



*Guide to a*

# **VIRTUAL** LEGISLATURE

Achieving Legislative Business Continuity during A Public Emergency



# A GUIDE FOR VIRTUAL LEGISLATURE

*Achieving Legislative Business Continuity in a Public  
Emergency*

**Published by**



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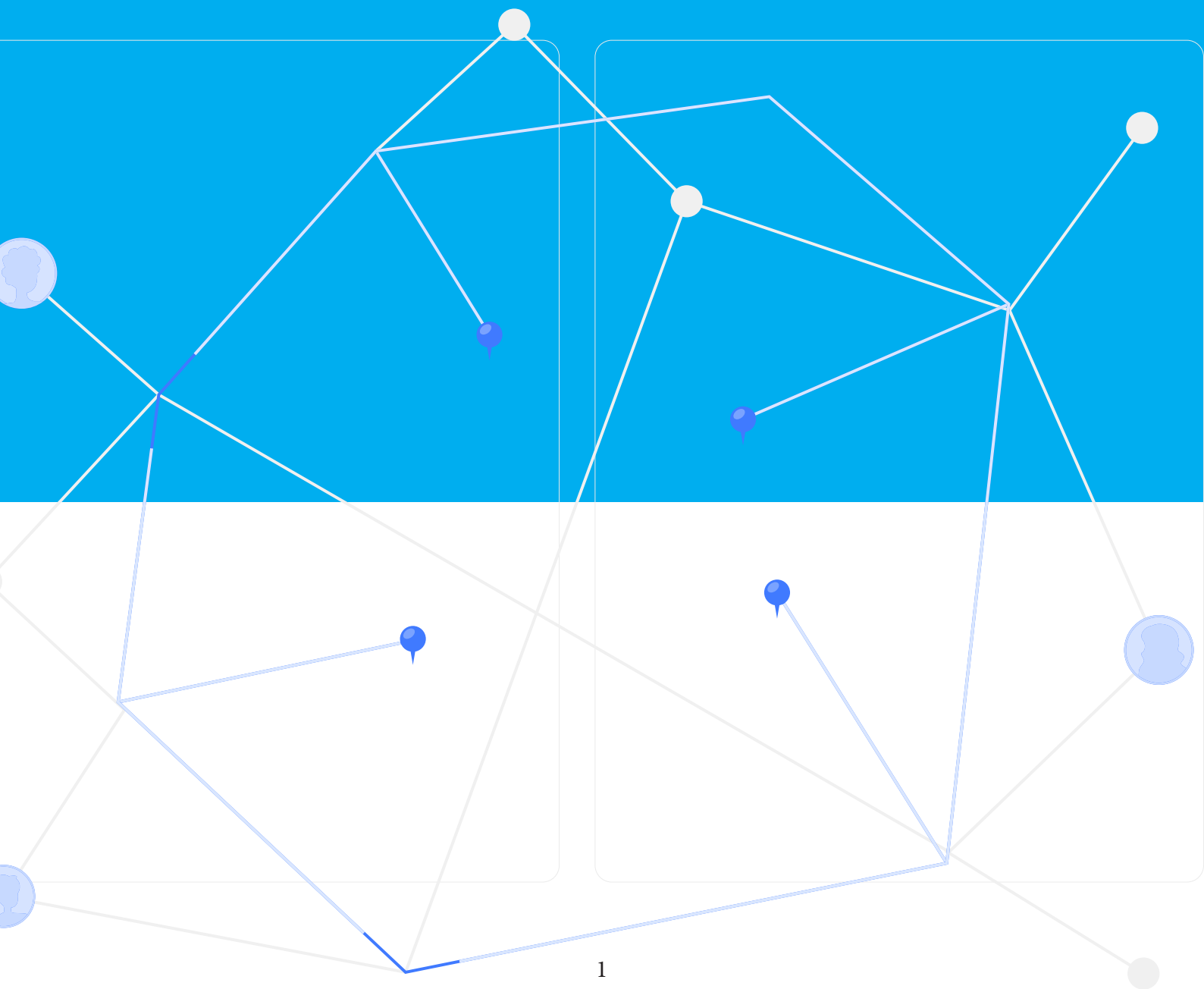


# PART 1

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## ACHIEVING LEGISLATIVE BUSINESS CONTINUITY

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# CHAPTER 1

## INTRODUCTION AND BACKGROUND OF PANDEMICS AND PUBLIC EMERGENCIES

Nigeria reported its first incident of COVID-19 on 25th February 2020<sup>1</sup>. By March, this number had ascended exponentially<sup>2</sup> leading to the Federal Government's issuance of Regulations<sup>3</sup> restricting movements and operation of businesses<sup>4</sup> in the Federal Capital Territory, (FCT), Lagos and Ogun States to curtail virus spread.

With schools shut down and restrictions placed on religious services, gatherings and businesses, the decision took a huge toll on Nigerian citizens<sup>5</sup>. It also had far reaching implications for governance and parliamentary functionality.

For instance, an examination of the Votes and Proceedings (Hansard) from Nigeria's National Assembly<sup>6</sup> (its Legislative arm) show that at the height of the pandemic<sup>7</sup>, legislative functioning was hampered by limited sittings and frequent adjournment. All these have had a huge impact on Nigerian citizens. Also, while the Executive and the Judicial arm of Government appeared to be more revolutionary<sup>8</sup> in adapting their proceedings to virtual means, the National Assembly took on a more reluctant approach in continuing physical operations albeit with reduced activities. All these have had huge bearing on the Nigerian populace.

As the world continues to grapple with a crisis that has had a profound impact on governance and raised peculiar challenges on the National Assembly's capacity to carry out its constitutional responsibilities, it is important that the Legislature Assembly adapt its procedures in a manner flexible enough to perform its role of oversight, legislation, representation and oversight, in the

- 1 Federal Ministry of Health, "Health Minister: First Case of COVID-19 in Nigeria" [https://www.health.gov.ng/index.php?option=com\\_k2&view=item&id=613:health-minister-first-case-of-covid-19-confirmed-in-nigeria](https://www.health.gov.ng/index.php?option=com_k2&view=item&id=613:health-minister-first-case-of-covid-19-confirmed-in-nigeria)
- 2 Nigeria had 44 confirmed cases of COVID-19 by 24<sup>th</sup> March 2020. See Nigeria COVID-19 Cases on the Rise <https://www.hrw.org/news/2020/03/25/nigeria-covid-19-cases-rise>
- 3 COVID-19 Regulations, 2020 <https://pwcniigeria.typepad.com/files/fg-covid-19-regualtions.pdf>
- 4 The COVID-19 Regulations, 2020 provides exceptions to the operation of businesses delivering basic services such as food, petrol, power supply etc
- 5 Policy and Legal Advocacy Centre, "Economic and Social Effects of Public Emergencies on Vulnerable Groups Especially Women and Persons with Disabilities" <https://placng.org/i/wp-content/uploads/2021/12/Economic-and-Social-Effects-of-Public-Emergencies-on-Vulnerable-Groups-Especially-Women-and-Disabled-Persons.pdf>
- 6 Votes and Proceedings from March to July 2020. Senate Votes and Proceedings can be accessed at [https://placng.org/i/document\\_type/senate\\_](https://placng.org/i/document_type/senate_) while the House of Representatives Votes and Proceedings can be accessed at [https://placng.org/i/document\\_type/ reps\\_vp/](https://placng.org/i/document_type/ reps_vp/)
- 7 This Guide focuses largely on developments between March to July 2020
- 8 The Guardian, "Supreme Court Okays Virtual Hearings of Cases" <https://guardian.ng/news/supreme-court-okays-virtual-hearings-of-cases/>

event physical meetings become impossible. The National Assembly must also begin to look at innovations that can achieve an efficient and effective legislature that protects citizens' rights<sup>9</sup> in such instances.

This Guide provides a detailed road map for the continuity of legislative business in Nigeria by examining its current legal framework for operation during a pandemic such as COVID-19 and drawing comparison with other jurisdictions around the world.

It is hoped that the National Assembly will take forward the recommendations of this Guide whose material has been informed by extensive desk research, consultation with legislators, National Assembly bureaucrats, civil society organizations and Nigerian citizens among others. For ease of reference the Guide is set out in three parts examining Achieving Legislative Business Continuity (**Part 1**), a Guide to a Virtual Legislature (**Part 2**) and Recommendations for a Business Continuity Plan and Guide to a Virtual Legislature (**Part 3**).

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<sup>9</sup> Francine Picard Mukazi, “Ensuring a Balance of Power in the Face of COVID-19” <https://www.iisd.org/articles/ensuring-balance-power-face-covid-19>

## CHAPTER 2

### THE NATIONAL ASSEMBLY, PANDEMICS, PUBLIC EMERGENCIES AND THE 'NEW NORMAL'

The National Assembly provides an avenue for citizens' participation in governance, as elected representatives of the people. Yet, as experiences from the National Assembly show, very few sittings occurred during the height of the crisis and prior to the manufacturing of COVID-19 vaccines.

Legislative powers of the National Assembly (consisting of a Senate and a House of Representatives) are granted under section 4 of the 1999 Constitution (as amended) which outline its major functions as follows:

**I. LAW MAKING:** Law making is one of the primary functions of the National Assembly which is given powers "to make laws for the peace, order and good government of the Federation". Under section 58 (1) of the Constitution, these powers can be exercised directly by Bills passed by the National Assembly and assented to by the President<sup>10</sup>. Section 9 also empowers the National Assembly to alter any part of the Constitution which must be approved by two thirds of States of the Federation.

To enable efficiency, the National Assembly operates a Committee system where it may delegate any of its functions including overseeing the activities of the Executive through Ministries, Departments and Agencies (MDAs)<sup>11</sup> to a Committee. As part of its functions, Committees sometimes interface with citizens who wish to make input to a Bill or amend an Act through the platform of a public hearing<sup>12</sup>.

However, as public hearings in the National Assembly often require the physical gathering of people to make recommendations, its process should be adapted to safeguard health and safety in public emergencies.

