



International Foundation  
for Electoral Systems

# Preserving Independent and Accountable Institutions





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IFES COVID-19 Briefing Series: Preserving Independent and Accountable Institutions  
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# Foreword

When I left the United Nations as Assistant Secretary-General four years ago after more than 20 years seeking to serve its ideals, I wrote a plea for reforms within the organization. I still believe deeply in the mission of the U.N., but recognize that its success depends on fundamental principles of autonomy and accountability within its operations. The same is true for the election management bodies, anticorruption agencies, electoral tribunals, supreme audit institutions, and other independent constitutional bodies that undergird a nation's democracy and that the International Foundation for Electoral Systems (IFES) works with on a daily basis across the globe.

When I joined IFES at the end of 2018, I wrote that "there has never been a more critical and exciting period to be engaged in IFES' mission." Little did I know that just over a year later, the world would be faced with a global health crisis that has put our fundamental systems of democracy even further at risk. As this paper outlines, independent institutions of democracy are at the frontlines of preventing such a crisis, yet they themselves may be under threat because of it.

The authors note that independent institutions are intended to check executive power and to insulate democratic processes from political interference. In non-democratic countries, however, these institutions may be established as window dressing and leveraged to further legitimize authoritarian leaders, while in democratic countries, they may become the first victims of emergency measures or funding restrictions as governments scramble to respond to the pandemic and, in some cases, leaders seek to exploit it for their own purposes.

Wherever we live, we need independent institutions protecting our right to credible elections, our right to accountable governance, and our right to freedom from discrimination. While this paper outlines the challenges facing independent institutions, it also provides recommendations that clearly demonstrate that we are all part of the solution. We cannot be passive bystanders, but must actively defend democracy, and the institutions that promote and protect it.

I am immensely proud of *IFES' COVID-19 Briefing Series*, which has taken us from immediate pandemic response to a consideration of the long tail of the crisis and the steps we must take to protect – and in some cases rebuild – our democratic processes, systems, and institutions.

Earlier this year IFES joined more than 500 political and civil leaders, Nobel Laureates and pro-democracy institutions in an open *Call to Defend Democracy*. This Call notes that "Democracy does not guarantee competent leadership and effective governance...[b]ut the greatest strength of democracy is its capacity for self-correction." I know this series will last well beyond the current crisis and provide a foundation for us to self-correct, to innovate, and to build democracies that endure and that deliver for all.



**Anthony N. Banbury**  
IFES President and CEO

# Acknowledgments

The authors and editors would like to thank: Katherine Ellena and Silja Paasilinna for their thoughtful peer review of the paper; Fernanda Buriel, Hermann Thiel, Tanya Azuaje, Kyle Lemargie, Paul Anderson, Magnus Ohman, Nicolas Kaczorowski, Meredith Applegate and the IFES Ukraine team for their invaluable contributions and insights; Keaton Van Beveren and Janine Duffy for their copy editing and design work; and Abigail Gampher for support in formatting endnotes.

# Executive Summary

## Introduction

The global COVID-19 crisis has offered an alluring blank check to many leaders to use their emergency powers to curtail political rights and enlarge control over the levers of the state. This creeping accumulation of powers should give us pause – and impel us to consider how to best support the institutions and mechanisms that were designed to mitigate such threats. Independent governmental institutions – bodies established under the constitution or the law to promote transparent and accountable governance, mitigate corruption and protect human rights – should serve as guardrails to keep democracy on track. Absent safeguards for their own autonomy and accountability, however, they cannot serve effectively in this role. In this paper, we identify how the pandemic is challenging the authority of some of these institutions and undermining their effectiveness in the near term. The longer-term implications of the pandemic on these institutions are also considerable, as they may lose their relevance if they are ineffective in a crisis. They may also ultimately lose their independence if they do not take steps to preserve it.

## Defining the Problem

As described in the previous papers in this International Foundation for Electoral Systems (IFES) [COVID-19 Briefing Series](#),<sup>1</sup> emergency measures during the pandemic have permitted some governments to consolidate power, enrich individuals or political factions at the expense of the public and abrogate human rights. In some countries, independent institutions have found ways to oversee COVID-19 responses, increase transparency and awareness of executive actions and provide guidance to the executive. In other countries, these institutions have fallen silent, indicating that they may lack sufficient autonomy or accountability to support democratic checks and balances, or that they have never been sufficiently resourced or independent to be effective. This success or failure can have important implications for the ability of democratic systems to bounce back from the severe shocks presented by the COVID-19 crisis.



... these institutions have fallen silent in the face of the crisis, indicating that they may lack sufficient autonomy or accountability to support democratic checks and balances ...”

Rolling back the tide of autocracy will require concerted efforts by many stakeholders, including independent governmental institutions. This was true well before the pandemic but is now even more essential as the crisis leaves many societies in a more fragile state. This paper focuses on institutions whose core functions are to promote transparent and accountable governance, mitigate corruption and protect human rights, and that have important mandates during the COVID-19 pandemic to provide essential checks on government. Our analysis focuses primarily on supreme audit institutions (SAIs), independent election management bodies (EMBs), national human rights institutions (NHRIs), independent fiscal institutions (IFIs), anti-corruption commissions (ACCs) and information commissions, though some countries may have additional oversight or regulatory agencies that perform related functions.

## Major Findings and Recommendations

The independent institutions discussed in this paper were established to check executive power and to insulate democratic processes from political interference. Even in the best of circumstances, this is an ambitious mandate requiring a delicate balance between autonomy and accountability, which is further described in this paper and the Annex. Now, as the crisis threatens to undermine democratic norms, these institutions face increased pressure to fulfill their mandates; failure can have long-lasting consequences for their future relevance, while a strategic response can help them “capitalize on the significant opportunity to enhance their relevance and contribut[e] to improving the lives of the citizens they serve.”<sup>2</sup> This paper identifies five ways in which the emergency context is challenging the autonomy and accountability of independent institutions and provides corresponding recommendations, summarized as follows.

**Confused or diminished mandates:** The unprecedented emergency response and the expansion of executive powers is muddling or circumscribing the mandates and functional autonomy of independent institutions. To mitigate this challenge, independent institutions should:

- Assert and fulfill mandates related to COVID-19, even when not explicitly invited to do so or when the government is uncooperative. As needed, advocate for institutional mandates to be formally clarified or expanded to oversee government institutions involved in COVID-19 response.
- Proactively monitor, report and issue recommendations in a timely manner, leveraging relationships with civil society, media and the public to maximize reach and effectiveness.

**Increased political pressure:** In pandemic response, some independent institutions will need to work closely with partisan agencies or actors to carry out their mandates, potentially stifling their autonomy and undermining their accountability to the public. To mitigate this challenge, independent institutions should:

- Maintain transparency internally and with the public when working with partisan agencies or actors.
- Consider whether independent institutions may be considered “essential” and exempted from some COVID-19 measures to enable them to continue to provide oversight of government actions.<sup>3</sup>

**Operational limitations:** Public health measures may undermine the capacity of some independent institutions and therefore limit their ability to be effective and accountable. To mitigate this challenge, independent institutions should:

- Within their legal jurisdiction, modify procedures and processes where possible to continue conducting oversight and providing services to the public. Clearly communicate changes to the public.
- Reassess priorities to best fulfill the institution’s objectives in the context of the ongoing pandemic.
- Consider technological innovations that increase opportunities to interact with the public and to improve access to services and information both during and after the crisis.
- Introduce new or revised cybersecurity protocol to ensure that necessary procedures and training are in place to enable the secure continuation of services in remote work environments.<sup>4</sup>

**Financial constraints:** The considerable costs incurred by governments responding to the public health crisis may cause budget cuts that constrain independent institutions. To mitigate this challenge, independent institutions should:

- Advocate for direct allocations in stimulus packages to account for the surge in work.
- Consider redirecting resources to respond to the crisis and engaging in partnerships with financial institutions, technology firms and investigators to provide more robust ex post oversight.

