while concurrently ensuring as much as is possible that the health and safety of MPs, staff and those working to support the operation of parliament as an essential service is maintained.

For example, in India, members of the *Lok Sabha* and the *Rajya Sabha* are able to attend parliamentary sessions with the caveat that testing, rotation in attendance and social distancing protocols are maintained. This accommodation therefore allows MPs to attend sessions while at the same time addressing the unique challenges of COVID-19 in an effective and safe manner.²⁶

When the Canadian House of Commons shifted to hybrid sessions in the spring of 2020, all parties represented in the House agreed to limit the number of MPs attending in person. One MP from the opposition raised the issue of how this rule violated his privileges as an MP to attend all sessions.²⁷ But, in the end, the consensus amongst all the parties was critical to ensuring that all perspectives were considered through in-person debate while other MPs were able to participate virtually.

Key Questions to Consider:



- *What are the privileges of MPs in the parliament and how can they be protected even during an emergency?*
- *What role does IT currently play and what role could it play in allowing flexibility in how MPs' privileges are respected?*
- *Are legislative library and research services well prepared to continue their operations and ensure that Members receive authoritative and impartial information in a timely manner?*
- *How can legislatures ensure the technological security of MPs and staff to participate remotely?*
- *Is there a need to amend the constitution or rules of procedure to protect the right of expression by MPs who are not attending in person before a committee or plenary meeting?*

Guidelines



- *The Rules of Procedure must be adhered to even during a global pandemic. Consider how COVID-19 restrictions can be respected while also ensuring that the lawful conduct of parliamentary business is maintained in accordance with ROP, individual MP and overall parliamentary mandate and the constitution.*
 - *Access to information by MPs should be routine and the parliament and executive need to build the systems to ensure such information is released routinely for consumption by MPs and committees.*
 - *Enhance the resilience of parliamentary library and research services by investing in the digitization of information and access to such information online.*
 - *Well-organized and resourced political party groups in a parliament are essential to ensure parliament can fulfill its mandate while limiting access to the premises by all MPs.*
 - *Any changes to the ROP should be informed by an assessment of how they will impact (positively and negatively, directly and indirectly) women and other members of marginalized groups.*
-

III. PLENARY SESSIONS

Scheduling and Agendas

On May 10, 2020, the World Health Organization (WHO) published a list of considerations for health and social safety measures in workplaces in relation to COVID-19, which provides practical guidance for those tasked with developing policies and standard operating procedures to prevent the transmission of COVID-19 in a non-healthcare workplace. *“The risk of work-related exposure to COVID-19 depends on the probability of coming into close (less than one meter) or frequent contact with people who may be infected with COVID-19 and through contact with contaminated surfaces and objects.”*²⁸ By nature, the parliamentary environment could be considered a medium exposure risk level workplace, based on the three-level categorization outlined in the WHO toolkit. Such a place is characterized by close, frequent contacts between parliamentary and governmental officials, staff, other employees, visitors, media representatives and the general public, not directly requiring contact with people known to be or suspected of being infected with COVID-19 (as is the case of healthcare workers or pharmacy front-line staff). Thus, it is essential for the parliaments to implement not only universal preventive measures (e.g., hand hygiene, respiratory hygiene, physical distancing, regular cleaning and disinfection), but also specific mitigating actions to reduce the risk of COVID-19 transmission (e.g., enhanced cleaning and disinfection, installation of plexiglass barriers, providing personal protective equipment, increasing ventilation rate, introducing innovations to operate remotely, etc.).

Generally speaking, there are three sets of criteria relevant to assess whether it is best to ease or enhance restrictions: (1) epidemiological criteria showing the spread of the COVID-19 virus; (2) sufficient healthcare system capacity (e.g., occupancy rate for intensive care units), and; (3) appropriate monitoring capacity, including large-scale testing capacity to detect and monitor the spread of COVID-19.²⁹

The measures implemented by various parliaments usually mirror the mitigating actions taken in each respective country. The challenges faced by parliaments and parliamentarians are numerous, balanced between the necessity to ensure responsive decision-making in an unprecedented public health situation on one hand and reducing the risk of spreading the illness inside the parliament on the other. Therefore, when considering the mode of operation, parliaments should take into account relevant epidemiological criteria (especially the risk of being infected and thus endangering the work of the entire parliament) and monitoring capacity (ability to trace, in the worst-case scenario, the infection inside the parliament).

Most parliaments feel an obligation to ensure checks and balances between the powers, to adopt laws with the aim to slow down the spread of COVID-19, to mitigate its socioeconomic impact and to set an example in obeying the public health regulations.

Under normal circumstances, parliamentary working weeks are structured in very different ways. In many parliaments, every working week consists of committee meetings and plenary sessions. For example, in the German Bundestag, it is a common practice that items debated in a committee on Wednesday are included on the plenary agenda on Thursday. Similar practices can be found, for example, in the Moldovan Parliament, where Wednesdays are reserved for committee meetings, while on Thursdays (and sometimes Fridays) the plenary takes place. Only in a few instances is the parliamentary schedule organized in weeklong or longer blocks assigned for plenaries, committees and constituency work. This practice is common in the European Parliament, Czech Chamber of Deputies, Austrian National Council, and to a certain extent also in Slovakia. Therefore, individual adaptation of parliamentary schedules due to the COVID-19 pandemic varies from country to country depending mainly on the local pandemic situation.



(Tlaxcala, Mexico, August 10, 2020). A health care worker puts on a protective suit before submitting members of the Tlaxcala State Congress to a Covid 19 test.

Source: Picture Alliance / Gettyimages.com .

In the first wave of the pandemic, it was quite common to temporarily adjourn plenary sessions due to nationwide lockdowns and/or during longer public holidays. This was done, for instance, in Andorra, Bulgaria, Canada, Jordan, Mexico, Nepal, New Zealand, Spain, Switzerland and the UK. Both Chambers of Parliament in the Dominican Republic modified their weekly schedules to limit working hours from 8 a.m. to 1 p.m., with the work suspended on Fridays, during the emergency period.³⁰ On the other hand, many parliaments have not changed their schedules to date (e.g., Croatia, Finland, France, Norway, Poland, Slovakia).³¹ The rationale is connected to specific mitigating actions implemented in these parliaments to reduce the risk of coronavirus transmission (e.g., face masks, social distancing, etc.) and/or number of MPs testing positive, self-quarantining, or who have otherwise come in contact with an infected person.

Most parliaments run their plenary activities in a structured way that reserves dedicated time slots for certain types of business or agenda items. In the majority of cases, draft agendas are proposed by the Speaker in cooperation or in agreement with parliamentary leadership groups such as standing bureau, council of elders or conference of chairpersons. Planning is often based on the governmental legislative program that influences agenda items. Some rules of procedure allow modifying the draft agenda during the opening of plenary with a simple majority of votes. In response to the COVID-19 pandemic, several parliaments have reduced the number of agenda items (e.g., Croatia, Hungary, Ireland, the Netherlands) or have limited the number of weekly sitting days (e.g., Estonia, Germany, Portugal). For instance, the Albanian Parliament has recommended to keep the length of a sitting day to a maximum of four hours.³²

Key Questions to Consider:



- *Is there a need to modify the parliamentary schedule and plenary agenda to facilitate safe organization of plenary sessions during a major crisis like a pandemic?*
- *If modifications are made to the legislative calendar, how can leadership distribute this information in an accessible manner?*

Guidelines:



- *Analyze the existing legal framework and good practices from other countries. Parliamentary research services should provide briefings on various solutions applied in other parliaments to facilitate fact-based decisions.*
- *Prioritize in the early stages of an emergency what is the core work of the parliament and build a schedule or agenda around ensuring that work is a focus.*
- *Consider utilizing advanced IT tools (such as videoconferencing) to ensure parliamentary debates rather than limiting the agenda items.*

Debates

Debate is a formal deliberation of a particular proposal that has been tabled in the parliament. The manner in which debates are conducted follows a number of rules, usually stipulated in the Rules of Procedure or Standing Orders, but also in local conventions. Rules typically regulate the order of speakers, time slots assigned for particular agenda items, allocation of speaking time to parliamentary groups, and/or individual MPs, submission of procedural motions, MPs' interruption or comments reacting on the speech of preceding speaker, tabling amendments, etc. Whereas in the majority of parliaments the debate follows a complex set of rules and principles, it is challenging to adapt to any disruptive events like a pandemic or a natural disaster — especially when attempting to conduct a parliamentary debate remotely utilizing recently introduced (and in some ways unsuitable) computer software meeting platforms.

The parliamentary debate structure is unique from any conference discussion or standard corporate meeting. Thus, when hosting a virtual plenary, there are almost no instantaneous digital solutions, and the system usually has

to be custom-made or at least adapted according to the demands of the parliamentary environment. Thus, when considering feasibility of holding hybrid (meaning part of MPs are present in the chamber and others attend online) or virtual plenary sessions (meaning all MPs participate by videoconference), at least three major factors have to be carefully taken into account. Whatever solution parliaments choose, security, accessibility,³³ suitability and veracity of the process are crucial.

Firstly, different agenda items are discussed in a different manner. While, for instance, ‘Question Time’ debate may easily use existing videoconferencing tools or collaborative online platforms (e.g., Zoom, Cisco, Webex or MS Teams), debate on a legislative proposal must follow more stringent and deliberate rules usually requiring specific digital solutions. For example, the UK House of Commons decided to first proceed with questions and statements under the new orders on hybrid scrutiny proceedings of April 21, 2020.³⁴ The first such Prime Minister Question Time was held on April 22, 2020. Currently, hybrid plenary sessions are allowed only for scrutiny proceedings.

Secondly, the level of digitalization of parliamentary processes varies from country to country. While some parliaments have already developed tools for electronic submission of proposals and/or amendments (e.g., Greek, Hungarian or Latvian Parliaments), a majority of parliaments in developing democracies are in the process of considering the feasibility of digital platforms and implementation. Another example is the Spanish Congress of Deputies, which had already developed an app that allows members to vote remotely when ill or on maternity/paternity leave. It has not been used widely over the past years but was made available to all MPs once the COVID-19 pandemic hit.³⁵

Thirdly, the technical equipment available to MPs is not the same in all countries. Some parliaments, such as the Slovak National Council, provide all MPs with laptops at the beginning of each parliamentary term. In the Assembly of the Republic of North Macedonia, the Parliamentary Support Programme, funded by the Swiss Agency for Development and Cooperation, has provided on-budget support for procurement of 100 smart workplaces (laptops) to allow for remote working with reduced capacities and shifts physically present in the assembly during the pandemic.³⁶ In other parliaments, there is no such practice and MPs have to use their own computers or tablets. In addition, new digital solutions often require a need for usage training that might be challenging to organize during disruptive events like a pandemic. Finally, yet equally important, technical equipment needs regular maintenance and software updates that can be done either in person by bringing the device to the parliament or remotely. However, any such action has to be done with stringent digital security, especially when downloading from a distance.

In addition, some parliaments work in multiple languages, which requires debates that are hybrid or virtual to be simultaneously interpreted in those languages. In Sri Lanka, for example, all documents and debates must be translated into three languages — Sinhala, Tamil and English.³⁷ Some video platforms, such as Zoom, have developed the capacity to allow such interpretation seamlessly as part of the platform. It is important to consider the translation aspects of the work of a parliament when planning for committee or plenary sessions where some or all MPs are working remotely. The work conditions of translators and interpreters must also be considered to ensure that they are able to function at top capacity.