10 Policy and Legal Advocacy Centre, "Guide to Lawmaking in the National Assembly" <https://placng.org/i/wp-content/uploads/2019/12/Guide-to-Lawmaking-in-the-National-Assembly.pdf>

11 Policy and Legal Advocacy Centre, "Guide to Lawmaking in the National Assembly" <https://placng.org/i/wp-content/uploads/2019/12/Guide-to-Lawmaking-in-the-National-Assembly.pdf>

12 Policy and Legal Advocacy Centre, "Public Hearing: A How-To Guide", 2018

**II. OVERSIGHT:** The National Assembly plays an oversight role in monitoring, scrutinizing, reviewing and evaluating the performance of the Executive arm or its agencies<sup>13</sup>. A plurality of provisions enabling Legislative oversight are contained in the Constitution. These include: **Power and control over public funds** (section 120); **Authorization of expenditure** (section 121); **Appropriation** (section 122); **Audit of public accounts** (section 125); **Appointment of Auditor General** (section 126); **Removal of Auditor General** (section 127); **Power to conduct Investigations** (section 128) and **Power to issue warrant** (section 129) among others.

National Assembly's oversight ensures that the government remains responsive, transparent and accountable to the people.

**III. REPRESENTATION:** The National Assembly is a key institution of political representation. This is expressed by Members holding legislative seats according to their Senatorial zones and constituencies<sup>14</sup> as delineated under the Constitution.

Representation also requires legislators to project the interests/ aspirations of constituents and act as the link between the government and the people. For instance, Legislators can sponsor bills or motions that address issues affecting their respective zones/ constituencies.

They may also have direct communication with their constituents through Constituency outreach and public petitions.<sup>15</sup> While constituency outreach provides Members with a platform to communicate developments such as proposed legislation and advocacy, the public petitions process provided by the two chambers of the National Assembly,<sup>16</sup> channel citizen's grievances against MDA's through elected representatives<sup>17</sup>.

However, as they both require setting up in a Member's Constituency/hearing in the National Assembly, they should be adapted to conform with COVID advisories, encouraging reduced contact.

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13 Policy and Legal Advocacy Centre, "Guide to Legislative Oversight in the National Assembly" <https://placng.org/i/wp-content/uploads/2019/12/Guide-to-Legislative-Oversight-in-The-National-Assembly-Final-Purple.pdf>

14 Policy and Legal Advocacy Centre, "Guide to Effective Representation in the National Assembly" <https://placng.org/i/wp-content/uploads/2019/12/Guide-to-Effective-Representatio-for-Lawmakers.pdf>

15 Policy and Legal Advocacy Centre, "Policy Brief: Increasing Awareness and Engagement of the Senate Committee on Ethics, Privileges and Public Petitions" <https://placng.org/i/wp-content/uploads/2020/08/Policy-Brief-of-Increasing-the-Awareness-and-Engagement-of-the-Senate-Committee-on-Ethics-Privileges-and-Public-Petitions.pdf> and Policy and Legal Advocacy Centre, "Policy Brief: Increasing Awareness and Engagement of the House of Representatives Committee on Public Petitions" <https://placng.org/i/wp-content/uploads/2020/08/Policy-Brief-of-Increasing-Awareness-and-Engagement-of-the-House-of-Representatives-Committee-on-Public-Petitions.pdf>

16 Senate Committee on Ethics, Privileges and Public Petitions and House of Representatives Committee on Public Petitions

17 Policy and Legal Advocacy Centre, "A Citizen's Guide to Writing a Petition to the Senate" <https://placng.org/i/wp-content/uploads/2021/04/A-Citizens-Guide-to-Writing-a-Petition-to-the-Senate.pdf> and "A Citizen's Guide to Writing a Petition to the House of Representatives" <https://placng.org/i/wp-content/uploads/2021/04/A-Citizens-Guide-to-Writing-a-Petition-to-the-House-of-Representatives.pdf>

## CHAPTER 3

### NATIONAL ASSEMBLY OPERATIONS DURING THE CORONA VIRUS ('COVID-19) PANDEMIC AND GLOBAL PRACTICES

The National Assembly's symbolic return as an arm of government in 1999 ended years of Nigerian military rule and ushered return to democracy.

The National Assembly plays a key role as guardian of the democratic process and a bulwark against the excesses of the Executive. Therefore, it is critical that it continues to exercise oversight and its constitutional responsibilities to guarantee a balance of power.

This is more so as the outbreak of the coronavirus pandemic highlighted peculiar challenges affecting National Assembly's capacity to continue its work. Due to the high prevalence rate for infection and the steady tally of deaths at the time, the National Assembly could not sit for several weeks before going for its annual recess in July 2020. However, as various containment measures taken by the government affect citizen's rights, it is critical that the National Assembly steps up delivery of its responsibilities even in the face of an unprecedented crisis to ensure adequate oversight of the Executive and possible excess.

In several countries, this has meant creating innovative solutions to overcome the legal, technical and logistical challenges of the crisis<sup>18</sup>. Approaches undertaken by Parliaments around the world have focused on:

- a) Modified face-to-face sittings- Here, Parliament continues to meet physically but with restrictions. These restrictions may include fewer sittings of Plenary sessions or Committees, fewer Parliamentarians and staff in the building, change to bigger building that allows social distancing etc
- b) Fully online sittings where regular sittings and proceedings, including debates and votes are entirely online. While rare, some Parliaments like the Isle of Man, used fully online sittings.
- c) Hybrid models allowing for physical and virtual proceedings (this appears to have been more popular)

<sup>18</sup> European Parliament, "How Parliaments work during a Pandemic" "<https://www.europarl.europa.eu/news/en/headlines/eu-affairs/20200408STO76807/how-parliament-works-during-a-pandemic>"; Inter-Parliamentary Union, "Country Compilation of Parliamentary Responses to the Pandemic" <https://www.ipu.org/country-compilation-parliamentary-responses-pandemic> and; Inter-Parliamentary Union, "Parliaments in a time of Pandemic" <https://www.ipu.org/parliaments-in-time-pandemic>

- d) Not meeting- if the Parliament has taken on early recess or has lack of political will or technical capacity.

Some countries have had to modify their laws and procedures to allow for virtual/remote sittings.

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## **NATIONAL ASSEMBLY'S RESPONSE**

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In Nigeria, fewer sittings were recorded between March to July 2020 with little significant activity. The National Assembly however continued to meet physically with restrictions that promote social distancing and safety protocols. For instance, while the House of Representatives adopted specific Guidelines to continue its operations during the pandemic; the Senate took a more general approach by adopting the guidelines of the Presidential Committee on COVID-19, who were monitoring the crisis and issuing advisories on physical contact in public spaces. Both chambers also reduced parliamentary access to all but essential visitors, with junior staff of National Assembly bureaucracy asked to work from home except where needed.

Portions of the Guidelines<sup>19</sup> issued by the House of Representatives are reproduced below:

- (a) Mandatory use of face masks or face coverings before admittance into the premises of the National Assembly;
- (b) Provision of sanitizers on each Member's row in the chamber and in their offices as well as strategic locations;
- (c) Temperature check with thermometer at the Entrance gates of the National Assembly and into the House of Representatives
- (d) Reducing the number of Clerks-at-Table who record proceeding at each sitting from 4 to 2;
- (e) Closing all businesses of Banks in its premises till further notice;
- (f) Suspending catering services including in the offices of the Leadership of the House
- (g) Work towards equipping the National Assembly clinic to handle COVID-19 related cases in the event of an emergency.

However, it is regretted that the National Assembly failed to utilize this opportunity to revamp its

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<sup>19</sup> House of Representatives Guidelines for Resumption of Proceedings

procedures and improve its efficiency by making amendments to its Standing Rules and/ or the Constitution to enable remote sittings. Advocacy for an e-parliament/virtual proceedings has been contained in its Legislative agenda since the 7th Assembly.

Furthermore, a Review of National Assembly activities crisis within this period also indicate that the National Assembly may have passed on its opportunity to ease the socio-economic impact of the pandemic on Nigerians citizens and the economy as it failed to pass the Emergency Economic Stimulus Bill, 2020. The Bill which was passed only by the House of Representatives was aimed at providing temporary relief to companies and individuals who were likely to suffer adverse financial consequences occasioned by coronavirus in Nigeria<sup>20</sup>.

Measures in the Emergency Economic Stimulus Bill were similar to efforts of some other countries made around this time. The United States Congress for example passed a \$2 trillion relief in March 2020 for tens of millions of American households that were affected by the coronavirus pandemic. The United Kingdom also passed a £30 billion emergency stimulus package to reverse the economic consequences of the virus and slow-down of its economy<sup>21</sup>.

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## PARLIAMENTARY RESPONSES ACROSS THE WORLD

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### ***The UK Parliament***

In April 2020, the United Kingdom (UK) modified its procedures to introduce a hybrid model that allows Members participate in proceedings either virtually or physically and enable Government scrutiny. An amendment to its Rules and procedures have modernized its 700 years Parliamentary system by allowing select committee members to participate in virtual sittings and question MPs over policy while Britain remains in a lockdown. The Speaker of its Parliament, Rees-Mogg stated that the measures will help it save lives and “make it possible for Parliament to continue its work of conducting scrutiny, authorizing spending and making laws”. To facilitate the conduct of virtual meetings by Parliament, virtual screens are placed in the main chamber where MPs debate.

### ***The Welsh Parliament***

In Wales, Members of Senedd Cymru/ Welsh Parliament held their first virtual parliamentary session on April 1, 2020<sup>22</sup>. This included statements on their responses to coronavirus from the First Minister, Mark Drakeford, followed by a debate and vote on legislation. According to their website, the Welsh National Assembly's Business Committee also switched to full “virtual” plenary meetings using the video conferencing facility “Zoom”. Three virtual question time were also held during its Easter recess.

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20 Policy and Legal Advocacy Centre, Factsheet on the Emergency Economic Stimulus Bill, 2020 (HB 835) <https://placng.org/i/wp-content/uploads/2020/04/Factsheet-on-Emergency-Economic-Stimulus-Bill-2020.pdf>

21 Policy and Legal Advocacy Centre, Factsheet on the Emergency Economic Stimulus Bill, 2020 (HB 835) <https://placng.org/i/wp-content/uploads/2020/04/Factsheet-on-Emergency-Economic-Stimulus-Bill-2020.pdf>

22 Plenary of the Welsh Parliament, Wednesday 1 April 2020 at 14.00, <<https://business.senedd.wales/ieListDocuments.aspx?CId=401&MIId=6267&Ver=4>> accessed 02 March 2021



### ***The Scottish Parliament***

The Scottish Parliament agreed to the suspension and variation of some of its Standing Orders for committees or sub-committee meetings established by its Parliament to be held “either in the debating chamber of Parliament, Holyrood or remotely by video conference in a virtual debating chamber”. While these provisions applied up to 26th June 2020, power was vested with the Presiding officer to determine further periods of its use from time to time and after consultation with the Bureau.