**Undermined relationship with legislatures:** Social distancing requirements and stay-at-home orders may also reduce legislative operations, undermining the mutually reinforcing relationship between some independent institutions and legislatures. To mitigate this challenge, independent institutions should:

- Help to fill gaps in legislative oversight capacity by providing technical support to the review of executive action and draft legislative provisions.
- Monitor executive action and flag instances of executive overreach or efforts to undermine accountability mechanisms.
- Directly request support from the legislature to help overcome any COVID-19 obstacles to fulfilling the institution's remit.

Learn more by visiting the full collection of papers in the [IFES COVID-19 Briefing Series](#).<sup>5</sup> Find more resources at IFES' [COVID-19 Survival Guide for Democracies](#).<sup>6</sup>

# Introduction



All around the world, leaders are gaining more power. That's what this pandemic demands: a coordinated whole-of-nation approach with a powerful conductor at its center. We have to be careful, though, that the measures we are taking to tackle this global crisis don't bring about another one: the death of democracy as we know it."

– Maria Ressa, Journalist, Advocate and Co-Founder of Rappler<sup>7</sup>

The COVID-19 crisis is increasing pressure on democratic governance globally, aggravating cracks in democracy's foundation in some countries, while highlighting resilience in others. Independent institutions whose autonomy from the government is formally enshrined in the constitution or the law – like anti-corruption commissions, national audit agencies, election management bodies (EMBs) and human rights institutions – often have a special mandate and resources to support democracy by encouraging checks on government, promoting accountability and transparency in governance, tamping down corruption and strengthening the rule of law. These institutions can be an essential part of the democratic fabric, connecting and preserving the relationship between the governing and the governed. This puts them in a unique position to prevent backsliding, but it also makes them vulnerable to the ill effects of the crisis response, which is upending the balance of power and dislodging some of the checks and balances that define democratic systems.

Holding governments accountable and limiting opportunities for corruption or other abuses is particularly instrumental to maintaining the public trust needed to help countries weather shocks.<sup>8</sup> Francis Fukuyama, writing for *Foreign Affairs*, notes that "the factors responsible for successful pandemic responses have been state capacity, social trust, and leadership. Countries with all three – a competent state apparatus, a government that citizens trust and listen to, and effective leaders – have performed impressively, limiting the damage they have suffered."<sup>9</sup> Conversely, countries lacking these attributes have fared poorly.

The public health crisis engendered by large-scale Ebola outbreaks in West Africa in 2014 is instructive. In **Liberia**, for example, rampant corruption and opaque and unaccountable institutions undermined trust in the government, which fueled "the spread of rumors that the Liberian government had exaggerated or even concocted the Ebola crisis as a way to get access to international funding that could be siphoned off for private uses. Consequently, Ebola-affected individuals and communities resisted the efforts of medical personnel to isolate and treat victims, collect data and dead bodies, and spread information about Ebola."<sup>10</sup> Against this grave backdrop, however, the Liberian National Elections Commission (NEC), an independent EMB, worked tirelessly to preserve its autonomy and accountability and to protect the integrity of the electoral process. The NEC partnered with the international community and public health experts to successfully deliver important elections "without disruption or significant public health consequences."<sup>11</sup> This example highlights the importance of strong and empowered independent institutions that can weather crises and shore up democracy.

This lesson is increasingly important, as there are numerous illustrations of governments using their emergency powers during the COVID-19 pandemic as a pretext for power grabs or personal enrichment. These measures may presage a long-term weakening of democracy.<sup>12</sup> Examples include (but are

not limited to) governments: imposing emergency measures without a stipulated sunset provision;<sup>13</sup> clamping down on the media;<sup>14</sup> restricting access to information about COVID-19 responses; bypassing the usual transparency and competitive fairness requirements to undertake massive procurements;<sup>15</sup> retaliating against whistleblowers for criticism of the state's pandemic response; using disproportionate, violent force to enforce curfews and other measures;<sup>16</sup> and engaging in organized disinformation campaigns that spread false data and information on COVID-19 and/or target specific groups with dangerous hate speech.<sup>17</sup>

“ ... there are numerous illustrations of governments using their emergency powers during the COVID-19 pandemic as a pretext for power grabs or personal enrichment. These measures may presage a long-term weakening of democracy.”

There are some bright spots; according to a Carnegie Europe analysis, “new data show that most European democracies implemented emergency responses to the coronavirus without undermining liberal-democratic standards. The countries where these standards have been somewhat violated— **Bulgaria, Hungary, and Poland**—were already exhibiting declines in democracy before the pandemic.”<sup>18</sup> Research from the Varieties of Democracy Network (V-DEM) confirms this conclusion on a global scale, finding that “Roughly two-thirds of all democracies and 39% of the countries coded have committed no or only minor violations of democratic standards in their response to Covid-19.”<sup>19</sup> Despite this optimism, the study also finds that there are “some concerning developments” in 89 countries (representing 61 percent of the sample), including both autocracies and democracies – and particularly troubling developments in democracies that were already on the decline prior to the pandemic.

As this briefing series has explored, democracy thrives on assembly, transparency and confidence in government institutions. The pandemic and the various responses governments have taken – in particular those that are draconian or heavy-handed – have important ramifications for democracy and human rights. As democracy is undermined, so is the ability of governments to adequately meet the wide-ranging needs of people from the health and financial consequences of the pandemic. The independent governmental institutions discussed in this paper have a critical role to play, but one that is not often highlighted. Following a brief introduction to these institutions and the elements needed to preserve their autonomy and accountability, this paper will discuss five emerging challenges to their work and conclude with a set of targeted recommendations to ensure they continue to provide much needed checks and balances.

## What Are Independent Governmental Institutions?

This paper focuses primarily on government-funded *constitutional or statutory bodies*<sup>20</sup> whose legal mandates establish that they are “integral to the freedom and good government of the state, and that they are not to be tampered with for the sake of political expedience.”<sup>21</sup> Although their specific portfolios vary widely, these bodies generally have mandates to “improve the quality of governance, strengthen the rule of law, encourage transparency and accountability, prevent corruption and ultimately reinforce both the quality and the resilience of democracy.”<sup>22</sup> Some of these institutions – national human rights institutions (NHRIs) for example – lean on regional and international standards and norms to underpin their work, similar to their counterparts in civil society. As one study of human rights in **Canada** noted, however, such advocacy by independent governmental institutions is “distinctly authoritative,” as it has the force of domestic law behind it.<sup>23</sup>

While these institutions can have an important impact on the quality of democratic governance, they do not do so automatically or intrinsically. As the Westminster Foundation for Democracy notes, “An independent oversight institution cannot be effective if the basic democratic freedoms are not present. Often, non-democratic regimes will establish supposedly independent [commissions] ... not to enhance governance, but rather to create the impression of action on human rights and corruption concerns without altering the core conditions of authoritarian rule.”<sup>24</sup> This has been a refrain in some countries where the government has established an anti-corruption body ostensibly to comply with United Nations (UN) Convention against Corruption commitments (and receive plaudits for doing so), while vesting no meaningful authority or independence in the body – or worse, using it to discredit opponents.