Virtual Plenary Session at the Brazilian House of Representatives

On March 17, 2020, the Brazilian Chamber of Deputies approved resolution No. 14/2020, providing the necessary legal framework for virtual plenary sessions. A week later, on March 25, 2020, it held its first virtual plenary. Currently, remote sessions are part of the routine of the Chamber. The main challenge was to design a solution that could accommodate all 513 members. Two essential functionalities had to be considered: voting and presence registration. Virtual Plenary architecture was designed as a digital solution composed of two blocks of technology: a videoconference service and internal systems related to the legislative process. The videoconference service is used only for audio-visual transfer. Its users’ accounts are external to the Chamber of Deputies authentication. The internal systems consist of an app and management system that interact with the legislative systems.

Source: Brazilian Chamber of Deputies. Virtual Plenary: Strategy and Architecture: https://virtual.camara.leg.br/static/arquivos/2020-04-15-VIRTUAL_PLENARY_CHAMBER_OF_DEPUTIES_OF_BRAZIL.pdf

There are already several examples of hybrid and virtual parliamentary plenary sessions worldwide, for instance in Latvia, Croatia, Romania, Slovenia,³⁸ Maldives,³⁹ Brazil, Chile, Ecuador, Paraguay⁴⁰ and Venezuela.⁴¹

On the other hand, many parliaments continue with in-person plenary sessions, such as those in Europe (e.g., in Albania, Austria, Bulgaria, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Malta, Slovakia, Sweden and Switzerland).⁴² There might be many reasons why they continue to meet, including the legal framework, technical challenges, lack of political agreement, a limited number of MPs that have tested positive so far, preference for hygiene and anti-pandemic measures (e.g., face masks, plexiglass barriers, social distancing, and testing strategy), and the local political culture and traditions.

Key Questions to Consider:



- *Characterize the nature and mode of the plenary debates conducted during scrutiny and legislative procedures in your parliament. Would the manner of plenary debate allow for hybrid or virtual meetings?*
- *How does your parliament recognize MPs to speak during a debate? Do the standard practices need to be adjusted to adapt to physical distancing requirements?*

Guidelines:



- *Analyze carefully the existing technical and digital capacity of your parliament.*
- *Assess the current material situation and consider possibilities for capacity building activities or induction programs.*
- *Analyze the legal framework and practices related to the parliamentary debate and assess the most important features that have to be supported during hybrid or virtual sessions. Consider any major differences from a regular webinar or online meeting.*

Voting

A vote by a parliament is a significant legal and political event. It is the moment where a branch of government is making a determination. It is the equivalent of a cabinet decision for the executive or a ruling from the judiciary. It has also become one of the biggest challenges parliaments face as they adjust their procedures to accommodate the pandemic. If public health guidelines prevent MPs from convening as they normally would, then how does a parliament ensure it can conduct a vote that has legal implications?

To start, some parliamentary systems already have procedures that ensure the efficient processing of votes for the vast majority of decisions. The Westminster system, for example, traditionally conducts almost all votes orally. In the past decade, nearly 94 percent of all decisions taken in the Canadian House of Commons have been by means of oral vote.



(Kyiv, Ukraine, September 15, 2020)/ First Deputy Chairman of the Verkhovna Rada Ruslan Stefanchuk, Chairman of the Verkhovna Rada Dmytro Razumkov and his Deputy Olena Kondratiuk are pictured during the parliamentary sitting.

Source: Hennadii Minchenko/Ukrinform/Barcroft / Gettyimages.com

This approach eliminates the need for individual MPs to express their specific vote on a matter, but the Speaker relies on a clear indication of the support of one or more of the benches.

Spain has allowed remote voting for a number of years for those MPs under special circumstances, such as maternity leave or illness. It requires prior notification to the Bureau of the Parliament.⁴³

However, this does not preclude the need for some adjustments to voting. Where electronic voting in person was the norm prior to the pandemic, it has become imperative that alternatives be found.

Types of Remote Voting

There are two methods of conducting remote voting. One is based on procedural rules and the other relies on IT. For the procedural approach to remote voting, there are methods that can be employed that allow for those not in the chamber to have their votes counted. First, there are **proxy votes**. This is a process by which an MP not attending a session can delegate their vote to another MP to vote in the chamber on their behalf. For example, in the UK in June 2020, special rules were established to enable MPs who could not attend sessions due to health matters to allocate their vote to another MP on their behalf. This was extended later in 2020. Indeed, in September 2020 the UK House of Commons agreed to a permanent system of proxy voting for those MPs who cannot vote in person due to childbirth, caring for an infant or a newly adopted child.⁴⁴

U.S. Congress' Response to COVID 19 – Proxy Voting

At the peak of the virus's spread in March 2020 before Congress went on recess, 22 representatives, and slightly earlier six senators, were simultaneously self-quarantining. Both the House and Senate have adapted their procedures to keep legislators and support staff safe while also keeping Congress operational.

On May 15, 2020, the House passed a rules change to allow proxy voting for floor votes and remote committee meetings during this pandemic (see the committee report for further background). Then, pursuant to the new rules, on May 19 the House's Office of Attending Physician and Sergeant at Arms determined the existence of a "public health emergency due to a novel coronavirus," which triggered the beginning of proxy voting rules. Under the rules for proxy voting, representatives may designate another representative as their proxy in advance of votes in a letter to the Clerk of the House of Representatives and must give their proxy exact instructions on how to vote.

Although no proxy voting is allowed for floor votes in the Senate, some Senate committees have begun holding some meetings with senators participating remotely. And while not yet used, existing Senate rules permit voting by proxy in committee.

Source: <https://www.govtrack.us/covid-19>

A second procedural approach to remote voting is **bloc voting**. This entails counting recorded votes based on one representative from each party bloc stating the number of votes from their bloc who are voting either for or against the motion. If one or more MPs from that bloc has a dissenting opinion, they can register their vote separately. This significantly reduces the number of MPs who need to register their vote. New Zealand and some Australian state parliaments have used this system for some time.⁴⁵ Bangladesh has established bloc voting through Article 70 of its constitution, which requires MPs to vote along party lines when a recorded vote is called.⁴⁶

A third procedural option is the use of **ballot papers**. Where parliaments have continued to meet in person but with social distancing, there has been the need to use seating in the public gallery or another room to allow all MPs to attend while physically distancing themselves from one another. This would mean that some MPs would not have access to electronic voting equipment. For example, in Albania, the Parliament has resorted to using ballot papers that are distributed when a vote is called, marked by each MP and then returned for counting.

Beyond procedural measures to allow for remote voting, there have been some innovative uses of technology to facilitate remote voting by MPs. Early on in the pandemic, the European Parliament employed **email voting** to its



(Accra, Ghana, January 7, 2021). Members of Parliament of Ghana interact during a break from electing a new leader of parliament.

Source: Nipah Dennis / Gettyimages.com

705 MEPs. When votes were called, an email would be sent to the official email address of each MEP with a ballot. The MEP would then mark the ballot in a set period of time and return it to the Parliament via the same email address for counting.⁴⁷

A second alternative for remote voting is the development of a dedicated **smartphone application** from which MPs can vote. The Chile Chamber of Deputies developed and used such an app. As the lower house adapted to the pandemic and moved to hybrid meetings, its digital services unit developed the app for all voting — both in person in the chamber and when working remotely.⁴⁸

A third option using technology is to use the **virtual hand-raising** function in the videoconferencing platform to count votes. This may perhaps be a bit rudimentary but can be an effective option while awaiting more complex solutions to be developed.⁴⁹

Challenges to Remote Voting

Beyond ensuring that the method of voting used complies with public health rules, there are a number of potential concerns or challenges that may need to be addressed in order to ensure voting by MPs is secure. For example, after an internal procedural debate, the U.S. House of Representatives (HOR) instituted a series of measures to rapidly transition from the traditional in-person governance model to one of remote virtual engagement. As the HOR transitioned to representation from home constituencies, the internal IT teams adapted the congressional business model to allow members to continue to remotely conduct legislative review, committee meetings and voting.⁵⁰

As noted above, the decisions of a parliament expressed through votes are legally binding and carry significant authority, given that such decisions can result in new or amended laws coming into force. This means that voting by a parliament could be a prime target for interference. With remote voting, the type of interference is most likely to be in the form of a hack of the system or voting by someone other than an MP.

As to the first point, it is vital that any IT system used to support virtual or hybrid parliamentary sessions and remote electronic voting be built securely. Hacking of parliamentary systems was already happening prior to the pandemic, as evidenced by the hack of the Australian Parliament in 2019.⁵¹ Since the shift to online sessions, vulnerabilities have only increased. A committee meeting of South Africa's Parliament was hacked during a virtual session in May 2020.⁵² If parliaments cannot ensure the sanctity of their sessions, it may prevent the use of electronic remote voting. A parliament must also understand where its data is being stored. If in the cloud, then how is it protected from external (and potentially nefarious) access? If held on servers within the precincts of the parliament, what back-up systems are in place?

A second challenge is the need to authenticate that it is indeed an MP who is voting remotely. Each MP is elected to parliament for the specific purpose of voting on behalf of their constituents. Notwithstanding the limited exception for proxy voting that some parliaments allow (see above), an MP is expected to vote on matters put before the chamber or committee for decision. This is easily verified when an MP votes in person, but what about when they are participating remotely? The Chile Chamber of Deputies' decision to develop a voting app followed a prior focus on ensuring authentication, given that there was already an app in place that was developed to ensure authentication. The Canadian House of Commons Committee on Procedural Matters came to the same conclusion when it looked into the issue.⁵³

In order to ensure authentication, some parliaments have added extra steps to the voting process. Spain has introduced personal codes that must be entered by an MP via a smartphone app before they can vote remotely.⁵⁴ The Senate of Chile requires a senator to be visible on screen when they are voting.⁵⁵

A third challenge is to ensure remote voting can function even for those MPs with less-than-optimal capacity to use modern technology. This can be evidenced by early glitches in remote voting systems. One MP in the Canadian House of Commons voted against his own party's motion by pressing the wrong button when remote voting in September 2020.⁵⁶ If there is a move to remote voting, lessons learned to date show that there is a need for extensive testing of the system before it goes live and a need to provide support and training to MPs to ensure they can use the system effectively. It will also require a system that allows for verification and certification prior to recording votes.

There is also a need to ensure that women MPs and staff are able to work safely online and have access to the technology to do so. In less developed countries, women are 33 percent less likely than men to have access to or routine use of the internet.⁵⁷ When women, particularly elected women, go online they face greater levels of intimidation and harassment. These factors should be considered when developing and using IT to ensure that all MPs are able to fulfill their functions effectively, even if working remotely.