### ***The United States Parliament***

In the United States of America, House Democrats changed its House Rules to allow remote voting during the COVID-19 pandemic. The proposal to proxy and virtual voting which was approved in a vote of 217-189 on Friday 15th May 2020 made it the first time that lawmakers could cast votes other than in person in the history of Congress. Under the new rules, lawmakers were able to continue legislative business when they are unable to participate in the House business physically. It also enables lawmakers to comply with travel and public gathering restriction.

### ***The South African Parliament***

The South African Parliament amended its rules to enable its two houses – the National Assembly and the National Council of Provinces to continue operating virtually. These amendments took place on Wednesday April 15th, 2020, with additional guidelines for virtual meetings adopted to assist Members of Parliament to learn how to set up their gadgets / hardware to connect to these meetings. In a statement issued by the Presiding Officers of Parliament on the Resumption of the Business of Parliament on Thursday 16th April 2020<sup>23</sup>, Parliament resolved to prioritize a schedule of virtual committee meetings, whose scope of oversight relates to government departments driving COVID-19 response measures.

### ***The Namibian Parliament***

In Namibia, Parliamentary proceedings were initially halted on 24th March 2021 due to the outbreak of the coronavirus. However, on 26th May 2020, the Namibian National Assembly resumed sitting in chambers with only 50 members in physical attendance to comply with public health regulations and quorum of voting members. Members who were not present in person in the Chamber connected via an online video link in separate meeting rooms in the Parliamentary building.

According to the Speaker of the Namibian National Assembly, Professor Peter Katjavivi, the crisis had forced them to “fast-track the realization of the e-parliament and would improve information access and dissemination post-COVID-19”. The Speaker also stated that the conference hall of the National Assembly would be upgraded to a fully-fledged virtual centre with video-conferencing facility to enable Parliament to continue to meet virtually with staff trained on various applications in chosen software systems.

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23 Parliament of the Republic of South Africa “Statement by the Presiding Officers of Parliament on the Resumption of the Business of Parliament Thursday 16 April 2020” <<https://www.parliament.gov.za/press-releases/statement-presiding-officers-parliament-resumption-business-parliament-thursday-16-april-2020>>

### ***The New Zealand Parliament***

Initially, New Zealand increased its time limit for the Government to respond to written questions from MPs from six days to ten days and gave the Government more time to respond to Committee reports. However, at the highest level of the coronavirus alert, sittings of its House of Representatives were suspended. A new select Committee- the Epidemic Response Committee chaired by the leader of the Opposition was however set up to ensure Parliamentary oversight.

The said Committee is credited to have examined changes to 45 statutes affecting immigration and migration, businesses, organisations and New Zealand's decision to go into a lockdown at the start of the pandemic. While in person parliamentary sittings were suspended from March 2020 until 26th May 2020, the Committee continued to meet remotely through video conferencing technology to scrutinise the Executive's actions in New Zealand.

### ***Australian Parliament***

Australia relies on parliamentary Committees to scrutinize proposed laws and identify disproportionate impacts on individual rights. On 8th April 2020, the Australian Senate established a Select Committee on COVID-19 to inquire into the Federal Government's response to the COVID-19 pandemic. As of September 2020, the opposition-chaired committee had received 463 written submissions, held 35 virtual hearings and handled hundreds of questions taken on notice by government agencies. Its COVID-19 Committee is credited to have influenced key legislation (including laws establishing its COVIDSafeApp and the JobKeeper and JobSeeker support programs) that played a central role in the public debate on the government's response to the pandemic.

### ***Swedish Parliament***

The Swedish Rigstag undertook more frequent cleaning of the Riksdag premises and asked all officials and politicians who are able to do so to work from home<sup>24</sup>. As part of several measures to curtail the virus, Group leaders also agreed that only 55 (out of its 349 MPs members) are to be present at chambers to vote. Parties decide which members are to be present to vote.

### ***Hungarian Parliament***

In Hungary, sweeping powers were granted by its Parliament allowing its Prime Minister, Viktor Orban to rule the country by decree<sup>25</sup> to tackle the pandemic. Section 2(1) of the Enabling Act states that Government can "suspend the enforcement of certain laws, depart from statutory legislations and implement additional extraordinary measures by decree<sup>26</sup>". However, the Government is to exercise these powers to the extent necessary and in proportion to the objective of tackling the pandemic<sup>27</sup>. This move which has been criticized in domestic and international

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24 Swedish Rigstag website (viewed 15<sup>th</sup> May 2020)

25 Politico, "Hungary's Viktor Orbán wins vote to rule by decree" <https://www.politico.eu/article/hungary-viktor-orban-rule-by-decree/>

26 "Orbán is still the sole judge of his law" <https://verfassungsblog.de/orban-is-still-the-sole-judge-of-his-own-law/>

27 Section 2(2) of the Enabling Act

quarters is antithetical to the approach adopted in Malawi<sup>28</sup>. The High Court in Malawi blocked the implementation of public lockdown measures on the grounds that the government could not show how the country's poorest citizens would be protected by the fallout.

### ***Other Parliaments: Switzerland Poland, Germany and France***

In Switzerland, physical sittings were moved from its Parliament to a Conference Centre to enable compliance with minimum distancing between MPs.

In the Polish Sejm, parliamentary procedures were changed to allow MPs who are quarantined to vote remotely. Its adopted hybrid proceedings also allowed a limited number of MPs in the chamber who have been delegated by parties to speak on their behalf.

In Germany, its Bundestag reduced the quorum (minimum number) of MPs/ needed for plenary sessions and committees from half to a quarter while the French National Assembly (Assemblée Nationale) suspended Committee meetings that do not relate to COVID - 19 matters. French Committees also met and debated remotely when required.

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28 Francine Picard Mukazi, "Ensuring a Balance of Power in the Face of COVID-19" <https://www.iisd.org/articles/ensuring-balance-power-face-covid-19>

## CHAPTER 4

### NIGERIA'S LEGAL FRAMEWORK AND ISSUES

Legal amendments often precede the enablement of virtual proceedings. In Nigeria, National Assembly's proceedings are primarily governed by the 1999 Constitution as amended, the Standing Rules of both chambers and the Legislative Immunities and Privileges Act.

However, as drafters of the National Assembly's legal framework never envisaged a situation outside physical interactions and its premises, this chapter highlights areas that may require amendment and ensure legislative continuity in a pandemic or public emergency.

**A. *The 1999 Constitution (as amended)***- An examination of the 1999 Constitution highlights that a situation requiring Parliament's sitting outside its precincts were never envisaged in a pandemic or public emergency. A litany of provisions emphasizing physical meetings are written in the Constitution requiring amendments/legal change. The Constitution for instance envisages physical voting by the required majority of members present and voting<sup>29</sup> a minimum required number of sittings by lawmakers of one hundred and eighty-one days a year<sup>30</sup> and presence at budget presentation<sup>31</sup>. There are also provisions for joint sittings to re-pass a Bill where a President fails to either signify or withhold assent.

Amendments to the Constitution will however require the rigorous procedure of passage by two-thirds majority of all the members of that House and approved by resolution of the Houses of Assembly of not less than two-thirds of all the States<sup>32</sup>.

**B. *Standing Rules of the Senate and House of Representatives***- Section 60 of the 1999 Constitution of Nigeria empowers the National Assembly (comprised of the Senate and House of Representatives) to regulate its own procedure. This gives rise to the Standing Orders<sup>33</sup> of both chambers of the National Assembly that address issues like quorum, method of voting, sitting times, appointment and jurisdiction of Committees among others.

However, provisions in its Standing Rules still require physical presence such as physical allocation of seats to each Senator/ Member<sup>34</sup>, attendance of Committee meetings from

29 Section 56(1) of the 1999 Constitution (as amended)

30 Section 63 of the 1999 Constitution (as amended)

31 Section 81 of the 1999 Constitution (as amended)

32 Section 9(2) of the 1999 Constitution (as amended)

33 Senate Standing Orders 2015 (as amended) and Standing Rules of the House of Representatives (9<sup>th</sup> edition)

34 Order 10(1) of the Senate Standing Rules/Order 4(1) of the House Standing Rules

Monday to Thursday<sup>35</sup> and quorum for plenary and committees to be one third of total membership among others.

As the Standing Rules of the National Assembly recognize quorum for plenary and committees to be a third of total membership, it means that the Senate/House of Representatives would require a minimum of thirty-seven Senators/ one hundred and twenty members physically present before commencement of plenary/ and for decisions to be legitimate<sup>36</sup>. However, in a pandemic and public emergency situation, these provisions may not be feasible. It is therefore necessary that the National Assembly make changes to its Standing Rules to increase activities and legislative business continuity where it may be unable to meet physically.

**C. *Legislative Houses (Powers and Privileges) Act, 2017*:** The Legislative Houses (Powers and Privileges) Act, 2017 provides immunity against prosecution of members of the National Assembly carrying out their legislative business. For instance, it provides immunity for Members spoken or written words at plenary, Committee hearings or in carrying out the general business of the Legislature.

However, this protection and immunity offered by this legislation, does not take into consideration public emergencies and situations where Members may be unable to come into the precincts of the National Assembly.

In view of the pandemic and /or future emergencies, selected sections of the Act would require amendment to its language to enable the possibility of both physical and virtual sittings. This could include amendments to section 1 (**Immunity from Litigation in respect of words spoken or written at plenary session/Committee proceedings**), section 8 (**dealing with hinderance of members from gaining physical entrance into legislative chambers**), section 11, (**ejection of a person from chamber or its precincts**), section 15 (**Restriction on a Suspended Member to enter or remain within the chamber/precincts during the period of suspension etc**).