“... advocacy by independent governmental institutions is “distinctly authoritative,” as it has the force of domestic law behind it.”

Even in more democratic contexts, independent oversight institutions may have overlapping mandates or insufficient resources, leading to charges of ineffectiveness.<sup>25</sup> In **Tunisia**, for instance, several independent bodies were envisioned under the new constitution created following the democratic transition in 2011, and were expected to play an important role in entrenching independent oversight and consolidating the changes in governance.<sup>26</sup> Establishing these institutions has been a politically fraught process, suffering from persistent delay and lack of financial support, leaving them “powerless or nonexistent.”<sup>27</sup> While some domestic actors now question whether these bodies are “effective in improving governance,”<sup>28</sup> it is unclear to what extent these charges are entirely valid, or whether they are intended to further undermine the institutions.

The independent governmental institution umbrella is potentially quite large, and the domestic enabling environment and context may be highly variable from country to country. For the purposes of this brief, we are focused on institutions whose core functions are to promote transparent and accountable governance, mitigate corruption and protect human rights and which have particularly important roles during the COVID-19 pandemic to provide essential checks on government. Some countries may consolidate these functions into a few institutions, while others might have many institutions with more targeted mandates. An illustrative but nonexhaustive list of such institutions is outlined in Figure 1 below; other types of independent governmental institutions not covered in this paper include public service commissions, judicial councils and regulatory agencies for specific sectors.

Figure 1: Examples of Independent Institutions

Example	General Mandate	COVID-19 Core Functions
<b>Supreme Audit Institutions (SAI)<sup>29</sup></b>	<ul style="list-style-type: none"> <li>✓ Conduct financial audits on annual financial reports of public entities</li> <li>✓ Conduct compliance and performance audits on public entities or specific government programs<sup>30</sup></li> <li>✓ Perform audits as requested in support of legislative oversight activities</li> </ul>	<ul style="list-style-type: none"> <li>✓ “Engage with government and seek prior assurances that emergency public spending will be done in line with the applicable rules and regulations”<sup>31</sup></li> <li>✓ Provide advice on sound public financial management</li> <li>✓ Conduct performance audits on emergency social assistance, crisis preparedness plans and other systems relevant to the COVID-19 response</li> </ul>

Example	General Mandate	COVID-19 Core Functions
<b>Independent Election Management Bodies (EMB)</b>	<ul style="list-style-type: none"> <li>✓ Administer all electoral processes</li> <li>✓ Ensure credibility and integrity of elections and election outcomes</li> </ul>	<ul style="list-style-type: none"> <li>✓ Preserve the integrity of the electoral process during the pandemic</li> <li>✓ Coordinate with public health authorities to adapt election operations and procedures to prevent or mitigate risks of infection</li> <li>✓ Secure and distribute necessary supplies to ensure safety during electoral activities</li> <li>✓ Train election workers on new safety protocols</li> <li>✓ Communicate preventative measures and changes to electoral procedures to stakeholders<sup>32</sup></li> <li>✓ Oversee and regulate campaign finance and the use of government resources for political purposes during pandemic elections</li> </ul>
<b>National Human Rights Institutions (NHRI)<sup>33</sup></b>	<ul style="list-style-type: none"> <li>✓ Protect and promote human rights at the national level with reference to international and regional human rights mechanisms and principles</li> </ul>	<ul style="list-style-type: none"> <li>✓ Advise government on how to protect human rights while applying emergency measures, including for the most marginalized groups, and monitoring compliance</li> <li>✓ Widely share information about the rights individuals maintain during the pandemic</li> <li>✓ Report on human rights context to international and regional mechanisms</li> </ul>
<b>Independent Fiscal Institutions (IFI)<sup>34</sup></b>	<ul style="list-style-type: none"> <li>✓ Promote fiscal transparency and accountability</li> <li>✓ Often instituted as budget offices or fiscal councils</li> </ul>	<ul style="list-style-type: none"> <li>✓ Analyze the financial impact of the pandemic on the state</li> <li>✓ Monitor government emergency measures to ensure transparency</li> <li>✓ Evaluate government estimates of the costs of emergency legislation<sup>35</sup></li> </ul>
<b>Anti-Corruption Commissions (ACC) or Agencies (ACA)</b>	<ul style="list-style-type: none"> <li>✓ Prevent corruption through monitoring, awareness raising and public education<sup>36</sup></li> <li>✓ Develop and implement anti-corruption policies<sup>37</sup></li> <li>✓ In some cases, investigate or sanction corrupt conduct<sup>38</sup></li> </ul>	<ul style="list-style-type: none"> <li>✓ Monitor COVID-19 spending, including procurement, and identify areas of risk of corruption</li> <li>✓ Provide government with advice on corruption prevention measures in the use of COVID-19 funds</li> <li>✓ Investigate allegations of corrupt conduct in COVID-19 spending and refer cases for prosecution, if within mandate</li> </ul>
<b>Information Commissions<sup>39</sup></b>	<ul style="list-style-type: none"> <li>✓ Promote and protect the right to access information from public entities</li> <li>✓ May oversee or enforce right to information law compliance</li> <li>✓ May be combined with a data protection oversight function</li> </ul>	<ul style="list-style-type: none"> <li>✓ Continue to uphold access to information during emergency measures, particularly around transparency of COVID-19 health data, spending and abrogation of rights</li> <li>✓ Encourage proactive disclosure as a way to reduce burden on government agencies to respond to requests</li> </ul>

## The Importance of Autonomy and Accountability<sup>40</sup>

To be effective – both in their regular functioning and during a crisis situation – independent institutions must achieve and maintain a careful balance between *autonomy and accountability*. This paper applies an evidence-based *Autonomy and Accountability Framework* to examine the effects of COVID-19 on these institutions.<sup>41</sup> This IFES framework emphasizes five dimensions of autonomy necessary for an independent agency to fully engage in its mandate,<sup>42</sup> and three types of accountability measures that enable an institution to achieve public credibility and support.<sup>43</sup> Further details about the framework are available in the Annex, and its application to EMBs is also explored on IFES.org.<sup>44</sup>

### Autonomy

*Institutional autonomy* refers to *de jure* independence enshrined in the constitution of the law. This type of autonomy offers a very narrow, albeit widely referenced, concept of independence.