Key Questions to Consider:



- *Can the parliament work efficiently and allow remote voting through procedural changes while not relying on technology?*
- *What capacity support will MPs require to be able to adapt to remote voting?*
- *What protocols are required to authenticate an MPs identify prior to voting remotely?*
- *Which MPs have limited or no access to the technology to allow for remote meetings and does this issue impact certain groups of MPs more than others?*

Guidelines:



- *Keep it simple — parliaments should develop the most cost-effective method of ensuring that voting can continue during an emergency situation.*
 - *Test and try any new systems or procedures prior to using them for voting so as to reduce the chance of failure during a vote.*
 - *Provide MPs with training and technical support in a timely manner prior to the system is fully operational.*
 - *Develop voting procedures that do not disproportionately and negatively impact women MPs, including testing of such systems with women MPs specifically to ensure it meets their needs.*
 - *Consider if the rules for voting will be temporary or permanent. If the latter, consider what the long-term implications are for such a change.*
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IV. COMMITTEES



(Zagreb, Croatia, May 6, 2020). Croatian Prime Minister Andrej Plenkovic takes part in a videoconference with president of the European parliament David Sassoli and heads of state of EU members and Western Balkans countries. Source: Damir Sencar / Gettyimages.com

functional component of the institution for the first few months as more detailed and complex work was conducted to have plenary sessions continue.

In Fiji, for example, the Parliament had transitioned to online submissions prior to the pandemic and was able to quickly adapt its committee to remote work. When the pandemic was declared, the Parliament laid out a series of steps to allow parliamentary committees to operate remotely and securely.⁵⁸ The Parliament of Fiji began a new initiative at the beginning of May to enable its six standing committees to carry out their oversight work remotely via virtual meetings to ensure the health and safety of MPs and staff. The IT team created online platforms for committee engagement, enabling parliamentarians and citizens to follow committee proceedings via live broadcast and livestreaming. Conversely, when livestreaming on Facebook was determined to be compromised, the Speaker terminated this option due to the inaccuracy of auto-generated subtitles on the platform.⁵⁹

While virtual committee engagement is noted for its health and safety efficacy, security as is the case in Fiji and elsewhere is a real and urgent concern — especially given the adaptive needs evident during the pandemic. Some parliaments have therefore attempted a hybrid model which includes remote participation combined with in-person committee work while ensuring that social distancing and sanitation standards are maintained. This can be difficult in older buildings that do not have adequate ventilation or open-air access in committee rooms, or where artificial air conditioning is either unavailable or prohibitively expensive.

For those parliaments that have opted for in-person committee engagement with the practical restrictions noted, there are options for conducting committee business in premises that do meet the medical protocols for social distancing, proper sanitation and open-air or adequate fresh air circulation.

In Tanzania, for example, the Parliament premises in Dodoma has adequate space and separate committee room space to allow MPs to meet in staggered plenary and separately for individual committee sessions. Given the climate and limited access to air conditioning, however, attention is paid to social distancing, temperature checks and on-site nurses to help ensure that those who are either infected or at risk of infection can conduct their work while maintaining their personal health.⁶⁰

Special Pandemic Committees

Some parliaments have opted for a temporary transition to a special committee instead of plenary sessions during the pandemic. This approach has been utilized where the parliament may be constitutionally limited in holding virtual plenary sessions, but it has allowed the parliament to maintain many of its functions. As noted in the following:

“So, the motion that’s before the House today puts in place a mechanism, whereby the Opposition in particular, will be able to continue to scrutinise the Government and the actions that the Government is taking, even though the House will not be sitting. A special select committee is being established. It will have an Opposition majority, which recognises these extraordinary circumstances we are in. It will be chaired by the Leader of the Opposition. It will have the power to require people to appear before it — albeit digitally, rather than in person. They will be able to request and receive information about the use of the powers that the Government has been exercising, and I think those things are vitally, vitally important in our democratic system.”

Source: Hon. Chris Hipkins, Leader of the House, Parliament of New Zealand.⁶¹

One of the drawbacks of these special committees was that they could not adopt legislation, as that can only be done by a plenary. But in the immediate aftermath of an emergency — perhaps a month or two — this approach has ensured that parliaments are still relevant and are able to function.

In New Zealand, The Epidemic Response Committee was established on March 25, 2020 to consider and report to the House on matters relating to the Government’s management of the COVID-19 pandemic. The cross-party committee is chaired by the Leader of the Opposition and consists of 11 members in total, six of whom will be Opposition members, with committee proceedings simulcast on social media and the Parliament’s website.⁶²

Some parliaments, especially those based on a continental approach to their work, already have a steering committee that makes decisions related to their work with representatives from all political parties.⁶³ For example, in Tunisia, the National Assembly has a permanent Assembly Bureau that makes operational and procedural decisions. With the onslaught of the pandemic, the Assembly Bureau was delegated extraordinary powers by the National Assembly on March 26, 2020 to allow the Bureau to manage more effectively the work of the Assembly, including making decisions related to remote sessions and virtual voting.⁶⁴

To date, this steering committee concept has helped to ensure that parliament maintains its vital relevance in parliamentary democracies worldwide, although (and as noted in the Fiji example above), reliance on remote technology opens committees to the shortcomings of commercial platforms used for conducting and conveying parliament’s business.

New Zealand Parliament’s Rapid Response in March 2020

The Parliament of New Zealand established an Epidemic Response Committee in March 2020, within days of the pandemic being declared, followed by a series of measures intended to ensure that this special select committee could conduct its business remotely while addressing the critical public health and safety needs caused by the pandemic.

The committee was established on March 25, 2020 to consider and report to the House on matters relating to the government’s management of the COVID-19 pandemic. The COVID-19 Alert Level 4 remained in place until late April. The committee was disestablished on May 26, 2020. The cross-party committee met remotely via videoconference every Tuesday, Wednesday and Thursday from 10 a.m. to 12:30 p.m. The committee meetings were livestreamed on Parliament’s website and social media, and on-demand versions of these streams were available after each meeting. While the committee was operational, it heard from people across different sectors on a range of topics relating to COVID-19.

Source: <https://www.parliament.nz/en/visit-and-learn/history-and-buildings/special-topics/epidemic-response-committee-COVID-19-2020/what-was-the-epidemic-response-committee/>

Permanent Committees

In addition to establishing special or ad hoc committees to manage the work of a parliament during an emergency, there is the ongoing work of permanent committees.⁶⁵ Such committees are normally focused on scrutiny of draft laws, conducting oversight inquiries, or reviewing executive appointments or annual reports from ministries. How does this work continue during an emergency that limits the functionality of a parliament?

First, there is likely a need to triage committee work. Immediately after an emergency is declared there is an adjustment period where not all committees are able to function as they once did. This will be for two reasons. First, there will be limits on in-person meetings, requiring a shift to virtual committee meetings. Even where a parliament was already equipped to host virtual testimony, there will be a need to now make adjustments for fully virtual or hybrid committee meetings. Even where committees continue to meet in person only, there will be a need to establish protocols for safely managing such work.

Second, there will be IT challenges where a parliament decides to shift to virtual or hybrid committee work. This issue will be discussed in more detail in Section VI of this paper. Suffice it to say at this point that where committees had previously adapted their work to expand the use of IT (see Fiji Parliament, for example), it will be an easier pivot to a more intense use of IT to enable a committee to continue to function.

A third issue related to the need to triage is to determine which committees' work is prioritized. In the Canadian House of Commons, the shift to emergency measures in the House resulted in a motion before the Parliament that prioritized the work of two committees: the Finance Committee and the Health Committee. These committees were seen as critical to the ability of the House to conduct oversight of government during the early months of the pandemic. The same motion also required that the then Minister of Finance would attend before the Finance Committee once every two weeks to provide an update and to answer MPs' questions.⁶⁶

Other countries have also prioritized the work of certain committees. The French National Assembly originally barred activities from its committees that were not related to the pandemic, allowing limited resources in the early stages of the pandemic to be allocated to committees that were focused on the response to the virus. India's Parliament barred meetings of its committees until July 2020, at which point the committees were allowed to meet only in person, where the focus of the committee was on the response of the government to the pandemic.⁶⁷

Managing Multiple Committees

As time progresses during an emergency there is likely to be more capacity for a parliament to provide the support required to operate multiple committees. This will require some changes to protocols and procedures to ensure staff and MPs are kept safe while performing their functions, such as:

- Allowing some staff to work remotely while supporting the work of a committee;
- Requiring the secretary to the committee to sit with the committee chairperson in the same room to provide bespoke advice to the chairperson;
- Where committees' meetings are normally open to the public, ensuring the platform used for virtual or hybrid committee meetings is accessible to media and the public;
- Establishing systems and protocols for virtual testimony before a committee;
- Establishing new rules to allow for virtual hearings and remote voting (not unlike the same challenges for plenary sessions); and
- Ensuring that a safe and secure means of sharing confidential or embargoed information can be distributed to MPs and staff.

Even where a parliament was already equipped to host virtual testimony, there will be a need to now make adjustments for fully virtual or hybrid committee meetings

An added value of a parliamentary committee is the space it creates for MPs to be more collaborative, to build relationships across parties to ensure draft laws are of the highest possible quality and to make recommendations on inquiries that are well-supported with evidence. This becomes more challenging when the committees meet virtually or in hybrid format.

Key Questions to Consider:



- *Which committees should be prioritized at the start of an emergency to ensure core functions and important themes continue to be addressed by parliament?*
 - *Do the rules of parliament allow for a special committee to be established to manage the work of parliament while establishing capacity to be fully functioning?*
 - *Will committees be subject to similar guidelines and/or rules on remote and hybrid participation, debate and voting?*
 - *Can committee sessions be livestreamed or can recordings be made available, on the parliamentary website directly, or through external services such as YouTube?*
-

Guidelines:



- *Immediately after the declaration of an emergency that prevents a parliament from operating normally, consider establishing a special or ad hoc committee that will function as a steering committee or a Whole House Committee to enable the parliament to maintain as many functions as possible while establishing new protocols and procedures during the emergency.*
 - *As permanent committees return to functionality, consider which committees are a priority for support as the parliament adjusts its capacity to reflect pandemic protocols.*
 - *Establish protocols for the functioning of committees either virtually or in hybrid mode, including the need for enhanced cybersecurity provisions and managing hearings and inquiries.*
-

V. PARLIAMENT FUNCTIONS

Legislatures are complex institutions that serve many purposes. While their overall roles vary in different political systems, they typically serve multiple functions, including representation, lawmaking, scrutiny of government, public symbolism and others. These inevitably overlap and sometimes collide; similarly, individual legislators must balance party, constituency and personal factors in their decision-making.⁶⁸ Now, in a time of sudden and unexpected disruption during the COVID-19 pandemic, this political balancing act has become even more evident as MPs work to continue to engage in their vital representative role (remotely or in-person) while expressing urgent citizen needs and priorities during a global health and economic crisis.

Parliamentary Oversight

There was an initial substantial and rapid distribution of government funds to counter the economic effects of pandemic disruption on those suddenly unemployed or businesses that required immediate assistance to cope with the potentially catastrophic consequences of a lockdown. In many cases this was done with limited scrutiny by parliaments, given the need for immediate emergency aid. But now, parliaments are grappling with the need to monitor expenditure approved. Oversight is a critical function of any parliament, but even more so given the unprecedented funds allocated by many governments in response to the crisis. In addition, adequate oversight of budget expenditures is necessary to scrutinize public policy priorities as expressed through budget line items and to help minimize graft and corruption when sudden and substantial funds are released in a very short period of time.⁶⁹

Oversight is a critical function of any parliament, but even more so given the unprecedented funds allocated by many governments in response to the crisis.

