

Resilient institutions in times of crisis: transparency, accountability and participation at the national level key to effective response to COVID-19 (UN-DESA Policy Brief #74 May 2020)

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Summary

The coronavirus (COVID-19) pandemic presents a risk to key dimensions of national institutions highlighted in Sustainable Development Goal 16 (in terms of limiting transparency and access to information, eroding safeguards to accountability including integrity violations, fraud and corruption, and restricting participation and engagement). However, these institutional dimensions are also critical to providing a resilient response to the crisis. In many countries, governments, accountability institutions and civil society are innovating to mitigate institutional disruptions while ensuring an effective response to the pandemic. In the aftermath of the crisis, drawing lessons in terms of the resilience of national institutions will be a key undertaking in order to ensure effective and accountable government.

Introduction

National institutions are strongly impacted by the coronavirus (COVID-19). The pandemic has disrupted to varying extents the regular functioning of state institutions, such as parliaments and justice systems, and affected key government functions and processes, undermining the effectiveness of government action. The need to respond quickly and with drastic measures has also created additional risks for institutional processes and organisations. Beyond individual institutions, the pandemic has increasingly affected whole institutional systems and the way public institutions interact with people.

This brief discusses the challenges of the COVID-19 emergency along key dimensions of national institutions highlighted in Sustainable Development Goal 16 (transparency, access to information, accountability and anti-corruption, participation and engagement). It also explores how government institutions and civil society have innovatively responded to ensure that transparent, accountable, responsive and equitable mechanisms continue to govern the functioning of government processes and organizations, thus increasing the resilience of institutions to shocks such as the coronavirus pandemic.

The Coronavirus Epidemic has Impacted Key Dimensions of National Institutional Systems

The coronavirus pandemic has affected national institutions through different channels. In response to the epidemic, temporary changes in rules and processes have been implemented by governments in order to protect people at risk and ensure the delivery of critical functions while the crisis lasts. Such changes impact the relationships between people and the government in multiple ways.

¹ (Available online here at: <https://www.un.org/development/desa/dpad/publication/un-desa-policy-brief-74-resilient-institutions-in-times-of-crisis-transparency-accountability-and-participation-at-the-national-level-key-to-effective-response-to-covid-19/>)

The pandemic has created major disruptions to the functioning of governments as a whole and of specific public functions, including policy making, the provision of basic services, law enforcement and the functioning of the justice system.

The imperative to limit contagion affects the capacity of the state to deliver its functions. Restrictions and social distancing measures can challenge the working methods and processes of institutions such as parliaments or courts, where face-to-face meetings are required, creating obstacles for the regular conduct of business and therefore, potentially undermining legislative oversight and law-making, limiting judicial enforcement or affecting citizens' access to justice, among other consequences. Specific institutions of government (such as the police or the education system) may be directed to adapt their procedures in response to the crisis. Restrictions taken in response to COVID-19 can also negatively affect the possibilities for public institutions to engage with civil society. Emergency responses as well as measures to limit the economic impact of the COVID-19 crisis, such as stimulus packages, can also increase risks to accountability and integrity, including through greater opportunities for fraud and corruption.

Finally, in the context of the epidemic, some governments have effected broader, structural changes in the political and institutional systems (such as the adoption of emergency laws that allow to rule by decree, and the suspension of individual liberties), which may have longer-term negative consequences for public institutions and human rights, particularly of marginalized groups.

Among other effects, such changes have modified balances that existed prior to the coronavirus pandemic in terms of accountability, transparency and participation.

Using the Institutional Principles of SDG 16 as an entry point to Strengthen Institutions in times of Covid-19

Transparency

Transparency is critical for accountability and for public trust in government. For citizens to trust institutional responses to the COVID-19 crisis, they must know what governments are doing and have access to reliable information, including: the facts about the virus; the data on the spread of the epidemic and its impacts; and the public policies in response to the crisis as well as the assumptions and scenarios on which they are based. In the Republic of Korea, for example, the government provided two daily briefings to explain the evolution of the epidemic and the government's responses.