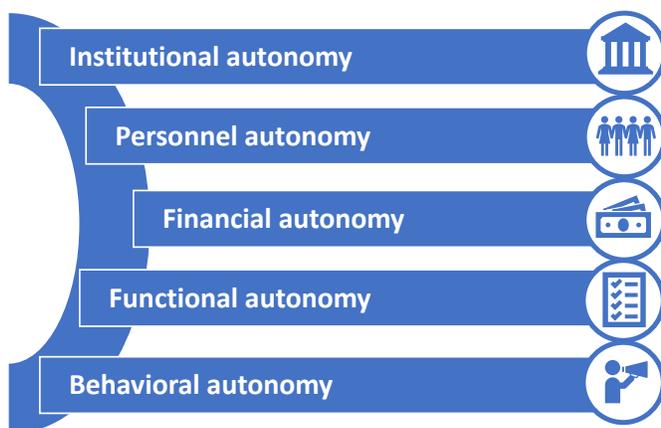
*Personnel autonomy* addresses the way in which independent institution appointees are chosen for their posts, the type of resources and authorities they have available to do their jobs and the ability of the independent institution to recruit and manage its own staff without interference.<sup>45</sup>

*Financial autonomy*<sup>46</sup> implies that an adequate budget is allocated and disbursed directly to the institution in a timely manner. The independent institution should also exercise control over decisions on the use of funds to meet its mandate. Given the considerable financial impacts of the

COVID-19 pandemic, there are very real risks of financial autonomy being undermined as governments slash budgets of independent institutions and divert funds to new procurements.

*Functional autonomy* indicates that the institution's responsibilities are clearly defined, and it has effective control over all tasks required to carry out its mandate.<sup>47</sup> An independent institution with functional autonomy has broad powers and independence in setting policy and determining its internal rules and procedures. As this paper will address in the "Major Findings" section below, functional autonomy is particularly at risk during the pandemic.

An institution with *behavioral autonomy* makes decisions and policies in an impartial and transparent<sup>48</sup> manner and prioritizes integrity and professionalism.<sup>49</sup> Exercising behavioral autonomy can help an independent institution to operate in restrictive environments – including during the COVID-19 crisis – where other elements of autonomy (e.g., financial autonomy) may not be available.



“Exercising behavioral autonomy can help an independent institution to operate in restrictive environments – including during the COVID-19 crisis – where other elements of autonomy (e.g., financial autonomy) may not be available.”

## Accountability

The second required element for effective independent institutions is formal and informal accountability. Accountability mechanisms are essential, as no institution is immune from corruption and other risks, but they must reinforce, rather than stymie, autonomy and effectiveness. We have designated three types of accountability mechanisms: statutory, public and internal.<sup>50</sup> There is a clear, reinforcing relationship between accountability and behavioral autonomy, illustrating their importance to the functioning of effective independent institutions in crisis situations.

*Statutory accountability* refers to the accountability mechanisms and reporting requirements established in the law (e.g., legally required periodic reporting or audits).<sup>51</sup>

*Public accountability* encompasses the outreach, accessibility and transparency measures an independent institution takes to ensure that it remains accountable to the public interest. These measures may be legally required or proactively applied, and can include public consultation and hearings, timely responses to requests for information, accessible reporting and audits, mechanisms for gathering external input to performance reviews and engagement with regional and international networks.

*Internal accountability* requires robust institutional standards and procedures that foster a culture of integrity among all employees (e.g., a code of conduct, institutional ethics policies, internal performance reviews and whistleblower and nonretaliation policies that are broadly understood and respected).



# Major Findings

With governments armed with significant emergency powers and public support (in some cases) to take action against the pandemic, independent institutions may face increased challenges and resistance.<sup>52</sup> This section identifies and examines five ways in which the emergency context is challenging the autonomy and accountability of independent bodies, including by confusing or diminishing mandates; increasing political pressure; limiting operations; constraining finances; and undermining relationships with legislatures. In addition, this section highlights the important role that these institutions can play when they have the tools needed to be effective. A comprehensive review of these institutions globally, or of all institutions that fall within the umbrella, is outside the scope of this paper, but selected examples have been included to illustrate each point.

## Confused or Diminished Mandates

The mandate of independent institutions is just as critical – if not more so – in times of crisis when powers are centralized in the executive. However, the involvement of these institutions in the oversight of government COVID-19 response measures has varied from country to country. In some cases, institutional mandates to provide oversight of COVID-19 responses may be muddled or circumscribed by the creation of new, temporary mechanisms or bodies.

In some countries, permanent independent oversight bodies have been excluded from COVID-19 response efforts. In **South Africa**, for instance, the Forum on Institutions Supporting Democracy – a forum with all of South Africa’s constitutional bodies, including the Financial and Fiscal Commission, Human Rights Commission, auditor-general and the Independent Electoral Commission – wrote to the COVID-19 National Command Council to request to be involved in the management of the country’s COVID-19 response, as their respective roles have been limited thus far.<sup>53</sup> Around the same time, the auditor-general released a statement outlining the important role that SAIs can play in crisis contexts and the capacity of his office, noting that it “stands ready” to assist the government in its COVID-19 response.<sup>54</sup>

In other countries, some independent institutions have been called on by the government to play a role related to their mandates. In **Tunisia**, for example, the prime minister held a meeting with the representatives of the country’s independent constitutional bodies focused on mobilizing them to help support the country’s COVID-19 emergency response. The prime minister noted “that the fight against the coronavirus must be carried out within the framework of respect for constitutional and legal mechanisms in order to uphold the rule of law and institutions.” However, specific actions and roles for these institutions were not explored in any detail, nor were other steps taken to ensure they can support the country’s democratic progress over the long term.<sup>55</sup>

Certainly, an explicit request to participate in or oversee a government’s COVID-19 response is an effective way to assert or strengthen the mandates of independent oversight institutions during the crisis. The U4 Anti-Corruption Resource Centre, for instance, has recommended that anti-corruption and anti-fraud agencies be included on national committees or task forces responsible for carrying out multisectoral responses to the pandemic.<sup>56</sup> In **Indonesia, Myanmar, the Philippines and Singapore**, governments or implementing authorities have actively consulted anti-corruption agencies “on preventing an detecting fraud and corruption in the management of the crisis and the disbursement of the funds.”<sup>57</sup> These agencies used this mandate to issue guidance, establish task forces and implement public awareness campaigns on preventing and detecting corruption in relation to the COVID-19 crisis.<sup>58</sup>

However, independent oversight institutions with sufficient autonomy and accountability should be able to actively assert and fulfill their mandates in COVID-19 response even when not explicitly invited by the executive – or even with an uncooperative government in place. Behavioral and functional autonomy – which allow an institution to assert its independence in relation to its decision-making processes and clearly established functional mandate – can enable these institutions to assert their role during the crisis. The UN high commissioner for human rights, for example, has encouraged all NHRIs to “reach out and integrate their mandate and activities in [COVID-19] national plans ... in order to make a contribution, through advocacy, monitoring and investigating, the handling of complaints, legal assistance, advice to Government and others as well as support to human rights defenders.”<sup>59</sup> In **Zimbabwe**, for example, the Anti-Corruption Commission called on responsible individuals in the Ministry of Health and Child Care to establish appropriate transparency and accountability mechanisms for the management of COVID-19 resources, offering assistance to develop these mechanisms.<sup>60</sup> Similarly, the **Thailand** National Anti-Corruption Commission has taken some initiative to proactively adapt its existing community activities to collect data from the public to monitor COVID-19 programs and identify corrupt conduct.<sup>61</sup> However, it is unclear whether these efforts will be sufficient given rising apprehensions that the large pool of discretionary COVID-19 funds will be abused for political gain and concerns from some quarters about the ACC’s “uneven” performance.”<sup>62</sup>