There are many tools that a parliament can use and have used over the course of the pandemic to conduct effective oversight. In addition to the rigorous work conducted by committees (covered in Section IV above), other effective oversight tools include question time, interpellations and approval of appointments and annual reports.

Question Time is a common oversight tool in Westminster-style parliaments and is also employed as a tool in some other parliamentary systems. It involves a routine opportunity — sometimes daily, other times weekly or monthly — where MPs can submit written questions or ask oral questions of ministers as to their portfolio and the work of the government. Where a parliament has moved to a hybrid model during the pandemic, this has entailed the asking of questions both in the chamber and virtually. The Scottish Parliament was able to quickly pivot to virtual Question Time for the First Minister. By early April — weeks after the pandemic was declared — the Parliament had made adjustments to its systems to enable a fully virtual session.⁷⁰ When the Malaysian Parliament returned to regular sessions in November 2020, there was an agreement to hold daily Question Time, as per regular proceedings, but with a limit of one hour and only one supplemental question to each tabled question (as compared to the norm which would include multiple supplementary queries for each tabled question).⁷¹

Interpellations are a common form of oversight in parliaments based on the continental parliamentary system. It involves a motion filed by opposition MPs to require a minister to attend and answer a series of questions as part of a detailed debate on a specific issue or topic. In many parliaments it results in a vote on the motion which will state a lack of confidence in the minister. In Finland, interpellations are common, but the opposition decided to not submit any during the first months of the pandemic out of respect for the need to work collaboratively on the response to the crisis. However, by October, the Finnish Parliament was once again debating such motions.⁷² In November 2020, the South Korean National Assembly debated an interpellation on the Minister of Finance related to a non-pandemic matter, showing that as people become accustomed to the pandemic, other issues that are as important for oversight are starting to be considered by parliaments.⁷³

On matters of **budget scrutiny**, many parliaments have enhanced their relationship with independent institutions, such as the state auditor and the budget analysis office (normally affiliated with the parliament), to support them in conducting oversight. The Czechia State Audit Office adjusted its work plan for 2020 to focus on pandemic emergency spending and produced a special report for the Parliament on its findings.⁷⁴ In the Pacific region, given the number of small states, budget analysis capacity is shared among a number of parliaments when budgets are

debated. Prior to the pandemic, this regional expertise would be convened in person in a given country. With the advent of the pandemic, analysis and support was provided virtually to the Parliament of Tonga in May 2020 as the annual state budget was debated.⁷⁵

Georgian Parliament Conducts Interpellation on Impact of Pandemic

In September 2020, the Georgian Parliament held an interpellation requested by an opposition party. The focus of the inquiry was on the economic impact of the pandemic, and it resulted in a robust debate on the need to balance public health measures with the negative impact of the pandemic on the economy.

Source: http://www.parliament.ge/en/saparlamento-saqmianoba/plenaruli-sxdomebi/plenaruli-sxdomebi_news/saqartvelos-parlamentis-winashe-interpelaciis-wesit-ekonomikisa-da-mdgradi-ganvitarebis-ministri-natia-turnava-wardga.page

Key Questions to Consider:



- How must oversight tools be adapted to ensure MPs have adequate time and resources to monitor the spending and activities of the government?
- Is there a need to establish special rules or structures within parliament to ensure oversight can continue during a major crisis like a pandemic?
- How can a parliament ensure it has access to independent and high-quality research when its normal activities are limited?

Guidelines:



- Build robust partnerships and collaboration with independent oversight institutions to ensure a routine exchange of information in conducting oversight of the government.
- Build resilient systems and procedures to ensure information continues to be accessible for MPs and staff even during an emergency, including resilient library and research services.
- Triage the work of parliament, especially during the early months of an emergency, to ensure the critical work is prioritized, including key oversight work.

Lawmaking

Legislation or lawmaking is one of the core parliamentary functions, based on the traditional separation of powers established two centuries ago. In present-day practical terms, the lawmaking function operates within the constitutional and political systems of a state (parliamentary, presidential and semi-presidential systems). Thus, not only the legislative processes may differ from country to country, but also the level of legislative initiation or activity of a parliament. In many countries, the majority of draft laws are proposed by the government, while in some countries private member bills have precedence.

From a historical perspective, three models of lawmaking might be identified. Firstly, the three readings system is common nowadays in many parliaments globally. Secondly, the bureau (minor collegial body) system traditionally rooted in France before the French Revolution and thirdly, the specialized committees model that is, for instance, utilized in the U.S. Congress. Nevertheless, in practice, particular features of these models may appear in combination or alternation to each other, all depending on the form of governance and governing tradition in the respective state. However, in many parliaments, committee deliberation has become the cornerstone of substantial discussion on amendments from a policy-related point of view.

Many parliaments have introduced certain measures to make legislative activities in relation to the COVID-19 pandemic more efficient and responsive. For example, in Czechia, a state of legislative emergency was declared under Section 99 of the Rules of Procedure that allowed the Chamber of Deputies to consider governmental draft laws in fast-track legislative procedure (without the first reading and with certain possibilities to reduce the speaking time) in order to adopt any necessary measures stemming from the state of emergency.⁷⁶ In Bulgaria, during the state of emergency, announced by a decision of the National Assembly of March 13, 2020, the National Assembly had limited its plenary sittings and met only in case of necessity to amend the law on measures and actions during the state of emergency, or for other important reasons. The lifting of the state of emergency allowed regular parliamentary work to be restored.

Similarly, many parliaments have taken different steps to prioritize legislation with a primary focus on COVID-19 to narrow the overall legislative agenda. For instance, parliaments in Australia, Brazil and France agreed to only deal with legislation related to the coronavirus crisis.⁷⁷ COVID-related draft laws have also been prioritized and fast-tracked in Slovakia and Austria.⁷⁸ Drafts laws debated and passed were aimed at mitigating actions related to the public health situation and socioeconomic consequences of the restrictions (e.g., lockdowns, curfew). The parliamentary research services provided MPs with various comparative analyses on measures adopted in other countries thereof. For example, the European Centre for Parliamentary Research and Documentation (ECPRD) made its internal database available to the Parliaments of the European Union and Council of Europe Member States, with a special subsection dedicated to requests and analyses related to COVID-19.

As a parliament adapts to the pandemic and begins to initiate appropriate adjustments to its work, it will be important to return to a more detailed process for scrutinizing draft legislation. Good quality legislation requires parliaments to ensure a detailed review by committees and multiple debates over a number of sessions. The early changes in response to initial COVID-19 challenges are not a sustainable approach to parliament's vital long-term work.⁷⁹

Key Questions to Consider:



- *How is the legislative process regulated in an emergency situation in your country?*
- *Is there a need to adopt special rules to ensure efficient and responsive lawmaking during a major crisis like a pandemic?*

Guidelines:



- *Build resilient systems and procedures to ensure efficient and responsive lawmaking during disruptive events like a pandemic or natural disaster.*
- *Focus the parliamentary research work on comparative analyses and briefings on measures taken in other countries to facilitate fact-based decision-making.*
- *Once a parliament has begun to manage the new procedures and protocols, detailed scrutiny of draft legislation must become the norm to ensure effective executive oversight and public service delivery.*

Representation

One of the primary means of fighting the COVID-19 pandemic has been to maintain practices in social distancing. A key outcome of the need to limit personal interactions is that the traditional means of engagement of citizens by MPs and parliaments has been significantly impacted. It is not good public health policy to have in-person town hall meetings or public forums. Witnesses should not be traveling in large numbers to attend committee hearings. In person communication with constituents to address their concerns or seek their input cannot allow for close contact. Given these challenges, parliaments globally have adjusted their operations to ensure citizen voices remain at the center of their work.

One means of adjustment to citizen engagement is the expanded use of IT and virtual interactions to allow continued member-citizen engagement. For example, MPs have expanded their online presence — such as through social media or websites — to ensure they are communicating often with updates and resources for constituents impacted by the pandemic. Likewise, online portals ensure that citizens have a way to access their MPs if they are in need of assistance or want to weigh in on legislative action. This has expedited the trend towards online tools for public engagement. In the United States, many legislators are using existing virtual platform technologies to conduct periodic virtual town halls with their constituents. With the move to virtual meetings of committees, specific instructions and prior testing of witness’ systems were set up to ensure that witnesses were prepared to engage with the committee with as little technical interference as possible.⁸⁰

Morocco’s Parliament made a move in 2016 to establish a WhatsApp number that would allow direct and encrypted input to its work from citizens.⁸¹ The UK House of Commons Outreach Department has created online courses for smaller groups to explain how citizens can engage with the House and to encourage their participation.⁸² MPs in Singapore have moved public consultations online through Facebook Live events.⁸³

Parliament should also recognize the added value of civil society, especially during a crisis such as the pandemic. Building robust partnerships with CSOs can allow a parliament to collaborate with these organizations to engage the public and to aggregate opinions that are then presented to the parliament during its ongoing work on bills and oversight. In Kenya, Mzalendo is a CSO that has worked for a number of years in monitoring the work of the Kenyan National Assembly and Senate. With the need to work differently in 2020, the CSO has moved much of its work online, where it is informing citizens and gathering their opinions on the current work of the Parliament.⁸⁴

CSOs have become even more innovative in getting their message to MPs and parliaments to ensure that their voices are heard as policy decisions are being made on their behalf. In some cases, they have moved to utilizing online tools. In Indonesia, a number of national CSOs banded together and have been pressing for the resignation of the Health Minister over the handling of the pandemic through an online petition.⁸⁵ In Germany and the Netherlands, environmental groups have focused on advocacy online in order to comply with public health guidelines, but have also used symbolic protests in front of parliament to support their online efforts.⁸⁶

A challenge with regard to reliance on IT to maintain citizen engagement is that some citizens may not have access to the technology that allows them to participate. Women are less likely to have access to or use the internet than men. Remote and rural communities may not have the broadband capacity to fully engage with an MP or a committee. In the United States, the initial move to virtual committee hearings by the U.S. House of Representatives was conducted on the Cisco Webex video platform,⁸⁷ which did not allow for subtitles, limiting the ability of those with hearing deficiencies to follow or participate in the hearing.⁸⁸

Citizen engagement does not need to rely solely on IT or partnerships. In areas where broadband and internet are not reliable or available, MPs have taken to using radio more frequently to ensure they are both respecting social distance protocols, but also getting important messages to their constituents.⁸⁹ Parliaments can also make adjustments to their work, which may allow and even encourage in-person citizen input to continue. By imposing certain procedures, such as maintaining social distance and wearing face masks, it is possible for some in-person



(Mukachevo, Western Ukraine, June 11, 2020). Videographers in protective masks during the working visit of Speaker of the Ukrainian parliament, Dmytro Razumkov to Mukachevo.

Source: Yanosh Nemesh / Shutterstock.com.

exchanges. Some MPs have changed their procedures in their constituency offices to “appointment only” to better manage the number of people within the office space.⁹⁰ Other MPs are continuing to engage constituents through door-to-door canvassing, but with certain precautions, such as wearing face masks.⁹¹

The Australian Parliament has provided detailed protocols for citizen attendance at the parliament, which include many key public health measures.⁹² Almost all parliaments are requiring face masks to be worn within their precincts. Some parliaments, including Romania for example, have required testing of the public prior to being allowed to enter its premises. In North Macedonia, all visitors to the parliament are required to have their temperature taken prior to entering the complex.