For lasting changes, amendments to the Legal Framework must be accompanied by corresponding funding for a virtual Legislature. Fortunately, the National Assembly is financially and administratively autonomous to request funding for a virtual legislature within the budget cycle.

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35 Order 13 (1) and 13(2) of the Senate Standing Rules

36 In certain decisions, a further requirement of two-third membership is required to be present

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## Procedure for Constitution Alteration Under the House Rules

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### Order 13 (Procedure for Altering the Constitution):

- (1) The first and second reading of any Bill for altering the provision of the Constitution shall be considered and proceeded with in accordance with the procedure on Bills in the House Standing Orders;*
- (2) During the debate on alteration to the Constitution, all Honourable Members may be allowed to contribute to the debate.*
- (3) Upon the Second Reading, the Bill shall be committed to the Special Ad-Hoc Committee of the House on Constitution Alteration.*
- (4)(a) In the clause-by-clause consideration in Committee of the Whole, a clause or question shall be deemed passed if it be supported by positive vote of two-third majority of Members of the House.*  
*(b) If the question be to amend sections 8 and 9 of the Constitution (State Creation and boundary adjustment or mode of altering provisions of the Constitution) requiring four-fifth majority of Members voting, the question shall only be resolved upon the affirmative vote of four-fifth majority of Members;*
- (5) The Bill as passed shall be forwarded to the Senate for concurrence.*
- (6) The Harmonized Bill, upon any possible conference, would then be adopted in the plenary and transmitted by the Clerk to the National Assembly to each of the 36 State Houses of Assembly;*
- (7) Each of the State House of Assembly shall communicate its resolution howsoever to each House of the National Assembly*
- (8) Upon there being the required majority of the State House of Assembly supporting each of the respective clauses severally, each such clause shall stand passed.*
- (9) The final copy of the Clauses in the Bill that received the support of two-thirds majority of the State Houses of Assembly shall be compiled and if passed by a concurrent Resolution of the National Assembly, shall thereafter be transmitted to the President for assent.*
- (10) Where the President withholds assent, the Bill, if passed again by two-thirds majority of members of the House, as required by Section 58 of the Constitution, shall become law.*
- (11) Notwithstanding the provisions in these Rules, the process of passage of a Constitution Alteration Bill shall continue from one Session to the other and from one Assembly to another as if the tenure of each preceding Session or Assembly had not come to an end.*
- (12) When all requirements of Sub Rules (1)-(9) have been met and the President either withholds his assent or fails to communicate the withholding thereof, or any circumstance arises which makes it impracticable for the National Assembly to consider the issue of overriding the President's Veto before the end of the tenure of the Assembly, the succeeding Assembly may, upon such Bill being re-gazetted and circulated, resolve to commence the process of veto override under section 58 of the Constitution.*

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## Procedure for Amending the Senate Rules

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### **ORDER 111 (Mode of Amending the Rules):**

- (1) Any Senator desiring to amend any part of the Rules or adding any new clause shall give notice of such amendments in writing to the President of the Senate giving details of the proposed amendments.*
- (2) The President of the Senate shall, within seven working days of the receipt of the notice, cause the amendments to be printed and circulated to members. Thereafter, it shall be printed in the Order Paper of the Senate.*
- (3) The Mover or Movers of the amendments shall be allowed to explain in detail the proposed amendments; thereafter the Senate shall decide by simple majority votes whether the amendments should be considered or rejected.*
- (4) If the decision is to consider the amendments, then another date shall be set aside by the Rules and Business Committee whereby opportunity would be given to members to further propose amendments but must strictly be confined to the original amendments.*
- (5) Two-thirds majority shall decide the amendments and such amendments shall form part of the Rules of the Senate.*

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## Procedure for Amending the House Rules

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### **Order 19 (Mode of Amending the Rules):**

- (1) Any member desiring to amend any part of the Rules or adding any new clause shall give notice of such amendments in writing to the Speaker giving details of the proposed amendments.*
- (2) The Speaker shall, within seven working days of the receipt of the notice, cause the amendments to be printed and circulated to members. Thereafter, it shall be printed in the Order Paper of the House.*
- (3) The Mover or Movers of the amendments shall be allowed to explain in detail the proposed amendments; thereafter the House shall decide by simple majority votes whether the amendments should be considered or rejected.*
- (4) If the decision is to consider the amendments, then another date shall be set aside by the Committee on Rules and Business whereby opportunity would be given to members to further propose amendments but must strictly be confined to the original amendments.*
- (5) A simple majority shall decide the amendments and such amendments shall form part of the Rules of the House.*



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## **SAMPLE SENATE MOTION FOR VIRTUAL PLENARY AND PARLIAMENTARY SESSIONS**

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### *LEAD DEBATE*

*Mr. President,*

*I am Senator ----- Representing ----- Senatorial zone of ----- State.*

*I rise to move this all-important Motion under matters of urgent public importance for the amendment of the Senate Standing Orders 2015 As Amended to accommodate the use of VIRTUAL PLENARY AND OTHER PARLIAMENTARY SESSIONS for the conduct of businesses of this Distinguished Senate.*

*Mr. President, if many months ago, anyone had predicted that the international community will be experiencing this type of public emergency and this Distinguished Senate would not be sitting in Full Plenary and would have gone on forced recess due to a viral pandemic called COVID 19, the world and indeed many of us would have labeled such a person a false prophet, a vendor and disseminator of Fake News. Indeed, we would have called for his arrest and prosecution for being an alarmist of the highest order.*

*Mr. President, having found ourselves in this situation the best thing to do is not to idle away under the excuse of lockdown to the detriment of the constitutional duty we have sworn to offer the citizens of our constituencies and our country Nigeria, but to think outside the box.*

*Mr. President, please recall Section 4(1) of 1999 Constitution which says, and I read: "The Legislative Powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a Senate and a House of Representatives"*

*Mr. President, recall also Section 4(2) of the same 1999 Constitution which further says and I read: "The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Executive Legislative list set out in Part 1 of the Second Schedule to this Constitution"*

*In all these Mr. President, the Constitution never envisaged that a day like this would come when we will not be conducting plenary sessions in the hallowed chambers of the Senate and making the necessary pronouncements and laws for security and good governance of our dear nation.*

*However, Mr. President, the Constitution in its wisdom has provided us a window in Section 60 and I read: "Subject to the provisions of this Constitution, the Senate or the House of Representatives shall have power to regulate its own procedure, including the procedure for summoning and recess of the House"*

*Mr. President Sir, it is the letters of Section 60 of the Constitution that has given rise today to the Senate Standing Orders which regulates the procedure and operation of this Distinguished Senate*



*that gives us the authority to conduct the business of the Senate according to the Senate Standing Orders.*

*Mr. President, we will not condemn our Distinguished selves to the sidelines waiting for someone else to discover the solution. We must jump into the driver's seat and navigate this nation out of this quagmire, because together, we can do it and do it, we will, even while maintaining both Social and Physical Distancing.*

*Nigerians are expectant of radical and far-reaching legislative interventions to ameliorate or cushion the impact of the pandemic on the economy, their businesses, livelihoods and survival. While the President and his team have made proposals and taken measures to contain the spread of the virus, save lives and provided palliatives to ease the pain occasioned by the lockdown, there are measures that requires legislative endorsement or approvals on an ongoing basis.*

*Let me use this opportunity to thank the Senate President and the Leadership of the Senate for standing in the gap while the Senate was on recess to explore measures and share ideas with the Executive and other stakeholders on best possible course of action. Instructively and unfortunately, not much could be done by the Leadership of the Senate beyond consultations without the Senate sitting in plenary to give the needed legislative authorization and pass legislations.*

*Mr. President Sir, it is in the light of this that I invoke the provision of Order 111, (Mode of Amending the Rules), which authorizes any Senator to propose to the President of the Senate an Amendment to Senate Standing Orders of which a Simple Majority of the Senate shall decide the amendments for such to form part of the Rules of the Senate.*

*Mr. President, this motion seeks to explore measures aimed at amending our Standing Orders to make provisions that allows for virtual plenary sessions and other parliamentary proceedings in emergency situations where the Senate is unable to sit. It seeks to review the existing ICT architecture, infrastructure and frameworks and upgrade same to make it possible for the Senate to conduct parliamentary proceedings virtually.*

*I have refrained from proposing specific amendments to the Senate Standing Orders, rather, I have called on the Senate to set up an Ad-Hoc Committee to make consultations with relevant and make recommendations. This is because I feel that this task requires intensive and extensive consultations and consensus building amongst members of the Senate, Management and relevant experts to come up with the necessary amendments and requirements to achieve success.*

*Similarly, there is a need for a comprehensive evaluation of the current NASS ICT infrastructure to ascertain what is available, what will be required in terms of physical, materials and human resources and at what cost to make virtual plenary and other parliamentary sessions a reality.*

*Mr. President I solicit the support of Distinguished Senators of this Senate for this all-important motion at this very critical moment of our time.*

*Thank you, Mr. President. I yield the floor, Mr. President.*

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## **HOUSE OF REPRESENTATIVES SAMPLE MOTION FOR A VIRTUAL PLENARY SESSION:**

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*Hon. ....*

*The House:*

*Notes that the COVID-19 Pandemic has brought the whole world to a lockdown.*

*Also Notes that the lockdown has impaired Plenary Sessions and physical deliberations of the Parliament*

*Disturbed that the Parliament is unable to perform its critical functions of making laws for the security and good governance of Nigeria due to the public emergency*

*Worried that the House Plenary and Committee meetings may not be privileged to allow one-third of Members of the House to even form a quorum as provided by the current Standing Orders for the commencement Plenary or Committee meetings, due to observance of COVID-19 pandemic and public emergency protocols and social distancing*

*Worried that the President may not be able to physically attend a Joint Seating of the National Assembly to physically lay the budget on the table due to observance of COVID-19 pandemic and public emergency protocols and social distancing*

*Worried that Parliamentarians may not be privileged to perform core functions of Lawmaking, Representation and Oversight due to observance of COVID-19 pandemic and public emergency protocols and social distancing*

*Worried that the Parliament may not be able to physically circulate budget proposals, order papers, motions, resolutions, and Bills to Members due to observance of COVID-19 pandemic and public emergency protocols and social distancing*