Some independent oversight institutions may need to have their mandates formally clarified or expanded to exercise oversight of COVID-19 response efforts, even if they otherwise have sufficient autonomy to perform effectively. SAIs in particular require access to the staff, written procedures and financial records of government agencies to conduct meaningful audits, and these government agencies may not fully cooperate without a formal legal mandate. A legal requirement for government agencies to submit to an audit can also facilitate legislative oversight since SAIs are often required to submit audit reports for review by legislative committees.<sup>63</sup> Drawing on the experience of SAIs in **Sierra Leone** and **Liberia** during the Ebola crisis, the International Organization of Supreme Audit Institutions (INTOSAI) has recommended that SAI mandates be reviewed and clarified as necessary to enable them to audit all funds mobilized by the government to respond to the crisis, including multilateral aid and military spending.<sup>64</sup>

## Increased Political Pressure

To coordinate the government response to the pandemic, many countries have established national “task forces” or teams that bring together a range of stakeholders – including officials from a variety of ministries in the executive branch.<sup>65</sup> It is generally recommended<sup>66</sup> that independent oversight bodies have input in these fora to provide guidance and to monitor COVID-19 response efforts as appropriate to their mandates. However, these mechanisms may be instrumentalized for political ends. For instance, some civil society activists in **Montenegro** have alleged that the country’s National Coordination Body for Infectious Diseases (composed of ruling political party members) has pressured opponents of the government by blaming a rise in COVID-19 cases on opposition protests.<sup>67</sup>

While this is an extreme example, the management of COVID-19 response is often “led by or at least involve[s] prominent government figures,”<sup>68</sup> which can pose a challenge to the perceived or actual independence of the nonpartisan institutions that must coordinate with these bodies. EMBs in particular might need to navigate relationships with more partisan institutions as they plan for elections during the pandemic. This issue was highlighted in *How to Hold Elections Safely and Democratically During the COVID-19 Pandemic*, a recent British Academy publication authored in part by IFES experts, which noted:

"In contexts where COVID-19 has been politicised ..., any measures taken in coordination with governmental task forces might be perceived as benefitting the government. In some circumstances, these perceptions might be accurate, and the EMB might indeed be subject to political interference, especially when incumbents abuse states of emergency to advance their political interests. It is also possible that, where the coronavirus is being used for different narratives by different political groups, any decision made by the EMB on preventive measures will be seen as partisan, whether or not they align with the government's guidelines."<sup>69</sup>

This conclusion has been borne out in some countries where IFES has closely partnered with EMBs during the pandemic; some EMBs have waited for or deferred entirely to guidance by the government or national task force to determine the preventative measures to be applied during elections, even when the government has clearly politicized the pandemic or the recovery. In other countries, EMBs have proactively engaged with political leaders and health ministries on both the temporary postponement of elections and on the modification of electoral processes once a new election timetable has been set.<sup>70</sup> When working with partisan agencies, there is a risk that the collaboration happens behind closed doors, limiting public accountability. Independent institutions should be transparent in their work with partisan actors to ensure public awareness of any decisions made or recommendations provided while collaborating.

In other cases, independent oversight institutions may not be required to work closely with the partisan actors charged with pandemic response, but emergency measures may still undermine their functional autonomy and operational effectiveness. This is particularly problematic if the independent institutions are the specific target of restrictions by the executive, and these restrictions undermine their capacity to oversee the use of emergency powers and other executive actions in response to the public health crisis. This type of interference may be overt, but many such institutions have also reported "passively receiv[ing] guidance from above"<sup>71</sup> that severely impacts their operations. Other operational issues caused by wholesale public health restrictions are discussed in the next section.

Even when they are not directly targeted, lumping independent institutions with the rest of the civil service can have a detrimental effect on personnel autonomy. This has been seen in several countries throughout the pandemic. In the **Philippines**, for instance, the Civil Service Commission issued a circular specifying authorized alternative work arrangements that applied equally to constitutional bodies and other government agencies.<sup>72</sup> Similarly, in **Honduras**<sup>73</sup> and **El Salvador**<sup>74</sup> information commissions halted work in response to government orders that applied across government agencies to contain COVID-19. While these examples might be exceptional – and potentially necessary – given the emergency context, the ability to manage staff independently can be critical to these institutions' performance. Last year, a law was passed in **Indonesia** that was widely criticized for decreasing the independence of the Corruption Eradication Commission (KPK), in part by pulling its employees under the umbrella of the civil service, restricting its recruitment and management processes.<sup>75</sup> An institution once hailed as the "leading anti-corruption body in the region"<sup>76</sup> is now struggling to meet its mandate during the crisis.<sup>77</sup> While the KPK has issued some guidance for public procurement and has called for a new legal instrument to monitor the government's COVID-19 budget, it is facing criticism from legal experts and former commissioners on its ability to effectively investigate corruption cases related to COVID-19 relief efforts.<sup>78</sup>

Finally, there have been some instances of political actors directly challenging oversight institutions' independence during the crisis. In Nepal, for instance, the prime minister proposed an ordinance to decrease the independence of the Constitutional Council – the body responsible for appointing officials to constitutional bodies.<sup>79</sup> This would include the country's anti-corruption commission at a time when

high-level government officials have recently been found at the center of corruption scandals involving COVID-19 funds.<sup>80</sup>

## Operational Limitations

Independent bodies face many of the same COVID-19 operational challenges as other government and many nongovernmental institutions. These include rapid and unplanned shifts to remote work and its attendant impacts on internet connectivity and access to technology, the modification of existing processes and procedures, limited staff capacity due to illness or dependent care and, in some cases, the suspension of all but “essential” work or services. These challenges can clearly impact the ability of independent oversight bodies to work effectively and, as a result, undermine their functional autonomy. As other observers have noted, the higher-order impact of reduced operations – diminished relevance of the institutions – is potentially long-lasting. For example, in the case of SAIs, if they are unable due to operational restrictions to “demonstrate early and proactive action ... they may risk being pushed aside as emergency spending often implies diminished or temporarily halted checks and balances of legislative and audit scrutiny of government action.”<sup>81</sup> The same can be posited of other independent governmental institutions whose continued relevance depends on their ability to respond quickly and effectively in a time of crisis.