Key Questions to Consider:



- *What accessible online tools and communications/outreach strategies can be employed by MPs and their staff to encourage inclusive citizen engagement on policy development and the overall work of parliament during a pandemic or similar crisis environment that prevents in-person engagement?*
- *What protocols need to be in place to protect witnesses attending committee hearings virtually?*
- *In environments where internet or online access is not readily available, how can MPs and their staff work with available resources to ensure they are maintaining open two-way communication between themselves and their constituents?*

Guidelines:



- *Ensure MPs have access to adequate resources to allow them to inclusively engage constituents online through whatever tool(s) works best for them and their constituents.*
- *Where there is a shift to virtual testimony before committees, designate an authority to develop specific guides and protocols for ensuring technical issues are addressed before hearings commence.*
- *Establish (or reboot) partnerships with civil society to encourage their role in promoting citizen participation in the work of parliament.*

VI. USE OF INFORMATION TECHNOLOGY

“[IT], if implemented properly, can improve current government services, increase accountability, result in more accurate and efficient delivery of services, reduce administrative costs and time spent on repetitive tasks for government employees, facilitate greater transparency in the administration of government, and allow greater access to services due to around the clock availability of the Internet.”⁹³

Source: Parliaments in the Digital Age, Oxford Internet Institute

There are multiple options available for MPs and staff to engage with other MPs, committee members and relevant staff utilizing information technology to remotely conduct parliamentary business. However, there are numerous challenges for various countries in meeting the technological demands that this modified *modus operandi* presents for conducting the people’s business in parliament.

For some parliaments the greatest security risk identified to date is not remote engagement technology, but a member’s personal mobile device. Key questions to consider when designing remote participation and voting platforms include:

- What kind of device is the MP and/or staff member using, including year, make and model, and what security issues and available software patches have been identified and installed?

- Is the device hard-wired to a local network, or is it mobile and accessing the system via WiFi?
- Is the device approved by the parliament’s IT department?
- Is the device used on a secure and encrypted network?
- Is the device used exclusively for the MP’s parliamentary business?

In this regard, it is also important to consider the possibility of cyberattack or unwittingly downloading a malicious software application or becoming subject to a phishing scam⁹⁴ — particularly if the “secure” device has multiple remote users or a user who is not necessarily trained on technology.^{95 96}

In terms of remote voting and as noted in detail earlier in this guide, another evident challenge emerging in trials in the UK Parliament, among others, is not only in the technical aspects of software design, device security and the like, but also in the willingness and ability of members to learn how the new technology works and to use it in accordance with its intended purpose on a daily basis as part of their “new normal” representative governance model.⁹⁷

Internet Bandwidth

Internet access varies across and within countries. Though many across the world have access to a mobile phone or smartphone, internet bandwidth is an important consideration when MPs and staff are designing technological and communications adaptations in a crisis.

An assessment of the internet capacity of each MP must be performed at the start of the transition to the greater use of IT by a parliament in order to ensure each MP has the bandwidth to effectively function as an MP in a virtual setting. If the bandwidth is not sufficient to enable full access to the parliament’s system, then alternatives may be required, including installing dedicated capacity for each MP. To do otherwise than ensure all MPs have equal access to virtual proceedings could lead to a question of the MPs’ privilege to attend and participate in sessions having been breached (see above section on privileges).

Hardware

Given varied infrastructure and differing platforms, individual countries must work to ensure that MPs and support staff can access information and various levels of remote business needs immediately and over time as remote work in some form becomes more likely. In terms of cost effectiveness, some parliaments have engaged in-house IT staff to begin the process toward identifying, designing and implementing these technology needs.⁹⁸ No matter the means by which such systems are installed and maintained, there may be a need to increase capital budgets of parliaments to procure, maintain and update the necessary IT equipment. It may also require the definition of minimum IT capacity for MPs’ equipment, such as a desktop or laptop. If MPs are not provided with a laptop, then the parliament will need to consider how it will ensure a secure IT system for virtual proceedings. Likewise, security issues noted earlier usually increase the cost of remote use of hardware, and this needs to be considered when allocating IT budget line items along with adequate training to ensure that once purchased, this equipment is being used safely and securely both in parliament and remotely.

Security Challenges

“The network integrated to the virtual chamber must be private, or if not, it must be secured. The goal is to avoid cloud and network vulnerabilities, such as security risks related to streaming video, such as stream grabbing and uploading; and security risks related to data routing, such as route manipulation and route hijacking, which requires that the integrated platform must offer the ability to choose through which region of the world their data would be routed.”⁹⁹

Source: Parliament of Canada, Carrying out members’ parliamentary duties: the challenges of voting during the COVID-19 pandemic.

In Canada, this issue has been recently addressed through a parliamentary analysis of how IT and operational needs of MPs can be reconciled, and how to ensure that encryption is effectively combined with authentication —

particularly when using cell phones rather than secure laptops with an identifiable and reliable IP address. This is very important when considering remote voting and in the authentication process for ensuring that such votes are cast by the actual MP engaged in online debate, scrutiny and voting.

This is also noted in Latvia, and as noted above, there are solutions for most countries despite the range of available bandwidth, communications infrastructure and reliability of both hardware and software across countries and regions worldwide.

As experienced in the Parliaments of the UK and Norway this year, email correspondence is vulnerable to third-party hacking and can have very real privacy, national security and confidentiality implications initially, with longer-term implications if that correspondence contains sensitive information on individual MPs, security and defense, or general state secret information.¹⁰⁰

A Tale of Three Parliaments: From Fully In-Person to Fully Virtual Sessions

Slovakia: In-person

- The Parliament held 20 in-person plenary sessions lasting more than 67 sitting days during the pandemic in 2020
- Access to the parliament building and plenary hall was limited to essential personnel (everyone had to wear a face mask and regularly disinfect hands)
- Quorum not reduced and MPs attended the plenary sessions and committee meetings in full unless COVID positive
- 2020 Parliament adopted 124 laws, most fast-tracked
- Questions, interpellations, reports and the draft state budget for 2021 submitted and debated per usual
- Transparency of parliamentary operations ensured through legislative tracking system and web streams

Ukraine: Hybrid

- Verkhovna Rada (VRU) declared a Pandemic Emergency on 17 March 2020
- VRU changed calendar for lockdown and canceled regular plenary
- VRU changed the law on the Parliamentary Committees, allowing virtual committee meetings
- VRU continued virtual committee hearings and met in-person for urgent issues
- MPs began to use e-documents and online platforms for parliamentary business and draft legislation review
- VRU transitioned to an e-doc system (EDMS), and ensured functioning of the e-Parliament platform

Latvia: Virtual

- e-Saeima platform, plenary sittings held remotely
- May 2020 during virtual sitting, MPs voted on the draft law
- Public scrutiny via Saeima website and Parliament Facebook account
- System requires:
 - **e-signature** (eID, eSignature card or eParaksts mobile)
 - **A computer with a functioning microphone, loudspeakers/ headphones, video camera**
 - **Google Chrome web browser**
 - **Internet connection** with VPN connection disabled
 - **Security and parliamentary procedure built in**

Finally, and in coordination and cooperation with in-house parliamentary IT departments, individual MPs and staff can work together to help ensure that external security vulnerabilities are minimized while internal information-sharing and remote ability to conduct regular business is maximized. For example, in Norway, government cybersecurity agencies are reaching out to affected MPs and staff to identify compromised hardware and review

exposed information while working together to apply enhanced information security protocols moving forward — particularly during ongoing remote work arrangements due to COVID-19.

Other IT Issues

In order to increase and enhance parliaments' ability to function effectively and securely worldwide during this pandemic period, a number of key considerations beyond the hardware and software issues identified above are important for strategic planning of available human and financial resources.

The incremental implementation of remote access technology and the increasing comfort level of MPs and relevant staff in utilizing these hardware and software tools has become a key consideration since the pandemic outbreak in early 2020. Social distancing requirements and restrictions on movement have forced parliaments to consider new methods of scrutiny, debate and voting. Now that many parliaments are at least somewhat engaged in regular business remotely, in person or as a hybrid model of the two, there is an opportunity in crisis to strengthen and deepen the representative capacity of parliament through “virtual democracy” and the ability to directly engage constituents in a more frequent and less in-person dependent fashion.

IT and the U.S. Congress: Managing Pandemic Change Through Technology in the House

In response to the COVID-19 outbreak in early 2020, the House of Representatives instituted a series of measures to rapidly transition from the traditional in-person governance model to one of remote virtual engagement. As the U.S. Congress transitioned to representation from home constituencies, the internal IT teams adapted the Congressional business model to allow members to continue to remotely conduct legislative review, committee meetings, and the day-to-day representative duties of the members.

Indeed, considering that pre-pandemic, members and committee witnesses appeared in person for committee meetings, and that witnesses flew in to provide testimony, except in rare circumstance, the rapid response and extensive hardware, software and training outlay within a highly compressed timeframe was impressive. However, for many countries where such resources are limited or unavailable (especially during a pandemic), there are other means to accomplish ongoing parliamentary business in the people's house without a massive human and financial resource outlay. For example, allowing a committee to voice vote remotely provided they are on camera and have certified their presence visually and verbally online. In addition, software companies such as Webex are introducing tailored software to allow legislators to conduct government business safely, securely and remotely, in-person or as a hybrid model [see www.congress.gov and www.webex.com/webex-legislate.html].

When considering which model to adopt in a parliament to allow MPs to continue to work remotely, in-person or in a hybrid fashion moving forward, it is also important to consider the unique demands of representative democracy and evolving technology — particularly considering the health and safety demands of a serious disease outbreak. For example, how can a parliament balance the technical aspects of IT security with member privileges moving forward? If data and information generated during a term in office belong to the government, yet digital content generated individually belongs to the MP, it is important to plan in advance to help ease the transition during a time of crisis.

Likewise, the installation of security software and maintenance of data on personal devices versus corporate (government) devices is an important consideration to prevent hacking (particularly of emails), unwittingly downloading malicious software, or subjecting a device to a phishing scam. This reinforces the concept of “bring your own data” (BYOD) where data is housed separately from the individual user interface, and supports the concept of using government devices for official business only. To that end, the U.S. House of Representatives' IT technical and user interface professionals have worked with vendors (such as Webex) and end users to protect data security while maximizing secure yet user-friendly hardware and software applications. This is why laptops and mobile devices are connected to the internet using virtual private network (VPN) connections, and it is the rationale for monitoring the installation and maintenance of all devices used for government business by the House IT departments. Another important consideration is monitoring how remote devices maintain and compile data while ensuring where possible to segregate data from the individual user. At the same time, IT and end user engagement can ensure that data is carefully managed when uploaded to the cloud, downloaded to removable hardware, or used for a specific task to fulfill the unique confidentiality, remote access and security requirements of parliamentary business.