In many countries, websites are providing real-time, localized information on the evolution of the epidemic. Depending on the country, these websites can be managed by the government, academia, or civil society; many result from collaboration among different actors, including the private sector. In France, in addition to a comprehensive daily bulletin issued by the government, which contains key figures on the number of people who tested positive, were hospitalized and died of COVID-19, a government data innovation hub – Etalab – has developed an open source platform with data visualizations down to the local level. In other countries like Bulgaria, Indonesia,

Mongolia and South Africa, governments have developed online resource portals to enhance transparency by providing a single-entry point to information and resources on COVID-19. In many countries, both governments and non-governmental organizations have taken steps to prevent misinformation on the pandemic.

Effective transparency requires proactive communication strategies that reach vulnerable and at-risk populations with the information they need in accessible formats. The Government of Mexico, for example, has created a microsite to provide information on COVID-19 to people with disabilities. In other countries, non-state actors are working to make information on the coronavirus accessible. In Argentina, the Civic Association for Equality and Justice in collaboration with University Torcuato di Tella and University of Buenos Aires have launched an initiative to make legal information on COVID-19 accessible to vulnerable populations.

Transparency is also important at the international level to better coordinate global responses, share experiences and lessons learned, and support countries to tailor responses to their own circumstances. Since the epidemic began, international organizations and networks have been active in this regard. For example, the WHO/EU Health System Response Monitor documents various facets of responses to the crisis for a sample of countries with very little time lag, and facilitating comparison across countries. The UN COVID-19 Data Hub makes relevant data on responses readily available as geospatial data web services, suitable for maps, data visualizations and analyses, and in multiple formats.

Access to information

In several countries, response measures have impacted the national framework that regulates the right of access to information and its enforcement. Civil society has been monitoring these changes and exceptions to transparency and access to information legislation.

Although such exceptions have generally limited the right of access to information, in some countries, government institutions have fought those limitations. In Argentina, after the government passed emergency decrees which suspended administrative deadlines, the Information Commissioner issued a resolution lifting or cancelling that suspension in relation to access to information and privacy. In Canada, the Information Commissioner issued a message on the importance of respecting the right to information in the current circumstances, calling upon heads of federal institutions to set an example.

In the European Union, the Commission and the Council have maintained the 15-day deadline to respond to public information requests while acknowledging that delays may occur in the current circumstances.

Guidance and materials have been developed to support public officials and citizens in the implementation and exercise of the right to access information during the emergency. Georgia's Institute for Development of Freedom of Information has published guidelines on public information that is recommended for proactive publication by government agencies during the Covid-19 crisis. In Spain, Access-Info has developed a guidebook to help citizens understand the

effects of the declaration of the state of emergency and explain how to exercise the right of access to information.

Participation, engagement and representation

Strong legislatures are especially crucial in an emergency like the COVID-19 pandemic to balance power and ensure independent oversight, represent people's needs and demands, and pass legislation to deploy public resources to those in need. However, restrictions on large gatherings, social distancing and other containment measures have constrained the functioning of parliaments. Parliaments across the world have had to find innovative ways to work around this constraint. Legislatures in Albania, Colombia, the Maldives, and Mongolia have amended their plenary procedures to allow virtual discussions. A Remote Deliberation System has enabled, through video and a secure personalized app, the continuity of debates and votes in the Brazilian Senate. Legislators in different countries (e.g., Armenia, Indonesia) are using social media to provide updates on the pandemic and engage with their constituencies. The Interparliamentary Union (IPU) is supporting Parliaments by sharing country-by-country information on how Parliaments are responding; providing questions and answers for parliaments; developing guidance for legislators and technically supporting Parliaments on remote working methods.

The members of OPeN (Open Parliament e-Network) are crowdsourcing and sharing country data on citizen participation and open parliament paths during COVID-19 times. ParlAmericas and Legislative Directory have published a paper on legislative good practices and recommendations during COVID-19 in the Americas. Legislative Directory has also developed several reports on how Congresses are working in the region.

As governments have been challenged to respond to the coronavirus emergency risks, collaboration with stakeholder groups and citizen engagement have generated innovative responses to COVID-19 and helped enhance public trust. Participatory response strategies, the development and use of new digital platforms and tools to enable engagement, including in the collective development of digital tools and solutions (e.g., through crowdsourcing, hackathons) and the use of social media to connect with people are some of the approaches used in different countries. In Slovakia, for example, the Ministry of Education, Science, Research and Sport has worked with civil society in developing a website to provide teachers, school managers, parents and students with up-to date information on matters related to education and educational resources during the closing of schools.