Many independent institutions – and particularly those that depend on audits or field work to carry out their mandates – are currently stymied by low staff capacity; difficulties coordinating internally; limited access to needed files; and constraints on field visits.<sup>82</sup> These issues are particularly pronounced for institutions in conflict-affected and fragile countries. As the World Bank has noted, “even before the pandemic, many operated with limited staff bandwidth, poor or non-existent IT systems, and insufficient budget to conduct field audits. They often have little real independence, face long backlogs of unaudited accounts, and find it difficult to get their reports into the public domain let alone see the recommendations implemented. ... COVID-19 has further worsened these conditions, with SAI staff considered non-essential, in lockdowns, with little or no computer or internet access, making their work almost impossible.”<sup>84</sup>

The Organization of Latin American and Caribbean Supreme Audit Institutions (OLACEFS) has highlighted the distinct cybersecurity challenges facing auditors in their region:

*“For many workers, technology has been providential in helping to deal with the COVID-19 crisis. ... However, as the online presence of auditors intensifies, they have to remain vigilant. This increased use of technology will be accompanied by increased technological risks. From the overload of the telecommunication systems to cybersecurity concerns, auditors’ technological capacities will be more vulnerable ... there is an emerging risk of increased social engineering incidents. Phishing attacks masquerading as guidance about the virus are multiplying and can impact both auditors and auditees.”<sup>83</sup>*

In countries and agencies with sufficient technology to carry out work remotely, new cybersecurity concerns may then be thrown into sharp relief if preparation for this type of work arrangement is insufficient. In **Chile**, the Comptroller’s Office was able to quickly adapt to remote work due to a pilot program implemented last year.<sup>85</sup> Because of this pilot program, the office had already developed and adapted technology and implemented the necessary security measures that enabled most functions to be done securely from home.<sup>86</sup>

In some cases, operational restrictions have forced independent institutions to completely suspend all activities. For example, in **Bangladesh**, one source notes that the country's Information Commission "went into 'total lockdown' in late March and complaint hearings have been put on hold indefinitely ... there have been no official government communications clarifying whether or how persons can continue to submit [right to information] requests."<sup>87</sup> Similarly, a study of **India's** 29 state-level Right to Information (RTI) Commissions noted that a majority of the panels "did not hold any hearings to adjudicate complaints and appeals of RTI applicants during lockdown."<sup>88</sup> The **Honduras** executive decree suspending public sector work impeded the work of the RTI oversight body for several months; communications from the body noted that requests for information could be submitted through the electronic portal but would not be processed "until staff have returned to work."<sup>89</sup>

Other bodies have streamlined or limited their activities due to the operational restrictions in place. For example, in **France**, the Anti-Corruption Agency, which is mandated to audit both public and private actors to determine whether they are adequately preventing and detecting "breaches of the duty of probity,"<sup>90</sup> reportedly shifted to at-home operations when the country went into lockdown in March, suspending new audits and potentially extending timelines to accommodate the context. An analysis of the activities of IFIs by the Organization for Economic Co-operation and Development (OECD) – where they are most common – has found that the operations of many of these institutions have been "inhibited by public health and workflow disruptions related to COVID 19," particularly capacity constraints due to illness or stay-at-home orders.<sup>91</sup> Delays in government reports that are integral to the work of IFIs also inhibit them from carrying out tasks within their purview; such limitations are also likely among other institutions that have a prescribed audit function (e.g., some ACCs, SAIs).

Some independent oversight institutions have had success adapting their operations to provide oversight during the crisis, particularly where COVID-19 measures may have direct implications for government transparency and accountability. For example, the Independent Commission Against Corruption of New South Wales in **Australia** has announced that although its staff is entirely working from home, all complaints will continue to be assessed as long as they are submitted online or via email.<sup>92</sup> Additionally, the commission recently issued guidance for governments on how to respond to the fraud and corruption risks posed by the COVID-19 crisis, highlighting the preventative role that these institutions can play. According to a UN report, 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."<sup>93</sup>

Given the near-term implications of repressive policies and the danger that the derogation of fundamental rights due to COVID-19 responses will linger over the long term, it is also worth underscoring the need for human rights bodies to be able to continue their work uninterrupted. Many NHRIs have therefore put in place measures to ensure that their operations can continue relatively unabated, despite the health crisis. For example, according to an Office of the UN High Commissioner for Human Rights review, "most NHRIs have a Covid-19 dedicated page on their website, some have made their

The European Network of National Human Rights Institutions (ENNHRI) released a statement urging countries to work with NHRIs closely as they combat COVID-19:

*"As independent, pluralistic institutions mandated by the state... We are well-placed to advise on the legality of human rights derogations due to our expertise in international human rights standards. We also handle individuals' complaints and work with civil society and human rights defenders to raise the voices of all affected people, including the most vulnerable, such as by reporting to national and international bodies."<sup>94</sup>*

services accessible during the lockdown through call centres, and hotlines, where they receive calls and complaints, give advice to the public and refer specific complaints. Several NHRIs have used social media platforms to inform and receive information from the public.<sup>95</sup> The human rights ombudsman of **Slovenia**, for example, has launched a section on its website for COVID-19 information, including measures taken to control the pandemic that were not published in the government's official gazette.<sup>96</sup>

EMBs also face unique pressures due to the pandemic. Uncertainties around when elections will be held or rescheduled – as well as the additional procedures that must be put into place to prepare for holding them safely – are creating considerable additional burdens for election authorities who may themselves be subject to the restrictions on their work as a result of lockdowns and other emergency measures. Officials at South Korean diplomatic missions in 17 countries, for example, took on the task of tallying votes cast during out-of-country voting in April; these votes are usually flown back to **South Korea** for a centralized count process, but international travel restrictions and limited flight availability made that impossible.<sup>97</sup> In **Bolivia**, where the Supreme Electoral Tribunal operates in a particularly complex environment given the annulment of the October 2019 elections and repeated rescheduling of fresh elections, all preparatory activities were paused from March 22 when the government declared “national quarantine” (through *Decreto Supremo* 4199) and imposed travel restrictions until the quarantine was lifted in late June.<sup>98</sup> Considerable work was required to prepare for Election Day, which is now scheduled for October 18, once the quarantine was lifted, including completion of the biometric voter roll and procurement of personal protective equipment.<sup>99</sup> Due to the time constraints behind updates for the presidential election, the biometric voter roll will still require a significant update ahead of the upcoming subnational elections.

## Financial Constraints

Independent oversight institutions may not have the capacity to fulfill their usual oversight activities in addition to massive increases in work related to the pandemic, particularly if their funding is reduced. This challenge is of particular concern for the bodies tasked with auditing or ensuring oversight of new spending, and for institutions who may see their own budgets slashed or disbursements slowed as the government mobilizes funds to respond to the pandemic or establishes austerity measures given global economic declines. One analysis of SAIs noted, for example, that they “may face difficult decisions on how, on the one hand, to deliver on their legal mandate, and on the other hand to provide adequate and relevant response measures to COVID-19 from the perspective of independent audit. A reduced budget may also affect the SAI's independence and thus its ability to perform effectively and be relevant.”<sup>100</sup> The World Bank goes so far as to say that “the most particular risk” to SAI independence when a country “is facing a crisis of this magnitude” is “the significant reduction of budget allocations.”<sup>101</sup>

The auditor general of **Canada** has encountered this type of challenge to its scope given increased demands and limited resources. Facing additional audits of the government's COVID-19 spending, the auditor general informed Parliament that all other scheduled audits would be put on hold indefinitely.<sup>102</sup> In response, the parliamentary Standing Committee on Finance adopted a unanimous motion calling on the auditor-general's office to complete audits of COVID-19 funds and any audit requests by the House of Commons in addition to all previously scheduled audits, while calling on the government to make the necessary funds available.<sup>103</sup> In 2019, the auditor general had pointed out that “the fact that government departments that we audit are involved in determining how much money is allocated to us is not consistent with our independence or our accountability only to Parliament” during an opening statement to the Standing Committee on Public Accounts.<sup>104</sup> Highlighting a similar issue, INTOSAI Development Initiative has noted that while it might be advantageous to ensure that SAIs have a mandate

to audit donor funds provided to respond to COVID-19, there is a “risk that using SAIs with very limited capacity ... may divert resources away from the audit of national budgets.”<sup>105</sup>

In May, the Public Protector of **South Africa** (PPSA), a constitutionally mandated body that investigates government maladministration and public corruption, protested a request from the Treasury department to make cuts to its budget, as was requested of most entities across government, to help finance the national COVID-19 stimulus package. The PPSA noted that it has had ongoing budget shortfalls – particularly with regard to funding a much-needed electronic case management system to handle the institution’s investigations – and the unplanned costs from the lockdown have also mounted. “The situation ... hinders the office to function effectively and confidently to achieve its mandate and strategic priorities.”<sup>106</sup>

The **United Kingdom’s** Equalities and Human Rights Commission (EHRC) has faced the pandemic from a similarly weakened financial position. According to some reports, the EHRC – an NHRI with a purview that requires it to “challenge discrimination, promote equality of opportunity and protect human rights” – has experienced massive cuts to its budget since its launch in 2007, which limited its ability to take an expansive view of its scope, even before the pandemic.<sup>107</sup> This example highlights that consistent underfunding of independent institutions weakens their ability to play a productive role in a crisis situation when they are all the more needed.