For example, during the transition back to “normal” in 2021, and in particular after reliable vaccines have been made available to as much of the world’s population as possible, citizens and their elected representatives in parliament have a very real opportunity to improve and enhance the democratic process. As noted in a recent article on the topic, “Parliamentarians should use what they’ve learned and the expertise of the *democracy tech* and *deliberative democracy* community to build greater trust in public institutions and open up traditional processes to wider deliberation, bringing people closer to the source of democratic power.”¹⁰¹

Internet-based information-gathering and research also allows staff to find, review and compile a great deal more information — and from virtually any location — than was possible even a decade ago. To that end, the pandemic is an opportunity for MPs and staff to sharpen their research and information mining skills that, while broad in scope, may not have been as deep as is possible to date. The unfortunate circumstance of the pandemic is an opportunity to engage constituents as noted while also researching and compiling the issues of concern to the greatest number of citizen voters with much of the data compiled, consolidated and received 24/7 and regardless of either representative or citizen location.

Key Questions to Consider:



- *What tools are available in a given parliament, and how can existing technology (hardware and software) be adapted to individual circumstances?*
- *How does the parliament ensure the security of procedures online when MPs and staff are using various devices, many of them personal?*

Guidelines:



- *Ensure that the IT systems and protocols established during the COVID-19 pandemic have longer-term relevance and that these measures can be adapted to changing circumstances moving forward — particularly as regards the transition from remote engagement to the post-pandemic in-person parliamentary business model.¹⁰²*
- *Consider procuring personal laptops or desktops with docking facilities for MPs and staff at their office and at home to allow them to have IT equipment that meets the security and functionality needs of the parliament’s IT systems.*
- *Develop protocols for how an MP can authenticate their identity prior to accessing the IT system for virtual sessions of the parliament or a committee. For example, authentication can be based on digital signatures or security tokens, which are peripheral devices used to gain access to a digitally restricted source, either in addition to a password (or PIN code) or instead of it.*
- *Develop specific protocols related to the management of security for devices that may have multiple users or for MPs that use multiple devices. This may include restricting the apps that can be downloaded, limiting the types of devices that can be used, activating password enabling and requiring two-factor authentication to access the system.*

VII. KEY ISSUES

Gender Equality

Women worldwide have been disproportionately and negatively impacted by the COVID-19 pandemic. The limiting of social contacts and the closing of childcare facilities have placed women in a precarious position where they are forced to assume a greater burden of unpaid care work and domestic duties while having to manage working remotely or from home. Women in politics are not immune to these challenges, including women MPs. Even before the pandemic, women MPs faced greater challenges than their male counterparts, which have only been exacerbated by the crisis.

Specific research since the start of the pandemic has highlighted further such challenges, which have only become worse during the emergency. The research identified four emerging risks to women's political participation and inclusion in light of the COVID-19 pandemic including:

- Increasing economic precarity and a return to traditional gender roles, limiting the ability and time for women to participate in politics;
- Greater reliance on informal practices that may limit women's access to party resources and financing for electoral campaigns;
- Inequities in access to online platforms (as noted in sub-section III.c); and
- Decreased public visibility of women during the pandemic, resulting in issues related to gender and political empowerment becoming less likely to be at the center of the political debate as the emergency subsides.¹⁰³

Where parliaments have attempted to maintain in-person sessions, MPs who are pregnant or have small children have raised concerns for their health.¹⁰⁴ For those parliaments that have adopted virtual sessions or convenings, gendered technology gaps have prevented some women — particularly rural and non-elite women — from accessing necessary technology and have added an additional cost burden to their participation. Further, women MPs who also serve as primary caregivers in their homes continue to balance more often the need to provide that care while maintaining the incredible demands of their work.

There is a risk that during the pandemic some gains made by women MPs in the leadership of parliaments may regress.¹⁰⁵ Djibouti's Parliament has ensured that at least 20 percent of the seats on a special pandemic response committee are held by women MPs.¹⁰⁶ Globally, 85 percent of national COVID-19 task forces include men, and 81 percent are headed by male leaders.¹⁰⁷ According to recent NDI research, this lack of gender balance in the pandemic response has devastating effects not only on women's leadership, but also on gender equality more broadly:

“This skewed view of who counts as an expert risks weakening policy attention to gender and other identity-based vulnerabilities in pandemic responses and pushing urgent gender equality priorities off the political agenda. It also reinforces gender stereotypes that associate men with political power and incorrectly relegate women to supporting roles or the domestic sphere.”¹⁰⁸

Source: Saskia Brechenmacher and Caroline Hubbard, How the Coronavirus Risks Exacerbating Women's Political Exclusion

Some have seen the move to virtual sessions as an opportunity to allow a more flexible work environment on a permanent basis.¹⁰⁹ The UK House of Commons has noted a slight uptick in the participation of women MPs in debates — from 31 to 35 percent — when the House sat in hybrid mode.¹¹⁰ However, the timing of virtual sessions may also be a challenge for women who face the triple burden of child care, adult care and domestic work. Others have noted that politics is about relationships and leveraging opportunities for personal engagement, sometimes spontaneously. If women MPs in particular push for permanent hybrid and virtual sessions in order to have a better work-life balance, they may not be “at the table” when decisions are made, leading to a backsliding from recent gains in women assuming more leadership roles within parliaments. A woman MP from the UK has noted:

“It turns out the drama of two people facing each other in the chamber of the mother of parliaments matters much more than I thought it did. A minister having to stare into the whites of a person's eyes as they deliver a weak line or even a great one is the lifeblood of our democracy.”¹¹¹

Source: Jess Phillips, “I'm worried about what a Zoom parliament really means for proper debate and scrutiny,” Independent.

Crises and transitions can be moments of opportunity to reimagine existing governance paradigms as well as the gender norms that underpin them. One of the challenges going forward will be to embrace the positive aspects of a greater use of technology and more flexibility in the work of parliaments while ensuring longer-term negative impacts are minimized. This will require a thorough analysis and evaluation after the pandemic of the various adaptations made by any given parliament, and then a determination if there are lessons learned that can result in more permanent changes to procedures.

Key Questions to Consider:



- *What are the challenges and opportunities presented by technology and virtual proceedings in promoting greater participation of women MPs in decision-making within the parliament?*
- *How can parliamentary procedures be amended to ensure women — MPs and otherwise — have equitable access to and are better able to participate in proceedings?*
- *What policies and practices could be reformed to enable gender-sensitive parliaments?*

Guidelines:



- *Consider a minimum percentage for each gender on special committees established to manage parliaments' response to the pandemic.*
- *Establish monitoring and evaluation systems to gather lessons learned from any adaptations made during the pandemic to better understand the impact on gender in the short-, medium- and long-term.*
- *Ensure the adaptation to online sessions is done in a manner that reflects the demands of all MPs in their constituencies, particularly women. Consideration for those experiencing technology gaps and those already marginalized and left out should be prioritized.*
- *Review resources on gender-sensitive parliaments with a view on how recommendations and action steps can be taken up as part of COVID adaptations.¹¹²*

Transparency and Openness

Transparency and access to information are essential for the effective performance of democratic parliaments. These principles are included in several global declarations and treaties, being recognized also in the 2030 Agenda as part of the effort related to the Sustainable Development Goals.¹¹³ To achieve more transparent and accountable governance many parliaments and supporting organizations have been engaged in the Open Government Partnership (OGP), an organization comprised of government leaders and civil society advocates, as well as the Open Parliament e-Network (OPeN), a consortium that includes NDI and global partners and “supports parliaments around the world to collaborate with civil society to become more transparent, accountable and participative.”¹¹⁴ A core document guiding parliaments on ways to bring more transparency into parliamentary work is the Declaration on Parliamentary Openness, which was officially launched at the World e-Parliament Conference on September 15, 2012 in Rome,¹¹⁵ on the occasion of the International Day of Democracy.¹¹⁶ In August 2020, OGP published specific guidance to open governance during a major crisis like the COVID-19 pandemic.¹¹⁷

In relation to the COVID-19 pandemic, governments and parliaments have to promptly respond to the socioeconomic consequences of anti-pandemic measures (e.g., lockdowns, curfew) providing massive economic support to people and companies. This wide-ranging and rapid response has challenged traditional approaches to transparency and public accountability. Nevertheless, even in such a complex situation many countries still find efficient ways to keep the parliament and public informed. In countries where e-Parliament and legislative tracking systems and/or dedicated television channels for parliamentary business have been developed, the disclosure of any proposals related to COVID-19 is part of regular parliamentary work, enabling citizens to track draft laws, amendments,

questions, interpellations and parliamentary debate (e.g., through verbatim reports or audio-visual records).¹¹⁸ In developing democracies without the e-Parliament system in place or access to reliable internet and/or computer hardware to run it, keeping citizens informed remotely is a very real challenge.

With the shift to remote committee meetings and virtual plenary sessions, it is inevitable to carefully consider how to make parliamentary debates available to the public and how to provide multiple streams online. Moreover, it may be necessary to redesign the interactivity of parliamentary websites and their search engines. These considerations are again highly dependent on the state of digitalization of parliamentary processes in each institution. Nevertheless, public observation and participation have to be incorporated into videoconferencing tools as parliaments debate and vote. A foremost concern is to disclose information on amendments made to the parliamentary rules of procedure, including who was involved in the decision and how it will be implemented.¹¹⁹

There are many positive examples of transparency in management of the coronavirus crisis worldwide. In Germany, the presentation of the so-called “protective shield to manage the coronavirus pandemic” was made available not only to the parliament, but also to the public in an easily accessible format, including detailed costing, eligibility criteria and a presentation of administrative processes. Similarly, Peru has developed a webpage where citizens can find information on their eligibility to access aid for vulnerable households. Comparable webpages have been created in other countries as well, including Iceland, Indonesia and the UK.¹²⁰ Brazil created a dedicated section with open data to track state spending on coronavirus relief efforts on its Transparency Portal.¹²¹ In addition, parliamentarians in several countries (e.g., Armenia and Indonesia) use their social media profiles to provide citizens with updates on the pandemic.¹²² In Nigeria, the Action Group on Free Civic Space regularly documents government and parliamentary measures related to COVID-19 and violence by public authorities.¹²³

Public participation at all levels of decision-making in the context of the COVID-19 pandemic is essential as well. It ensures that governments and parliaments uphold the rule of law and strengthens legitimacy of the decision-making process and ownership of its outcomes. Thus, especially in the times of crisis it is important to carry out enhanced deliberations and provide mechanisms for citizens to (virtually) comment on issues debated in parliament. Here are several examples of available digital deliberation tools:

Bang the Table: created by *EngagementHQ*, is a digital community engagement platform that facilitates deliberative decision-making.

Balancing Act: created by Engaged Public, is an online tool for community members to engage on a budget process through simulation and a taxpayer receipt app.

Common Ground for Action: created by the National Issues Forums Institute, is an online platform for non-partisan and moderated, deliberative forums which allow participants to exchange views with others about important issues facing the country.¹²⁴

DemocraciaOS: created by Democracia en Red, an NGO based in Argentina, is an online platform designed for governments and other public institutions to enable participatory budgeting, public consultations and crowd lawmaking.¹²⁵

CONSUL: awarded by the UN Public Service Award, is a complete citizen participation tool for an open, transparent and democratic government, which is currently used in 35 countries.¹²⁶

For instance, the French Parliament hosted a virtual public forum to collect citizens’ opinions on the direction of France’s policy priorities after the COVID-19 pandemic. Deliberations took place over the open-source and GDPR-compliant application Decidim,¹²⁷ where 15,000 French citizens made accounts and discussed topics such as health, labor, consumerism, education, solidarity and democracy. Similarly, the Brazilian Senate debated the proposals for legislative responses to the coronavirus crisis submitted by citizens through the e-Citizenship Portal.¹²⁸

However, a shift to digital deliberation goes hand in hand with the need to cope with technological inequalities in society and to actively include groups that face barriers to virtual participation, such as senior citizens, women and rural community members with limited technology access. It is equally important to provide information in a straightforward and understandable fashion for all target audiences.