*Worried that the Members may not be able to physically conduct constituency engagements due to observance of COVID-19 pandemic and public emergency protocols and social distancing*

*Worried that the Parliament may not be able to physically conduct public hearings due to observance of COVID-19 pandemic and public emergency protocols of social distancing*

*Disturbed that currently adequate funding is not provided for ICT and provision of other necessary equipment and Technology to provide for Virtual Legislature during pandemics and public emergencies*

*Disturbed that if full ICT is deployed, there is inadequate provision for the prevention of cyber-crime and hacking that may likely occur*

*Disturbed that the House has not established a Special Committee on Public Emergencies and Virtual Parliament assigned with the adequate jurisdictions*

*Worried that a long period of non-performance of the legislative functions of the National Assembly may have grave consequences*

*Aware that one possible way of conducting Parliamentary deliberations in modern times is through Hi-Tech Virtual Plenary Session*

*Mindful of the fact that the Standing Rules does not provide for a Virtual Plenary Session of our Parliament*

*Disturbed that there is un-availability of equipment and mechanisms for Virtual Plenary Sessions in the National Assembly*

*Worried that the remote and immediate causes of the COVID-19 outbreak is yet to be substantiated, permanent solutions yet to be found and possible end of the pandemic yet unknown;*

*Resolves to:*

- 1. Commiserate with the families and friends frontline health workers and others that have lost their loved ones to this dreadful disease;*
- 2. Congratulate all Nigerians for their comportment and patience with the public emergency as Nigeria battles the COVID-19 Pandemic;*
- 3. Set up an Ad-hoc Committee to review the House Standing Orders;*
- 4. Direct the Ad-hoc Committee to make wide consultations with relevant stakeholders;*
- 5. Direct the Ad-hoc Committee to make recommendations for the Amendment of the Standing Orders for the operation of Virtual Plenary and Parliamentary Sessions including Joint Sessions of the National Assembly, during this public emergency and any other times such situations may arise.*
- 6. Direct the Ad-hoc Committee to make recommendations for the amendment of the Standing Orders so that the requirement for one-third of members seating in chamber be amended to include members participating virtually as part of the one-third forming quorum for plenary or committee meetings, during pandemics and public emergency*
- 7. Direct the Ad-hoc Committee to make recommendations for the Amendment of the Standing Orders so that the requirement that the President physically attend a Joint Session to physically*

*lay the budget on the table to allow a Virtual Joint Session and the Budget electronically transmitted to the National Assembly during pandemics and public emergency*

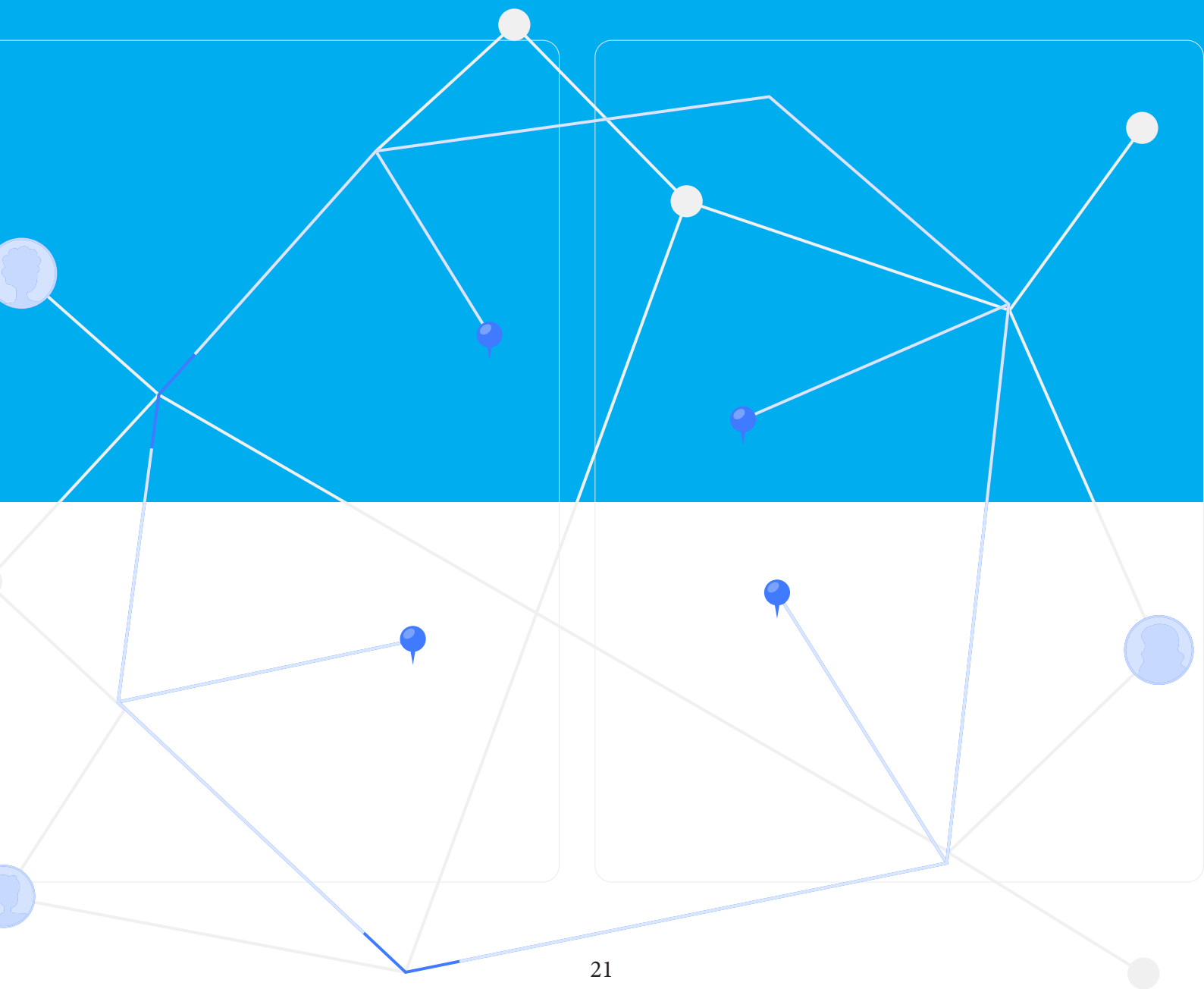
8. *Direct the Ad-hoc Committee to make recommendations for the Amendment of the Standing Orders to specify that Members can perform core functions of Lawmaking, Representation and Oversight virtually during pandemics and public emergency*
9. *Direct the Ad-hoc Committee to make recommendations for the Amendment of the Standing Orders to allow the House to electronically transmit to Members order papers, motions, resolutions, and Bills during pandemics and public emergency*
10. *Direct the Ad-hoc Committee to make recommendations for the Amendment of the Standing Orders to specify that Members can conduct constituency engagements virtually during pandemics and public emergency*
11. *Direct the Ad-hoc Committee to make recommendations for the Amendment of the Standing Orders to allow the House to conduct public hearings virtually during pandemics and public emergency*
12. *Direct the Ad-hoc Committee to make recommendations for the Amendment of the Standing Orders to specify that adequate funding be provided for Cutting-Edge ICT Infrastructure and provision of other necessary equipment and Technology to provide for Virtual Legislature during pandemics and public emergencies*
13. *Direct the Ad-hoc Committee to make recommendations for the Amendment of the Standing Orders to specify that when full Cutting-Edge ICT Infrastructure is deployed, that there is adequate provision for the prevention of Cyber Crime and hacking that may likely occur*
14. *Direct the Ad-hoc Committee to make recommendations for the Amendment of the Standing Orders for the creation of an additional Permanent Special Committee of the House to be known as “**Committee on Public Emergencies and Virtual Parliament**” assigned with the adequate jurisdictions*

# PART 2

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## GUIDE FOR A VIRTUAL LEGISLATURE

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## CHAPTER 5

### VIRTUAL TECHNOLOGY APPLICATIONS

While there is no complete replacement to full physical convening, public emergencies sometimes prevent such in-person meetings. Thus, there is need for the National Assembly to be open towards innovation including the carrying out of a virtual parliament by making use of online tools.

In the wake of the pandemic, a number of Virtual Technological tools have been in use and include the following:

1. Zoom
2. Microsoft Teams
3. Google Hangouts
4. Skype
5. Custom software/interactive app
6. Slack Video Calls
7. Facebook Live
8. YouTube Live

#### ***Principles that Enable Virtual Parliaments<sup>37</sup>***

- Design- Virtual Parliaments must be thought about on a spectrum. For instance, while its maximal version would conduct sittings, proceedings, debates and votes entirely online, a minimal version may include committee proceedings which do not require a full house to sit entirely online while all main chamber business occur in person.
- Clarity- The measures taken to modify the National Assembly's functioning and sittings must be clearly set out for lawmakers and the public
- Transparency- In so far as is possible, measures should be taken to ensure that National Assembly proceedings remain open to the public even it is by alternative means such as livestreaming sittings
- Equality- Members should have an equal opportunity to voice their concerns and represent their constituents whether fully online or in hybrid proceedings where some Members are in chambers while others are participating remotely
- Safeguards- When implementing a Virtual Parliament, procedural safeguards should go alongside technical safeguards. For instance, at Westminster, the interim rules authorizing remote voting also allow the Speaker to nullify a vote if technical issues are reported by a

37 The Samara Centre for Democracy, "Towards a Virtual Parliament" <https://www.samaracanada.com/democracy-monitor/towards-a-virtual-parliament>

Member during the process. In the Isle of Man's Parliament, Members write their vote in the chat box. Cyber security measures must also be undertaken to preserve the sanctity of proceedings and information.

- Government Scrutiny- Opportunities must be created to scrutinise all government activity, beyond just business related to the pandemic/ public emergency
- Support- Members can be supported to deliver high-quality scrutiny through increased remote work by timely legislative support of staff and research
- Communication- Informal channels between lawmakers should be rebuilt so that lines of communication are kept open within and across party caucuses, and between the House and Senate.
- Public access/control- Members of the public should be allowed to access parliamentary proceedings and debates should be made on issues that matter to Nigerians as a means of strengthening engagement
- Review- Measures should be reviewed as much as possible by the National Assembly to ensure they continue to meet set out objectives.