Some independent institutions, on the other hand, have seen their budgets increase as part of government emergency measures, which enables them to continue to function with limited or no interruption. In the **United States**, for example, where the Government Accountability Office (GAO) is the SAI,<sup>108</sup> congressionally authorized stimulus funding includes additional resources for the GAO to conduct oversight over pandemic-related spending, in addition to its usual duties.<sup>109</sup> This additional funding has enabled the institution to conduct in-depth reviews of the COVID-19 response and highlight areas of concern. In its June 25 report, for example, the GAO noted that “Agencies [charged with providing economic relief payments and other assistance] often faced challenges with intergovernmental coordination, efficiency, and program integrity.”<sup>111</sup> One significant example which made headlines was a finding that, within the approximately \$3 trillion in relief spending authorized by Congress in March and April, stimulus payments were mistakenly issued to nearly 1.1 million deceased people, for a total of approximately \$1.4 billion.<sup>112</sup>

After assessing the fault lines that led to the Department of the Treasury issuing relief payments to deceased persons, the GAO made several short- and longer-term recommendations to prevent a future recurrence:

*“The number of economic impact payments going to decedents... highlights the importance of consistently using safeguards in providing government assistance to individuals. ... We have suggested that Congress consider amending the Social Security Act to explicitly allow [the Social Security Administration] to share its full death data with Treasury for data matching to prevent payments to ineligible individuals. Both Treasury and IRS having full access to death data will help ensure the integrity of direct payments to individuals if Congress considers this type of assistance in the future.”<sup>110</sup>*

In recognition of the particular challenges they are facing, the World Bank has provided some recommendations to SAIs to preserve their financial independence, which are broadly applicable to other independent oversight institutions: “(i) building a narrative based on a constitutional and legal framework; (ii) making peer connections to be aware of regional trends; and (iii) communicating with ... regional bodies and other credible international organizations that support [the institution’s]

independence.”<sup>113</sup> The World Bank also highlighted the importance of clearly articulating the value add of their involvement during the crisis.<sup>114</sup> This point has also been emphasized by INTOSAI: “SAIs need to engage with relevant stakeholders to make a case for maintaining the level of budget support necessary to carry out their mandate in an effective way.”<sup>115</sup> The auditor general of **South Africa**, for example, has highlighted key actions it took to “ensure continued relevance and value add,” including making contact at the appropriate time with government to illustrate the relevance of the institution and using media briefing and interviews to build public awareness of this message.<sup>116</sup>

## Undermined Relationship With Legislatures

Independent oversight institutions have unique relationships with legislatures. As IFES explores in greater depth in the forthcoming report, *Parliamentary Oversight of Constitutional Bodies in the Maldives*,<sup>117</sup> these institutions are often directly accountable to legislatures, but also help to bolster and inform legislative oversight agendas through their reporting. In fact, oversight institutions “carry out much of the detailed and expert oversight investigation and assessment that parliaments depend upon to do their oversight work effectively.”<sup>118</sup> Independent oversight institutions often rely on legislatures to protect their independence and ensure that they have the resources necessary to be successful. The example from Canada, described in the previous section, provides a good example of how legislatures can step in to protect the financial autonomy of these institutions. Legislatures can also help to ensure follow up on findings and recommendations when independent institutions lack their own enforcement mandates.<sup>119</sup>

In the context of the current crisis, disruptions to the operational capacity of legislatures could undermine these positive and mutually reinforcing relationships where they exist. Many legislatures have faced challenges in amending working rules to enable remote work during the public health crisis.<sup>120</sup> Some legislatures have completely adjourned sessions or are only meeting to vote on COVID-19 related legislation, which can undermine important checks and balances. For example, the **Bulgarian** Parliament suspended all plenary sessions for the duration of the state of emergency and both houses of the federal parliament in **Nepal** adjourned due to the nationwide lockdown.<sup>121</sup> Conversely, legislatures in **Albania, Colombia, Brazil** and the **Maldives** adjusted their parliamentary rules of procedure to continue work remotely, while parliaments in **France, Germany, Norway** and **Croatia** continued operations but limited the number of representatives who can attend in person.<sup>122</sup> Beyond operational capacity, some of these emergency measures “disproportionately limit the lawmaking role of the legislature”<sup>123</sup> and undermine oversight functions.<sup>124</sup>

At the same time, government decision-making to respond to COVID-19 “is happening quickly through abbreviated or non-standard processes”<sup>125</sup> and the OECD has even observed instances of “governments taking advantage of turmoil and poor attendance to pass measures that they would otherwise not attempt in a regular [legislative] session.”<sup>126</sup> V-Dem has noted that where there are “severe limitations on the legislature without a specific end date – [they observe] an increased danger of power abuse by the

A Westminster Foundation for Democracy study highlights the importance of the relationship between parliaments and independent oversight institutions:

*“A common thread that connects successful independent oversight institutions is the existence of constructive and efficient links with parliaments. As the main institution charged with executive oversight, parliament is the body that has both the duty and the capacity to follow up on independent oversight institutions’ work, whether through requiring government to account for its actions, or by changing laws to redress deficiencies revealed by independent oversight institutions. While independent institutions can publish reports, media can publicise, and civil society can lobby for changes, only parliaments have the formal authority to enact reforms.”<sup>127</sup>*

executive.”<sup>128</sup> In this context, independent oversight institutions may need to reverse their relationships with legislatures, leveraging their own independence and resources to protect and bolster legislative oversight capacity during the pandemic.