Key Questions to Consider:



- *Has your parliament already implemented a comprehensive digitalization of its systems? If not, what other channels can be used to communicate the adopted measures to the citizens?*
- *How can IT and virtual proceedings facilitate parliamentary transparency and openness?*

Guidelines:



- *Consider redesigning the parliamentary website to communicate the adopted measures to citizens in an accessible way; for instance, via a specific subsection on the website dedicated to documents related to COVID-19 (strategies, laws, interpellations, budgetary measures, etc.).*
 - *Consider developing inclusive participation opportunities and feedback mechanisms for the public by using available digital deliberation tools.*
 - *Collect and produce relevant data and information that is accessible in open and machine-readable formats to allow citizens to access and use the data.*
-

VIII. CONCLUSION

Despite the very real challenges posed by the COVID-19 pandemic, parliaments, MPs and their staff have adapted in order to overcome obstacles posed by the pandemic to continue fulfilling their legislative, oversight and representative roles. Even as the pandemic spread, and autocrats globally saw it as an opportunity to seize constitutional authority from parliament, if only temporarily, through emergency crisis management, those leaders who maintained their strong commitment to continuing the vital constitutional role of parliament as the strongest voice for the greatest number of citizens identified opportunities to adapt legislative operations in order to continue fulfilling the institution's crucial mandate. There are lessons to be learned from the pandemic, and parliaments would benefit from such lessons as they plan for the future.

Key factors, such as the legal framework and rules of procedure, lend to the validity and security of parliamentary business no matter where that business is conducted.

In order to be responsive to internal governance needs and external demands in society and the economy during a crisis, parliament needs to have the procedural and technological tools at hand to do so. Recognizing the vital role of representation, parliaments have also continued to give voice to minority parties in parliament while ensuring that women, minorities and those who might otherwise be marginalized in a time of crisis continue to have a prominent place in the parliamentary process. Attempts to subsume the vital role of parliament as the executive branch attempts to not only take the lead as the public voice in crisis, have been countered by adherence to the constitution and maintenance of parliament's oversight role — whether in person or remotely in 2020.

Likewise, plenary and committee business and individual MP activities require adherence to procedural and constitutional parameters while accommodating the health and safety demands imposed by an external crisis. Citizen needs are amplified during an emergency, and parliament must be able to respond effectively, efficiently and in a timely manner in order to protect lives and livelihoods.

Long-established formal constitutional process and procedure when combined with the benefit of modern technology can provide a vehicle for continuity during times of crisis and parliaments worldwide have identified and adapted to COVID-19 in various ways that can also be adopted in a post-pandemic world once the crisis has passed. These measures may also ensure that parliaments are more resilient for the next major emergency.

As is detailed throughout this guide, parliaments worldwide have adapted to the unique demands posed by COVID-19 by implementing standards and adapting procedures and operations through novel ways to continue the essential business of the people, ensuring oversight and executive scrutiny and maintaining citizen representation. The extraordinary times and the adaptive methods used by parliaments globally may serve as a model for governance moving forward to prepare in the event of future crises.



(Pristina, Kosovo, March 22, 2021). Newly elected Prime Minister of Kosovo Albin Kurti addresses members of the parliament after the parliamentary voting session

Source: Armend Nimani / Gettyimages.com

ANNEX 1: CHECKLIST OF KEY QUESTIONS TO CONSIDER

Key Factors in Building Resilient Parliaments

Legal framework, the constitution and parliament meeting location and rules of procedure (ROP)

- ✓ Is there any official legal interpretation of the constitution and/or laws stipulating the presence of MPs in the parliament (e.g., by the Constitutional Court)? If not, is there a need to amend the constitution or is there already flexibility to allow virtual sessions?
 - ✓ If a parliament delegates its authority to the executive to adopt laws during an emergency, what provisions are in place to ensure the authority is temporary and can be revoked by the parliament?
 - ✓ Are there any rules in place allowing for remote plenary sessions and committee meetings in an emergency situation? Are there any relevant practices in other countries?
 - ✓ Is there a need to adopt special rules to facilitate safe organization of plenary sessions and committee meetings during a major crisis like a pandemic?
 - ✓ How would proposed changes to rules of procedure affect (positively or negatively, directly or indirectly) women and other members from marginalized communities?
-

Parliamentary Privileges

Preserving freedom of expression for MPs, access to information and the right to attend sessions

- ✓ What are the privileges of MPs in the parliament and how can they be protected even during an emergency?
 - ✓ What role does IT currently play and what role could it play in allowing flexibility in how MPs' privileges are respected?
 - ✓ Is there a need to amend the constitution or rules of procedure to protect the right of expression by MPs who are not attending in-person before a committee or plenary meeting?
-

Plenary Sessions

Schedule and agenda items, debate and voting

- ✓ Is there a need to modify the parliamentary schedule and plenary agenda to facilitate safe organization of plenary sessions during a major crisis like a pandemic?
- ✓ If modifications are made to the legislative calendar, how can leadership distribute this information in an accessible manner?
- ✓ How far is your parliament with the digitalization of parliamentary processes?
- ✓ Do MPs have inevitable technical equipment and experience to participate in hybrid or virtual meetings?
- ✓ Characterize the nature and mode of the plenary debates conducted during scrutiny and legislative procedures in your parliament. Would the manner of plenary debate allow for hybrid or virtual meetings?
- ✓ How does your parliament recognize MPs to speak during a debate? Do the standard practices need to be adjusted to adapt to social distancing requirements?
- ✓ Can the parliament work efficiently and allow voting remotely through procedural changes while not relying on technology?

- ✓ What capacity of support will MPs require to be able to adapt to remote voting?
 - ✓ What protocols are required to authenticate an MP's identity prior to voting remotely?
 - ✓ Which MPs have limited or no access to the technology to allow for remote meetings, and does this issue impact certain groups of MPs more than others?
-

Committees

Operations, special pandemic committees, permanent committees and managing multiple committees

- ✓ Which committees are to be prioritized at the start of an emergency to ensure core functions and important themes continue to be addressed by parliament?
 - ✓ Do the rules of parliament allow for a special committee to be established to manage the work of parliament while establishing capacity to be fully functioning?
 - ✓ Can committee sessions be livestreamed or recordings made available, either on the parliamentary website directly or through external services such as YouTube?
 - ✓ Will committees be subject to similar guidelines and/or rules on remote and hybrid participation, debate and voting?
-

Parliament functions

Oversight, lawmaking and representation

- ✓ How must oversight tools be adapted to ensure MPs have adequate time and resources to monitor the spending and activities of the government?
 - ✓ Is there a need to establish special rules or structures within parliament to ensure oversight can continue during a major crisis like a pandemic?
 - ✓ How can a parliament ensure it has access to independent and high-quality research when its normal activities are limited?
 - ✓ How is the legislative process regulated in an emergency situation in your country?
 - ✓ Is there a need to adopt special rules to ensure efficient and responsive lawmaking during a major crisis like a pandemic?
 - ✓ What accessible online tools and communications/outreach strategies can be employed by MPs and their staff to encourage inclusive citizen engagement on policy development, and the overall work of parliament during a pandemic or similar crisis environment that prevents in-person engagement?
 - ✓ What protocols need to be in place to protect witnesses attending committee hearings?
 - ✓ In environments where internet or online access is not readily available, how can MPs and their staff work with available resources to ensure they are maintaining open two-way communication between them and their constituents?
-

Information & Communication Technology (ICT):

- ✓ What IT tools are available in a given parliament and how can existing technology (hardware and software) be adapted to individual circumstances?
- ✓ How does the parliament ensure the security of procedures online when MPs and staff are using various devices, many of them personal?

- ✓ How can existing IT resources (such as computers and phones on hand) be combined with available parliamentary, committee, or constituent office staff to IT staff to maximize effectiveness and efficiency with economies of scale?
 - ✓ What kind of device is the MP and/or staff member using, including year, make and model with known security issues and available software patches identified and installed?
-

Key Issues

Gender impact, transparency and openness

- ✓ What are the challenges and opportunities presented by technology and virtual proceedings in promoting greater participation of women MPs in decision-making within the parliament?
 - ✓ How can parliamentary procedures be amended to ensure women — MPs and otherwise — have equitable access and are better able to participate in proceedings?
 - ✓ What policies and practices could be reformed to enable gender-sensitive parliaments?
 - ✓ Has your parliament already implemented the e-Parliament system? If not, what other channels can be used to communicate the adopted measures to the citizens?
 - ✓ How can IT and virtual proceedings facilitate parliamentary transparency and openness?
-

ANNEX 2: GUIDELINES FOR PARLIAMENTS FUNCTIONING IN A TIME OF PANDEMIC

Legal Frameworks

Rulings of the Constitutional Court and/or any other official legal interpretation of the provisions concerned may guide the legislators to draft amendments. However, such legal changes would have to go hand in hand with tailor-made technical solutions with unquestionable authentication of MPs (especially during voting), so that the personal exercise of the parliamentary mandate is credibly demonstrated.

Where a parliament needs to amend its legal framework to build more flexibility into how it functions, it is crucial that such provisions are time-bound and limited in scope to ensure the institution does not shirk its constitutional responsibilities, but continues to function.

Analyze the existing legal framework and good practices from other countries. Parliamentary research services should provide briefings on various solutions applied in other parliaments to facilitate fact-based decisions.

Consider adopting long-term solutions that might be applicable in any critical situation rather than stand-alone temporary decisions.

Strengthen effective committee operations by using advanced IT tools to conduct at least the oversight activities remotely

Parliamentary Privileges

The Rules of Procedure must be adhered to even during a global pandemic. Consider how COVID-19 restrictions can be respected while also ensuring that the lawful conduct of parliamentary business is maintained in accordance with ROP, individual MP and overall parliamentary mandate and the constitution.

Access to information by MPs should be routine and the parliament and executive need to build the systems to ensure such information is released routinely for consumption by MPs and committees.

Well-organized and resourced political party groups in a parliament are essential to ensure parliament can fulfill its mandate while limiting access to the premises by all MPs.

Any changes to the rules of procedure should be informed by an assessment of how they will impact (positively and negatively, directly and indirectly) women and other members of marginalized groups.

Enhance the resilience of parliamentary library and research services by investing in the digitalization of information and access to such information online.

Plenary Sessions

Analyze the existing legal framework and good practices from other countries. Parliamentary research services should provide briefings on various solutions applied in other parliaments to facilitate fact-based decisions.

Plenary Sessions *Continued*

In the early stages of an emergency, prioritize the core work of the parliament and build a schedule or agenda ensuring that work is a focus.

Consider utilizing advanced IT tools such as videoconferencing to ensure parliamentary debates rather than limiting the agenda items.

Analyze carefully the existing technical and digital capacity of your parliament.

Assess the current material situation, and consider possibilities for capacity building activities or induction programs.