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### **Concerns raised against a virtual Parliament<sup>38</sup>**

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- Internet access: High-speed Internet is not evenly distributed across the country. According to a World Bank data in 2019, internet use penetration in Nigeria is at 34%<sup>39</sup> with majority of its users concentrated in urban areas. Access to proceedings via internet access, data costs and infrastructural challenges might pose challenges for Nigerian citizens many of whom live under a dollar per day<sup>40</sup>. Thus, Senators/ Members may find it difficult engaging their constituents in urban or rural areas.
- Technical challenges: Creating a virtual Parliament can never be as straightforward as moving a regular office meeting online. As the early experience of virtual committees made clear, issues like simultaneous translation also pose technical challenges.
- Legal Framework: The Nigerian Constitution and National Assembly Standing Rules sets out the quorum (the number of members necessary for a meeting to take place). Does this rule out the very possibility of a virtual Parliament? While academics in some jurisdictions have interpreted "presence" as being physically present, amendments to the Constitution/ Standing Rules could provide greater clarity for future emergencies,
- Human connection: Members sometimes miss informal contact with Members across party lines, and across chambers, which help make Parliament function. While there's no way to directly replace that informal social mixing, it is an intrinsic problem with virtual e-parliament.

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38 The Samara Centre for Democracy, "Towards a Virtual Parliament" <https://www.samaracanada.com/democracy-monitor/towards-a-virtual-parliament>

39 The World Bank, "Individuals Using the Internet (% of the Population)- Nigeria" <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=NG>

40 The World Bank, "Nigeria Releases New Report on Poverty and inequality in the Country" <https://www.worldbank.org/en/programs/lsm/brief/nigeria-releases-new-report-on-poverty-and-inequality-in-country> and Aljazeera, 'Forty Percent of Nigerians Live Below the Poverty Line' <https://www.aljazeera.com/economy/2020/5/4/forty-percent-of-nigerians-live-below-the-poverty-line-report>



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## Tips for Facilitating Virtual Meetings<sup>41</sup>

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### Before the Meeting

#### Schedule the meeting-

- Create a meeting schedule
- Send out a Schedule Reminder
- Send out speaking lists ahead of time so Members are aware of when to speak

#### Send out the pre-work

- Provide information to be reviewed and commented upon ahead of time. This could include motions of urgent importance, debates and Bills.
- Technical staff that are critical during plenary sitting and the Committee on Rules and Business should also solicit information from participants in advance so that that the virtual plenary is efficient, productive, and engaging.

#### Plan a detailed agenda

- The Order Paper should provide a detailed agenda of proceedings of the day. However, ensure that permissions on the document are set so that it can be viewed by all participants and edited by whosoever is assigned that role
- Also consider what each person in the meeting will be doing and allocate times on each agenda item. This will ensure that everything is covered.

#### Practice with and plan for the technology

- Plan to be there early- Whoever is hosting the virtual conference tool must plan to show up early so Members are not confused by showing up to an empty meeting
- The person in charge with facilitating/ leading the virtual session must be abreast with the technological tool in use and plan what to do if there are gaps (e.g. power disruptions or someone's microphone fails)
- In your agenda, you may need to allot time for people to troubleshoot and learn the technology, particularly if it's the first time they've used it. One option is to offer to do a quick practice test in advance with anyone who has never used the software or is unfamiliar with it the first time

#### Assign roles

- You may want to designate a timekeeper
- You may want to assign someone else to ensure questions from the chat window are getting addressed in the discussion.
- A notetaker must also be assigned to take notes during the meeting, which may be aided by a video recording via zoom for example.

### During the Meeting

- Spend time at the beginning of the meeting to build connections. Greet people as they arrive and encourage casual chit chat until the start time.
- Encourage participants to use their microphone and share their video if possible- This

41 The Library and Information Technology Association, "Tips for Facilitating Virtual Meetings" <https://docs.lita.org/tips-for-facilitating-virtual-meetings/>



will make Members feel more connected and engaged and allow the facilitator (Senate President/Speaker) to see and gauge facial expressions. It also discourages Members from getting distracted or carrying out other tasks.

- Establish norms at the beginning of at least your first virtual meeting. For instance:
  - o Watch “airtime” – Ensure that opinions are shared without being too long and encourage conversations to be keep to the point, so it doesn't become too boring.
  - o Muting – Ensure people keep their microphones muted except when called to speak.
- Chat – How should people use the chat box?
  - o Questions?
  - o Voting?
  - o Quick comments? However, people should be encouraged to generally stay on topic in the chat while side discussions should be avoided.
- Questions should be direct and clear
- Encourage engagement from all participants
  - o Keep track of who is talking or participating.
  - o Have a mental wait time to allow people think (and discourage few people from dominating the conversation).
  - o Call on people often in an engaging and conversational way. This helps ensure that everyone gets a chance to participate and encourages them to stay engaged.
  - o You may use the “hand raise” feature to gather opinions.
- **Share your desktop where necessary.** However, this takes up a lot of screen space (making it more difficult to see faces) and difficult for participants to have the agenda or other collaboration spaces open. Thus:
  - o If your screen is shared, avoid excessive scrolling or sudden movements, as these could be disorienting.
  - o As an alternative, consider using Google docs or sharing links and having everyone open up those pages on their own computers.
- **Keep the pace and the discussions on topic moving**
  - o Don't let discussions drag on.
  - o For not so serious issues, lazy consensus may be used to move forward even if most people do not verbally agree.
  - o Stick to the promised agenda and timing
- At the end of a major item, decisions may be summarized and next steps.

## After the Meeting

- **Post meeting documents** as soon as possible after the meeting. If there are particular members who need to be consulted to reflect the decisions in National Assembly's Votes and Proceedings, make sure the information/ briefing notes for the meeting is sent to them.
- **Feedback** should be sought from Senators/Members/ Technical Staff to make sure the next meeting is even more successful.

## Snapshot of some Jurisdictions who used a Virtual Parliament During the Coronavirus Pandemic<sup>42</sup>

Jurisdiction	Virtual Committee Meetings	Virtual chamber debates/ plenary	Virtual Voting	Video Conference Platform
Wales	Yes	Yes but participation limited to 28 out of 60 Members	Yes- Roll call with one Member orally casting vote on behalf of one party	Zoom
Isle of Man	Yes	Yes- with all Members	Yes- Roll call with Members typing 'yes or no' into chat box	Microsoft Teams
New Zealand	Yes	No	No	Zoom
Canada	Yes	No-but Commons holding Question Period like Special Committee with all MPs virtually twice per week	No	Zoom
UK	Yes	Yes- but House of Commons using hybrid with up to 50 Members meeting in person and up to 120 via video conference	Yes- approved in principle but custom app based voting not yet implemented	Zoom for House of Commons, Microsoft Teams for House of Lords and custom voting app
Brazil	Yes	Yes	Yes-custom infoleg software	Custom software
European Parliament	Yes	Yes	Yes- ballots signed, scanned and emailed	Interaction app

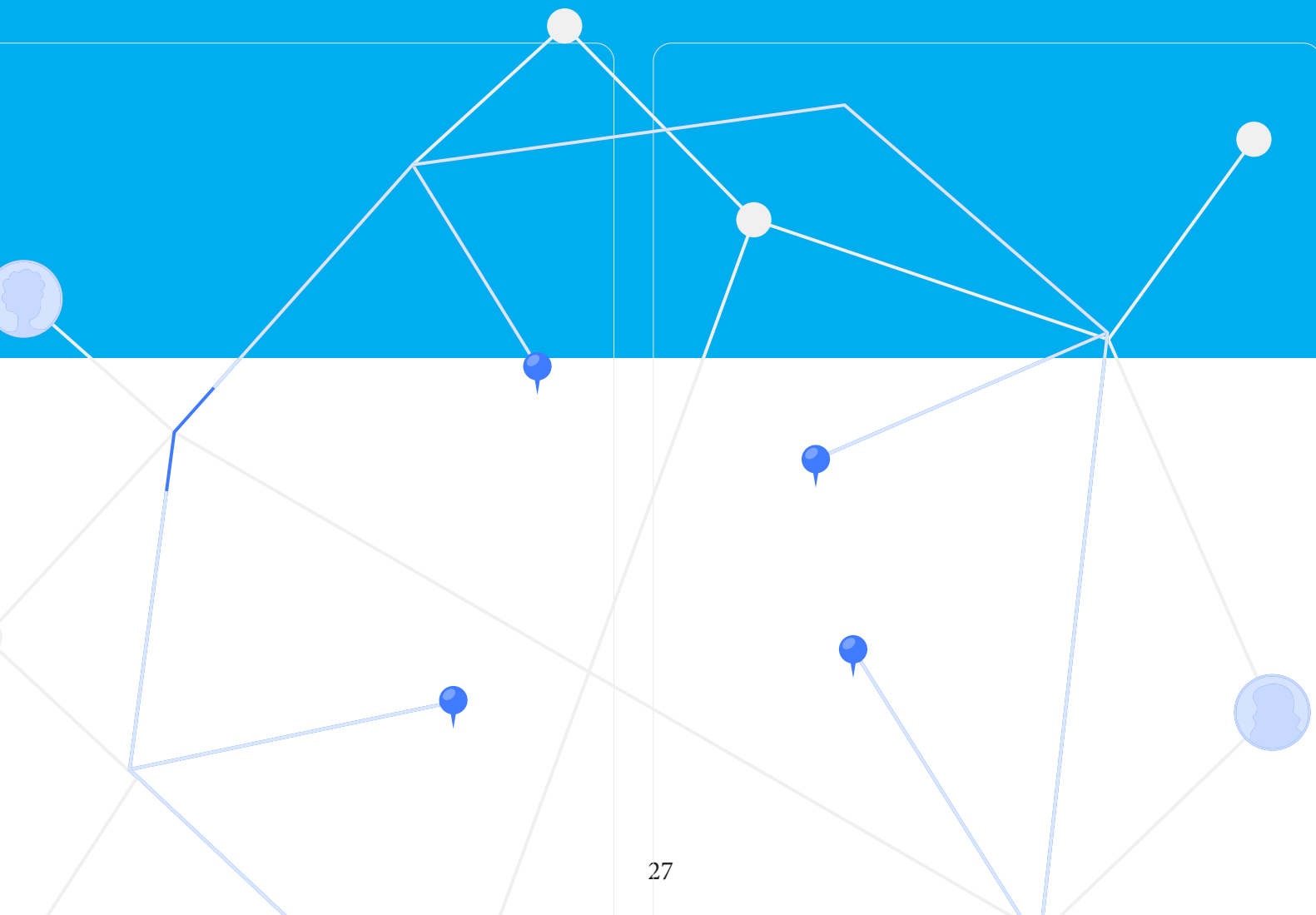
<sup>42</sup> Table replicated from The Samara Centre for Democracy, "Towards a Virtual Parliament" <https://www.samaracanada.com/democracy-monitor/towards-a-virtual-parliament>