Civil society around the world has also mobilized and self-organized in response to the pandemic. Citizen led community responses have helped inform the public on the risks of the pandemic and provided essential services such as food and care. For example, in countries like Italy and Spain or in the City of New York, volunteer groups have self-organised to tutor children, provide mental health services and deliver food to vulnerable groups such as older persons or people with underlying illnesses. These responses can be leveraged by public institutions to ensure effective and inclusive responses to the pandemic.

Accountability and anti-corruption

Fundamental safeguards of government accountability can be challenged or disregarded by institutional responses to an emergency (for example, ruling by decree without legislative oversight). Moreover, emergencies and subsequent rapid responses as well as other measures focused on the longer-term economic recovery (e.g., economic stimulus packages) may create opportunities for integrity violations in public organisations, in the allocation and use of public resources, and in core government functions such as public procurement.

Health systems in many countries suffer from systemic weaknesses that make them particularly vulnerable to COVID-19-related corruption risks associated with emergency funding and procurement; price gouging and resale of pilfered supplies on the grey and black markets; substandard and falsified products entering the market; among others.

Legislative and judicial oversight can help mitigate the opportunities for integrity violations and maladministration. The Parliament of Kenya, for example, requested and received specific information from the Ministry of Health on the allocation and use of public resources to fight the epidemic, the distribution of medical resources and the procurement of medical goods and equipment, among other topics. In Uganda, the high Court ruled that legislators must pay back money received in their personal accounts as part of a package of 2.4 million euros approved to fight the coronavirus in their constituencies.

Internal and external auditors also play a critical role in identifying potential risks in public financial management and procurement systems, providing assurance on transactions, enhancing transparency and providing critical information and data for holding governments accountable. The General Comptroller of Costa Rica has developed an online platform to enhance transparency on the government responses to the coronavirus, including on public procurement. The Brazilian Court of Accounts has launched a special programme (Coopera), including a monitoring plan to identify risks, weaknesses and deviations in the government response to COVID-19.

Leading transparency and anti-corruption organizations have called on public authorities to ensure transparency to prevent corruption and to strengthen whistleblower protection during the state of emergency caused by the coronavirus pandemic. Civil society organizations, such as the Institute for Development of Freedom of Information, have also developed guidelines on transparency of public procurement related to Covid-19. Leading organizations working on accountability in Liberia have called for increased transparency and oversight of resources allocated to legislators as part of an emergency and economic stimulus package as well as of foreign aid resources received to fight the pandemic.

The experience from recent health and humanitarian emergencies (e.g., Ebola outbreak, hurricane Katrina) shows the importance of addressing corruption risks as well as integrity and accountability vulnerabilities, and provides valuable lessons for the present. In a recently published report, the INTOSAI Development Initiative (IDI) recalls lessons and examples from previous crises regarding the management of global health funds, corruption over health emergency aid, and anti-corruption approaches in the health sector.

Conclusion

The coronavirus pandemic has created unique challenges for transparency, participation and accountability. National and international actors have responded fast and forcefully to these challenges.

In some countries, accountability institutions, such as supreme audit institutions and access to information and privacy oversight bodies, have been monitoring and disseminating information about the impact of policies and regulations adopted by governments in response to the crisis. Civil society is self-organising and also playing a key monitoring role of government action and proposing innovative solutions - sometimes working collaboratively with governments - to strengthen the resilience of institutions. International organizations and networks are also playing a critical role, collecting examples of innovative practices and supporting countries in their efforts to sustain the essential functions of public institutions through different tools, including online repositories, discussion forums, guidance and knowledge-based products.

Most countries are still striving to limit the spread of the epidemic, manage immediate health risks and mitigate broader economic and social impacts. As countries transition from the immediate response to the crisis to longer-term recovery efforts, it will be critically important to take stock of how the COVID-19 pandemic has affected key dimensions of national institutional systems such as accountability, transparency and participation, in order to prevent reversals of progress on these critical institutional dimensions and to avert longer-term consequences on public institutions and human rights. Together with other key principles embodied in Sustainable Development Goal 16, these institutional dimensions can provide signposts for increasing the resilience of national institutions to external shocks in the future.