Analyze the legal framework and practices related to the parliamentary debate and assess the most important features that have to be supported during hybrid or virtual sessions. Consider any major differences from a regular webinar or online meeting.

Keep it simple — parliaments should develop the most cost-effective method of ensuring voting can continue during an emergency situation.

Test and try any new systems or procedures prior to using them for voting so as to reduce the chance of failure during a vote.

Develop voting procedures that do not disproportionately and negatively impact women MPs, and test such systems with women MPs specifically to ensure it meets their needs.

Consider if the rules for voting will be temporary or permanent. If the latter, consider what the long-term implications are for such a change.

Provide MPs with training and technical support in a timely manner prior to the system is fully operational.

Committees

Immediately after the declaration of an emergency that prevents a parliament from operating normally, consider establishing a special or ad hoc committee that will function as a steering committee or a Whole House Committee to enable the parliament to maintain as many functions as possible while establishing new protocols and procedures during the emergency.

As permanent committees return to functionality, consider which committees are a priority for support as the parliament adjusts its capacity to reflect pandemic protocols.

Establish protocols for the functioning of committees either virtually or in hybrid mode, including the need for enhanced cybersecurity provisions and managing hearings and inquiries.

Oversight, Lawmaking and Representation

Build robust partnerships and collaboration with independent oversight institutions to ensure a routine exchange of information in conducting oversight of the government.

Oversight, Lawmaking and Representation *Continued*

Build resilient systems and procedures to ensure information continues to be accessible for MPs and staff even during an emergency.

Triage the work of parliament, especially during the early months of an emergency, to ensure the critical work is prioritized, including key oversight work.

Build resilient systems and procedures to ensure efficient and responsive lawmaking during disruptive events like a pandemic or natural disaster.

Focus the parliamentary research work on comparative analyses and briefings on measures taken in other countries to facilitate fact-based decision-making.

Once a parliament has begun to manage the new procedures and protocols, detailed scrutiny of draft legislation must become the norm.

Ensure MPs have access to adequate resources to allow them to engage constituents online through whatever tool(s) works best for them and their constituents.

If there is a shift to virtual testimony before committees, develop specific guides and protocols for ensuring technical issues are addressed before hearings commence.

Establish or reboot partnerships with civil society to encourage their role in promoting citizen participation in the work of parliament.

Information Technology

Ensure that the IT systems and protocols established during COVID-19 have longer-term relevance and that these measures can be adapted to changing circumstances moving forward, particularly as regards the transition from remote engagement to the post-pandemic in-person parliamentary business model.

Consider procuring personal laptops or desktops for MPs and staff to allow them to have IT equipment that meets the security and functionality needs of the parliament's IT systems.

Develop protocols for how an MP can authenticate their identity prior to accessing the IT system for virtual sessions of the parliament or a committee. For example, authentication can be based on digital signatures or security tokens, which are peripheral devices used to gain access to a digitally restricted source, either in addition to a password (or PIN code) or instead of it.

Develop specific protocols related to the management of security for devices that may have multiple users, or for MPs who use multiple devices. This may include restricting the apps that can be downloaded, limiting the types of devices that can be used, activating password enabling, and requiring two-factor authentication to access the system.

Key Issues

Consider a minimum percentage for each gender on special committees established to manage parliaments' response to the pandemic

Key Issues *Continued*

Establish monitoring and evaluation systems to gather lessons learned from any adaptations made during the pandemic to better understand the impact on both genders in the medium and long-term

Ensure the adaptation to online sessions is done in a manner that reflects the demands of all MPs in their constituencies, particularly women.

Review resources on gender-sensitive parliaments with a view on how recommendations and action steps can be taken up as part of COVID-19 adaptations.

Consider redesigning the parliamentary website to communicate the adopted measures to citizens in an accessible way; for instance, add a specific subsection on the website dedicated to COVID-related documents (strategies, laws, interpellations, budgetary measures, etc.).

Consider developing inclusive participation opportunities and feedback mechanisms for the public.

Collect and produce relevant data and information that is accessible in open and machine-readable format to allow citizens to access and use the data.

SLOVAKIA

The Slovak Parliament continued with in-person plenary sessions and committee meetings

The first recorded case of COVID-19 in Slovakia was confirmed on March 6, 2020, shortly after the parliamentary elections of February 29, 2020, which were won by the opposition. According to Article 82 paragraph 2 of the Slovak Constitution, the President shall convene the constituent session of the newly elected legislature within 30 days of the announcement of official election results. Thus, the first plenary session took place on March 20, 2020, and the new government was appointed one day after. Throughout 2020, the Parliament held 20 plenary sessions lasting 67 sitting days, keeping to the agreed parliamentary schedule with a few additional extraordinary plenary sessions due to the pandemic. Depending on the local situation, access to the main parliamentary building, including the plenary hall, was restricted to:

- MPs;
- parliamentary staff;
- a limited number of designated MP assistants to ensure the continuation of activities with proportional assignment to parliamentary groups, with all assistants allowed to work on-site in parliamentary offices located in another building;
- authorized persons with parliamentary ID;
- parliamentary business-related visitors to the Speaker, Vice-Speakers and Committee Chairs;
- working visitors participating in meetings or sessions of the parliament, its committees and parliamentary administration departments, and;
- a limited number of authorized media representatives with a maximum of 37 media representatives at any given time.

Quorum was not reduced due to constitutional parameters and legal reasons, and MPs attended the plenary sessions and committee meetings in full, except for those who tested positive or were in self-isolation. The plenary hall arrangement does not allow for social distancing measures. However, everyone on site (including MPs) was required to wear a face mask and to use hand sanitizer on premises, particularly when entering the plenary hall. Voting took place as per usual using voting equipment in the chamber.

Between March and December 2020, the Parliament adopted 124 laws, with almost half of them via fast-track legislative procedure intended to mitigate the public health, social and economic impacts of the COVID-19 pandemic.

Parliamentary questions, interpellations, reports and the draft state budget for 2021 were submitted and debated in the customary manner, following the above-mentioned hygiene and COVID-19 conscious procedures.

As usual, transparency of parliamentary operations was ensured through the legislative tracking system and web streams of plenary sessions. Depending on the local pandemic situation, the Parliament serially applied teleworking protocols for staff in March, April and October 2020 with the consent of the director of each respective organizational unit and if the individual scope of work allows.

Testing was available for MPs and parliamentary staff during the nationwide COVID-19 mass screening with antigen tests, which took place in two phases on October 31 and November 1, and again on November 7 and 8, 2020.

Adapting Pandemic Protocols in Ukraine: Committees, quorum and e-Parliament platforms

The Ukrainian Rada declared a Pandemic Emergency on March 17, 2020, including a decision to delay plenary sessions until at least June 2020. There are rules of procedure articles in place specifically relating to the response to a state of emergency, and these include that convening a Rada plenary within 72 hours is mandatory, which coincided with a planned session on March 17.

The *Verkhovna Rada* (the VRU) decided to change its calendar plan for the duration of the national lockdown and cancel all regular plenary meetings. The VRU also changed the law on the Parliamentary Committees and allowed them to hold committee meetings and committee hearings online. Thereafter, the VRU continued to hold regular committee hearings in remote format and gather for extraordinary in-person plenary hearings to consider urgent legislative issues.

Leaders of the VRU Secretariat made public statements to note that the new format of the remote work of the committees proved to be quite efficient. One positive development that came out during the COVID-19 quarantine is that MPs started to use e-documents and online platforms provided by the Rada to communicate and discuss draft legislation. In particular, the Parliament has transitioned to the Electronic Document Management System, and a number of actions were taken to ensure the functioning of the e-Parliament platform.

In order to accomplish these online committee meetings, changes to legislation was required specific to the *Law on Parliamentary Committees*, including amendments developed with all parliamentary parties including provisions for virtual meetings, allowing remote voting and status as a temporary emergency measure. Committee meetings were livestreamed for the first time, and all parliamentary committees were consecutively fully functional remotely or socially distanced — though not all committee rooms were equipped for livestreaming and virtual capability.

Another pandemic-inspired innovation is that CSOs and other advocates were able to engage online with the VRU for the first time. Meetings were previously open to media and experts and this transferred to online meetings while also allowing voting during remote committee meetings to take place with visual confirmation of MP participation and oral or hand affirmation voting.

Regarding in-person parliamentary business, all factions reached consensus that the time for plenary discussions shall be significantly decreased and therefore Parliament used expedited procedures for consideration of draft laws during plenary sessions starting in March. During the national lockdown period from March through May, the VRU canceled all business trips for MPs and limited access to the main parliamentary buildings to MPs and key staff as well as the media. Only 20 to 30 percent of all parliamentary staff visited parliament on a given day, while the majority worked remotely.

Finally, and in accordance with Article 84 of the Ukrainian Constitution, the Constitutional Court determined that sessions must be held in person at the Rada (unless a motion was passed by parliament to move to in-person sessions at another location). To that end, some MPs preferred a hybrid model, but the court rejected this approach based on interpretation of constitutional provisions. Therefore, no change was made to the VRU sitting calendar coinciding with the increase in pending bills due to the pandemic response and regular ongoing business. Only quorum rules related to voting were changed, where it was decided that 50 percent of MPs must be in chamber to vote; no agreement or decree was passed that limited access by MPs.

Utilizing technology for secure remote MP participation in parliament

The Saeima is one of the first parliaments in the world to fully shift to remote work during the COVID-19 crisis.¹²⁹ Thanks to the new e-Saeima platform, plenary sittings can now be held remotely, with MPs participating from outside the parliament premises. The first remote sitting of the Saeima using the e-Saeima tool took place in late May 2020, and during the virtual sitting, MPs voted on the draft law on Latvia's Administrative-territorial reform.¹³⁰ As in other parliamentary sittings during the emergency situation, MPs were located in various rooms in the Saeima buildings while also using the new platform. Technical support was also provided on an as-needed basis. The work of the Saeima remains open to the public, and anyone interested may follow the remote sittings live on the Saeima website and the parliament's Facebook account, as usual.¹³¹

The new platform, e-Saeima, is a unique information technology solution developed specifically for the needs of the Saeima. It ensures that the most important functions of parliamentary sittings are maintained — namely, the opportunity to debate and vote on items included in the plenary agenda. Both functions work live in real time.

The system requires:

- **e-signature** (*eID, eSignature card or eParaksts mobile*)
- **A computer** *with a functioning microphone, speakers/headphones and video camera*
- **Google Chrome** *web browser*
- **Internet connection with VPN connection disabled**

MP participation is authenticated utilizing an individual identification card inserted into the laptop computer or the MP's mobile phone. In addition, a unique proprietary software application was developed for use solely by the parliament, and as such, some of the issues faced by other parliaments in terms of hacking risk, data sharing and routing through remote or third- country servers, has been minimized or eliminated. The platform also allows individual MPs participating in a given session to participate in a live online debate; apply for debate time or withdraw from it and vote on items up for consideration during a given virtual session.

The platform also shows speakers in turn who have the virtual floor and contains a text box with a timer for allotted time for each MP to participate in accordance with the rules of procedure. Finally, the debate chairperson can activate a remote voting function which includes a virtual clock and options for MPs to review and vote on an item up for consideration and only during the allotted voting timeframe. At the end of a given debate or voting session, individual MP access to the system is disabled until the next session is called and verified access is accomplished.¹³²

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