# PART 3

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## RECOMMENDATIONS FOR A BUSINESS CONTINUITY PLAN AND GUIDE TO A VIRTUAL LEGISLATURE

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## CHAPTER 6

### RECOMMENDATIONS ON IDENTIFIED CHALLENGES

The following recommendations are proffered to facilitate an effective transition to a virtual Legislature in Nigeria:

1. **Constitutional Amendments:** The 1999 Constitution (as amended) consistently refers to the sitting of the National Assembly in physical plenary. There is need to amend this to reflect the use of virtual processes and application of technology for relevant parliamentary activities in order to give legitimacy to the laws made and decisions taken through virtual means.
2. **Amendment to the Standing Orders of the Senate and House of Representatives:-** The Standing Orders of the Senate and House of Representatives refers to "sitting" and "quorums" in physical plenary and Committees. For instance, the Standing Orders of the National Assembly recognize quorum for plenary and committees to be one third of a chamber's total membership. This means that the House of Representatives generally require a minimum of one hundred and twenty members (out of its three hundred and sixty Members) to be physically present while the Senate requires thirty-six Senators (out of its hundred and nine lawmakers) present for decisions to be legitimate. Further, requirements for a two-third majority are required for certain decisions.

However, in a public emergency situation, these provisions may not be feasible. It may therefore be necessary to adjust the requirements for a quorum under public emergencies without undermining sufficient representation to ensure legislative continuity.

3. The process of amending the Constitution to address emergencies may take a longer period. However, in the interim, there should be speedy amendment of the House of Representatives and Senate standing orders and rules to permit virtual seating of Members.

However, both amendments to the Constitution and the Standing Rules must be wide enough to encompass diverse situations that may affect the physical sitting of the National Assembly in unforeseeable emergencies.

4. **Amendment of the Legislative Houses (Powers and Privileges Act, 2017)-** The Legislative

Houses (Powers and Privileges) Act does not provide immunity to members while on virtual plenary and committee meetings. Thus, the Act should be amended to protect members at locations where they are on virtual sessions as in the precincts of the National Assembly. It could also provide legal protection against hacking into virtual plenary sessions and committee meetings by unauthorized individuals.

5. There is currently no provision for carrying out the core functions of lawmaking, representation and oversight in virtual, electronic or technology-driven manner. An amendment enabling the Legislature to virtually carry out its Constitutional responsibilities is likely to improve the number of activities it can carry out in pandemic/ public emergency.
6. The National Assembly must deploy cutting-edge ICT infrastructure that will enable the performance of these important functions for the benefit of her citizens. A list of suitable virtual technology applications to facilitate virtual meetings of the National Assembly are set out in Part 2 of this Guide. To reduce the risk of disruption in the form of hacking and other security risks, the National Assembly may seek consultation and support of the National Information Technology Development Agency (NITDA) on adequate ICT infrastructure protection.
7. The recent pandemic makes it inevitable to create a process that allows for funding subheads to be provided for pandemics and public emergencies. Fortunately, the National Assembly is financially and administratively autonomous and as such, possesses the authority to quickly provide funding for a virtual legislature in the next budget cycle.
8. The required equipment/resources/tools should be put in place to ensure that Legislators can convene virtually if they cannot meet physically in times of an emergency under stringent measures and guidelines.
9. The Legislature can make more effort to accessible to the public. The use of focal groups in communities can be useful in communicating the needs of the public and constituencies to Legislators. Direct phone numbers to Legislators should be made accessible to their constituents. Also, in areas where data costs and internet access may affect public/constituency outreach and engagement, focus can be given to other channels of communication that do not require the use of the internet such as telephone calls, and text messages.

For instance, the public should be able to gain access to people-centered committees such as the Public Petitions Committees<sup>43</sup> through emails or text while submitting petitions temporarily during this temporary period of public emergencies.

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43 Senate Committee on Ethics, Privileges and Public Petitions and the House of Representatives Committee on Public Petitions

10. The adoption of a virtual Parliament by the National Assembly requires thought to its design, form, (hybrid, completely online), legal framework and adoption of security measures among others. The option of home-grown technology should also be explored to avoid outsourcing technology for virtual legislation.
11. While an Ad-hoc Committee was set up by the House of Representatives in May 2020 to ensuring that the operations of the Presidential Taskforce on COVID-19 are conducted in line with international best practice, the establishment of a standing Committee dealing with Public Emergencies and Virtual Parliament in both chambers of the National Assembly may prove more effective long-term.
12. The National Assembly must include all groups, especially vulnerable groups, when discussing matters of interventions or strategies in dealing with a national emergency.
13. The National Assembly must be flexible to changing times and circumstances to enable optimal performance.

### **A SAMPLE PROPOSAL FOR AND JURISDICTION OF A SPECIAL COMMITTEE ON PUBLIC EMERGENCIES AND VIRTUAL PARLIAMENT:**

#### **(a) COMMITTEE ON PUBLIC EMERGENCIES AND VIRTUAL PARLIAMENT**

There shall be a Committee to be known as Committee on Public Emergencies and Virtual Parliament consisting of not less than 9 and not more than 13 Senators/ not less than 15 and more than 25 Members constituted at the commencement of the life of the Senate/House of Representatives

The Committee's jurisdiction shall cover:

- (a) Ensuring that at any moment of public emergency, the Senate/House of Representatives and all its organs can continue to function seamlessly
- (b) Ensuring that at any moment the need arises the Senate can conduct a Virtual Parliament that meets all the standards of physical plenary
- (c) Ensuring that any Committee of the Senate/ House of Representatives, at any moment the need arises, can conduct virtual Committee meetings
- (d) Ensuring that all Senate/ House of Representatives Information Technology equipment, instruments and staff are adequately prepared for deployment on demand
- (e) Ensuring that the Senate/ House of Representatives, its Committees or Staff at times of public emergencies conduct all needed legislative and other required training through Virtual Training Technology
- (f) Ensuring that the Senate/ House of Representatives is adequately and regularly planning and prepared for the emergence of any pandemics or other public emergencies or any form of general crisis that may emerge in future
- (g) Ensuring that the Senate/ House of Representatives is always ICT ready and ICT is regularly functional and adequately secured and protected from hacking and hackers
- (h) Constantly liaising with the Management and relevant departments of the National Assembly and MDAs to ensure adequate preparedness against pandemics and public emergencies

### LEGISLATIVE HOUSES (POWERS AND PRIVILEGES) AMENDMENT ACT, 2020

#### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Legislative Powers and Privileges Act, 2017 to give the Legislature the desired powers and immunity to be able to carry out its Legislative responsibilities both physically and Virtually.

#### AMENDMENTS

##### SECTION 1: IMMUNITY FROM LITIGATION

1. A criminal or civil proceeding shall not be instituted against a member of the Legislative House in respect of words spoken or written at the Physical and Virtual plenary session or at the Physical and Virtual Committee Proceedings of the Legislative House.

##### SECTION 8: OBSTRUCTION OF MEMBERS OF THE LEGISLATIVE HOUSE

- (1) A member of a Legislative House shall not be obstructed or hindered from gaining physical entrance into the legislative chambers and gaining access to virtual proceedings.
- (2) A person who –
  - (a)(i) hinders the movement of a member of a Legislative House into the chambers or precincts of a Legislative House;
  - (a) (ii) hinders the access of member into electronic virtual proceedings
- (c) creates any disturbance which interrupts or is likely to interrupt the proceedings of a Legislative House and Virtual Proceeding; or
- (d) sits or votes in a Legislative House and Virtual Proceeding while the person is not a member of a Legislative House,

##### SECTION 9: ANSWERS IN COMMITTEE NOT TO BE ADMISSIBLE IN PROCEEDINGS

1. An answer by a person to a question put by a Committee of a Physical or a Virtual Legislative House shall not, except in the case of criminal proceedings for the offence of perjury or an offence against this Bill, be in any proceeding, civil or criminal, admissible in evidence against him.

##### SECTION 10: POWER OF ARREST

- (c) who is reasonably suspected of having committed a cyber offence in relation to virtual proceedings, an offence contrary to the provisions of this Bill



## **SECTION 11: EJECTION OF A PERSON FROM CHAMBER OR ITS PRICINTS OR ONLINE**

1. The President or Speaker of a Legislative House may, at any time, order for the ejection of a stranger or any other person from the Chamber or its precincts or online

## **SECTION 14: CONTEMPT OF A LEGISLATIVE HOUSE**

- (1) A person who –
  - (a) publishes a report of a Committee before it is laid to the Legislative House in a plenary session or virtual session.

## **SECTION 15: RESTRICTION ON SUSPENDED MEMBERS**

5. A suspended member of a Legislative House, under section 14(2) of this Act, shall not enter or remain within the Chamber or its precincts or allowed access to virtual proceedings while the suspension remains in force.

## **SECTION 16: RESTRICTION ON EVIDENCE AS TO CERTAIN MATTERS**

6. No evidence relating to –

(c ) the recording of any Virtual Proceeding of plenary or committee proceeding

## **SECTION 23: CIVIL PROCESS NOT TO BE SERVED IN CHAMBER OR PRECINCTS**

Notwithstanding the provision of any law –

(c ) a member of a Legislative House shall not be arrested while on a Virtual Legislative Session or Virtual Committee Session

## **SECTION 25: INTERPRETATION**

“Virtual Proceeding “means online proceeding of the plenary or committee meeting of the National Assembly

Schedule to the Legislative Houses (Powers and Privileges) Act Amendment Bill, 2020

**SHORT TITLE OF BILL:** Legislative Houses (Powers and Privileges) Act Amendment Bill 2020

**LONG TITLE OF BILL:** A Bill for an Act to amend the Legislative Houses (Powers and Privileges) Act 2017 to give the Legislature the desired powers and immunity to carry out its legislative responsibility both physically and virtually; and for related matters.

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## REFERENCES

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### Legislation

Constitution of the Federal Republic of Nigeria, 1999 ('1999 Constitution') as Amended 2010.

Legislative Houses (Powers and Privileges) Act, 2017

Senate Standing Orders 2015 as Amended

Standing Orders of the House of Representatives, Federal Republic of Nigeria, 9th Edition

COVID-19 Regulations, 2020 <https://pwcng.org/files/fg-covid-19-regulations.pdf>

### Books

Policy and Legal Advocacy Centre, "A Citizen's Guide to Writing a Petition to the House of Representatives" <https://placng.org/i/wp-content/uploads/2021/04/A-Citizens-Guide-to-Writing-a-Petition-to-the-House-of-Representatives.pdf>

Policy and Legal Advocacy Centre, "A Citizen's Guide to Writing a Petition to the Senate" <https://placng.org/i/wp-content/uploads/2021/04/A-Citizens-Guide-to-Writing-a-Petition-to-the-Senate.pdf>

Policy and Legal Advocacy Centre, "Public Hearing: A How-To Guide"

Policy and Legal Advocacy Centre, "Economic and Social Effects of Public Emergencies on Vulnerable Groups Especially Women and Persons with Disabilities" <https://placng.org/i/wp-content/uploads/2021/12/Economic-and-Social-Effects-of-Public-Emergencies-on-Vulnerable-Groups-Especially-Women-and-Disabled-Persons.pdf>

Policy and Legal Advocacy Centre, "Guide to Effective Representation in the National Assembly" <https://placng.org/i/wp-content/uploads/2019/12/Guide-to-Effective-Representation-for-Lawmakers.pdf>

Policy and Legal Advocacy Centre, "Guide to Lawmaking in the National Assembly" <https://placng.org/i/wp-content/uploads/2019/12/Guide-to-Lawmaking-in-the-National-Assembly.pdf>

Policy and Legal Advocacy Centre, "Guide to Legislative Oversight in the National Assembly" <https://placng.org/i/wp-content/uploads/2019/12/Guide-to-Legislative-Oversight-in-The-National-Assembly-Final-Purple.pdf>

Policy and Legal Advocacy Centre , "Policy Brief: Increasing Awareness and Engagement of the House of Representatives Committee on Public Petitions" <https://placng.org/i/wp-content/uploads/2020/08/Policy-Brief-of-Increasing-Awareness-and-Engagement-of-the-House-of-Representatives-Committee-on-Public-Petitions.pdf>

### **Factsheet Publications**

PLAC Factsheet on the Emergency Economic Stimulus Bill, 2020 (HB 835) <https://placng.org/i/wp-content/uploads/2020/04/Factsheet-on-Emergency-Economic-Stimulus-Bill-2020.pdf>

### **Articles and Position Papers**

Aljazeera, "Forty Percent of Nigerians Live Below the Poverty Line" <https://www.aljazeera.com/economy/2020/5/4/forty-percent-of-nigerians-live-below-the-poverty-line-report> >accessed 5 January 2021

European Parliament, "How Parliaments work during a Pandemic" <https://www.europarl.europa.eu/news/en/headlines/eu-affairs/20200408STO76807/how-parliament-works-during-a-pandemic> >accessed 27 July 2021

Federal Ministry of Health, "Health Minister: First Case of COVID-19 in Nigeria": [https://www.health.gov.ng/index.php?option=com\\_k2&view=item&id=613:health-minister-first-case-of-covid-19-confirmed-in-nigeria](https://www.health.gov.ng/index.php?option=com_k2&view=item&id=613:health-minister-first-case-of-covid-19-confirmed-in-nigeria) >accessed 18 April 2021

Francine Picard Mukazi, "Ensuring a Balance of Power in the Face of COVID-19"; <https://www.iisd.org/articles/ensuring-balance-power-face-covid-19> >accessed 17 June 2020

George Sanzila "Parliament confronts COVID-19 challenges" <<https://parliament.na/index.php/parliamentary-news/156-latest-news-2020?start=15> > accessed 22 February 2021.

Inter-Parliamentary Union, "Country Compilation of Parliamentary Responses to the Pandemic" <https://www.ipu.org/country-compilation-parliamentary-responses-pandemic> >accessed 27 July 2021

Inter-Parliamentary Union, "Parliaments in a time of Pandemic" <https://www.ipu.org/parliaments-in-time-pandemic> >accessed 27 July 2021

Jerry Ugokwe, Motion For Virtual Plenary And Parliamentary Sessions. Lead Debate. A Lead Debate for Virtual Parliamentary Proposal to the House of Representatives of the Federal Republic of Nigeria, June 2020.

Jerry Ugokwe, Motion: Virtual Plenary Session. A Virtual Parliamentary Proposal to the House of Representatives of the Federal Republic of Nigeria, June 2020.

Mike DeBonis 'House changes its rules during pandemic allowing remote voting for the first time in its 231-year history', *The Washington Post*, May 16, 2020, < [https://www.washingtonpost.com/politics/house-poised-to-adopt-historic-changes-allowing-remote-voting-during-pandemic/2020/05/15/b081d9f2-96ab-11ea-91d7-cf4423d47683\\_story.html](https://www.washingtonpost.com/politics/house-poised-to-adopt-historic-changes-allowing-remote-voting-during-pandemic/2020/05/15/b081d9f2-96ab-11ea-91d7-cf4423d47683_story.html) > accessed 27 February 2021

Nigeria COVID-19 Cases on the Rise <https://www.hrw.org/news/2020/03/25/nigeria-covid-19-cases-rise> accessed 5 September 2020

Politico, "Hungary's Viktor Orbán wins vote to rule by decree" <https://www.politico.eu/article/hungary-viktor-orban-rule-by-decree/> >accessed 27 July 2021

Plenary of the Welsh Parliament, Wednesday 1 April 2020 at 14.00, <<https://business.senedd.wales/ieListDocuments.aspx?CId=401&MId=6267&Ver=4>> accessed 02 March 2021

Parliament of the Republic of South Africa 'Statement by the Presiding Officers of Parliament on the Resumption of the Business of Parliament Thursday 16 April 2020' <<https://www.parliament.gov.za/press-releases/statement-presiding-officers-parliament-resumption-business-parliament-thursday-16-april-2020>> accessed 21 February 2021

Parliament of the Republic of South Africa 'Announcements, Tablings and Committee Reports' No. 39 of 2020, Second Session, Sixth Parliament, Wednesday 15 April 2020, <<https://hsf.org.za/publications/hsf-briefs/atc-39-2020-04-15-eng.pdf>> accessed 04 March 2021

Parliamentary Monitoring Group 'Review of Parliament 2020' 10 December 2020, <<https://pmg.org.za/blog/ReviewofParliament2020>> accessed 27 February 2020

PLAC House of Representatives Passes Emergency Economic Stimulus Bill, 2020' March 24, 2020 <<https://placng.org/i/house-of-representatives-passes-emergency-economic-stimulus-bill-2020/>> accessed 04 March 2021

Ruth Olorounbi 'Coronavirus: Nigeria's proposed COVID-19 law tears the country apart' *The Africa Report*, 15 May 2020 <<https://www.theafricareport.com/27969/coronavirus-nigerias-proposed-covid-19-law-tears-the-country-apart/>> accessed 01 March 2021

Scottish Parliament 'Leaders Virtual Question Time 09 April 2020 [Draft]'1-13, <<https://beta.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=12605>> accessed 01 March 2021

Sarah Caygle and Sarah Ferris 'Senior Democrat backs House Rules change to allow for proxy voting' *Politico*, 16 April 2020, <<https://www.politico.com/news/2020/04/16/jim-mcGovern-proxy-voting-congress-190987>> accessed 27 February 2021

Sherly Gay Stolberg 'House Democrats Back Changing Rules to Allow Remote Voting During Pandemic' *The New York Times*, April 16th2020, <<https://www.nytimes.com/2020/04/16/us/politics/house-coronavirus-remote-voting.html>> accessed 27 February 2021

Speaker's Address to the House of Commons, UK, 14 April 2020, <<https://www.parliament.uk/globalassets/documents/speaker-to-all-mps---update-re.-virtual-proceedings-14-april-2020.pdf>> accessed 25 February 2021

The Guardian, "Supreme Court Okays Virtual Hearings of Cases" <https://guardian.ng/news/supreme-court-okays-virtual-hearings-of-cases/> accessed 5 September 2020

The Library and Information Technology Association, "Tips for Facilitating Virtual Meetings" <https://docs.lita.org/tips-for-facilitating-virtual-meetings> accessed 7 March 2021

The Samara Centre for Democracy, "Towards a Virtual Parliament: Design Choices and Democratic Values" <https://www.samaracanada.com/democracy-monitor/towards-a-virtual-parliament>

The World Bank, Individuals Using the Internet (% of the Population)- Nigeria <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=NG> >accessed 27 July 2021

The World Bank, "Nigeria Releases New Report on Poverty and inequality in the Country" <https://www.worldbank.org/en/programs/lsmis/brief/nigeria-releases-new-report-on-poverty-and-inequality-in-country> and Forty Percent of Nigerians Live Below the Poverty Line <https://www.aljazeera.com/economy/2020/5/4/forty-percent-of-nigerians-live-below-the-poverty-line-report>" >accessed 27 July 2021

UK Parliament 'House of Commons takes historic first step towards virtual proceedings' 16 April 2020, <<https://www.parliament.uk/business/news/2020/april1/hybrid-house-of-commons/>> accessed 28 September 2020

**Others**

Votes and Proceedings from March to July 2020. Senate Votes and Proceedings can be accessed at [https://placng.org/i/document\\_type/senate\\_while](https://placng.org/i/document_type/senate_while) the House of Representatives Votes and Proceedings can be accessed at [https://placng.org/i/document\\_type/rep\\_vp/](https://placng.org/i/document_type/rep_vp/)



## About PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making processes.

The main focus of PLAC's intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.