One way that independent institutions can address gaps in legislative oversight is to provide technical support and analysis to the legislature on emergency measures falling under their remit. For example, NHRIs have engaged with legislatures to provide technical support and recommendations for draft legislation, particularly related to lockdowns and quarantine and isolation measures.<sup>129</sup> The Ombudsman in **Finland** served as an independent expert in parliamentary committee hearings to review government proposals for the Emergency Law and the following emergency decrees.<sup>130</sup> The Equality and Human Rights Commission of **Great Britain** (England, Scotland, Wales) has conducted briefings with parliamentarians to present findings on “whether proposed policies and legal changes align with the requirements of equality and human rights law.”<sup>131</sup>

IFIs, in particular, have “leverage[d] their independence”<sup>132</sup> to protect against government overreach and bolster legislative oversight capacity during the crisis. The **Austrian** Parliamentary Budget Office, for instance, publicly criticized the “inadequacy” of information provided to parliamentarians on COVID-19 measures and advocated for comprehensive reporting to Parliament for supporting legislative oversight.<sup>133</sup> As a result of this advocacy, a special subcommittee was established for COVID-19 oversight.<sup>134</sup> Similarly, the **Canadian** Parliamentary Budget Office issued public statements warning that the government’s draft COVID-19 legislation “was concerning” and provided the government the authority to raise or amend taxes without the approval of Parliament. The bill was amended “following a backlash among opposition parties and the public.”<sup>135</sup>

## Recommendations

This paper has outlined the challenges posed by COVID-19 and highlighted the resilience of some independent institutions in responding to the pandemic, drawing out important lessons.<sup>136</sup> Building on IFES' *Autonomy and Accountability Framework*, we have focused on how independent government institutions can respond to the increased demands of COVID-19 and preserve their important mandates as they recover from the crisis. Recommendations for independent institutions are consolidated in the table below, but other stakeholders can also make important contributions.

Legislatures in particular can leverage their unique relationships with independent oversight institutions to protect their autonomy and ensure that they are accountable to their mandates.<sup>137</sup> One important way that they can do this is to formalize the remit of relevant independent bodies in law, particularly those focused on audits, anti-corruption and human rights, to oversee government responses during COVID-19 and other future public health crises. Legislatures can increase accountability for COVID-19 oversight activities by requiring them to publicly release information on their findings in a timely manner. For example, in its legislation responding to the pandemic, the **United States** Congress included a requirement for the Government Accountability Office (SAI) to issue bimonthly reports on the impact of COVID-19.<sup>138</sup> Legislatures can also help to ensure that these institutions have the needed funding to respond to COVID-19 demands that were not anticipated when creating their annual budgets.

Similarly, the responsible executive agencies or the task forces established to respond to the pandemic can support independent institutions to oversee emergency response and spending. They can actively seek input and recommendations from independent institutions on COVID-19 response efforts, especially those tasked with protecting human rights and preventing corruption. If engaged, "external oversight bodies can be a key partner for governments as they transition from the immediate crisis and prepare for the long-term repercussions."<sup>139</sup> SAIs, in particular, can provide important insights by identifying emerging risks and consolidating lessons learned to improve future policymaking.<sup>140</sup>

Finally, international donors can help independent oversight institutions, particularly SAIs and anti-corruption agencies, by ensuring that their contributions for COVID-19 response are transparent and traceable.<sup>141</sup> The international development community has also frequently been involved in supporting and strengthening independent oversight institutions,<sup>142</sup> many of which will require renewed support during the COVID-19 pandemic. This assistance may focus on acquiring additional resources or technology, or on building leadership capacity within institutions to adapt during crises and operate effectively in highly politicized environments.<sup>143</sup>

Major Findings on COVID-19 Challenges	Implications for Autonomy and Accountability	Recommendations for Independent Institutions
<b>Confused or diminished mandates</b>	The unprecedented emergency response and the expansion of executive powers is muddling or circumscribing the mandates and <b>functional autonomy</b> of independent institutions.	<ul style="list-style-type: none"> <li>✓ Assert and fulfill mandates related to COVID-19 even when not explicitly invited by the executive or when the government is uncooperative.</li> <li>✓ Proactively monitor, report and issue public recommendations, leveraging partnerships with civil society and relationships with the public.</li> <li>✓ As needed, advocate for institutional scope to be formally clarified or expanded to oversee government institutions involved in COVID-19 response. This is especially true for SAIs, which require access to staff, procedures, documentation and financial records of government agencies to conduct meaningful audits.</li> </ul>
<b>Increased political pressure</b>	<b>Behavioral autonomy</b> may be undermined during pandemic response when independent institutions need to work closely with partisan agencies or actors. When collaboration is not transparent, it can impact an institution's ability to maintain <b>public accountability</b> .	<ul style="list-style-type: none"> <li>✓ Maintain transparency when working with partisan agencies or actors. Publicly release any recommendations as well as the justifications and rationale for any decisions taken in coordination with partisan actors or agencies.</li> <li>✓ Avoid real or perceived conflicts of interest when working with partisan institutions by ensuring that any contributions to the design of COVID-19 response procedures or programs do not undermine the institution's impartiality in performing its oversight function.</li> </ul>
	<b>Personnel autonomy</b> may be impacted if independent institutions are drawn under the umbrella of the civil service during COVID-19 response, diluting control over hiring, management and operational processes.	<ul style="list-style-type: none"> <li>✓ Consider whether special exemptions to COVID-19 emergency orders should be requested to enable immediate oversight of the COVID-19 response. For instance, whether they are performing oversight functions that could be considered essential and exempted from lockdowns and other stay-at-home orders, as with the government agencies responding to the crisis.</li> </ul>
<b>Operational limitations</b>	<p>Public health measures may undermine the capacity of some independent institutions and therefore limit their ability to work effectively, undermining their <b>functional autonomy</b>.</p> <p>Independent institutions may also find they are constrained in their ability to maintain <b>public accountability</b> when interactions are limited by the pandemic.</p>	<ul style="list-style-type: none"> <li>✓ Modify procedures and processes as necessary to continue conducting oversight and providing services to the public. For example, this may mean streamlining operations to only the most vital functions, extending deadlines or transitioning to online or phone services.</li> <li>✓ Reassess priorities to best fulfill the institution's scope in the context of the ongoing pandemic.</li> <li>✓ Clearly communicate changes in operations and alternative procedures to the public. Use the institution's existing public platforms to maintain public visibility and share important COVID-19 information. Consider technological innovations that increase opportunities to interact with the public and to improve access to services and information both during and after the crisis.</li> <li>✓ Introduce new or revised cybersecurity protocol to ensure that necessary procedures and training are in place to enable the secure continuation of services in remote work environments.</li> </ul>

Major Findings on COVID-19 Challenges	Implications for Autonomy and Accountability	Recommendations for Independent Institutions
<b>Financial constraints</b>	<i>Financial autonomy</i> may be undermined if budget cuts are made to independent institutions to make up for government shortfalls due to the COVID-19 response.	<ul style="list-style-type: none"> <li>✓ Clearly articulate the “value add” of the institution’s work during the crisis to the government, legislature and the public.<sup>146</sup> Advocate for direct allocations in stimulus packages to account for the surge in operations.</li> <li>✓ Leverage relationships with civil society organizations to encourage advocacy for protection of their financial autonomy and resources.</li> <li>✓ Consider redirecting resources from usual activities to respond to the crisis, which may require legislative approval, and engaging in partnerships with financial institutions, technology firms and investigators to provide more robust ex post oversight.</li> </ul>
<b>Undermined relationship with legislature</b>	<p>Containment measures can reduce legislative operations, undermining <i>statutory accountability</i> of the independent institutions they oversee.</p> <p>Similarly, the pandemic response can undermine the mutually reinforcing relationship between legislatures and independent bodies that can help protect and enforce all categories of an institution’s <i>autonomy</i> to fulfill its mandate.</p>	<ul style="list-style-type: none"> <li>✓ Help to fill gaps in legislative oversight capacity by providing technical support to the review of executive action and draft legislative provisions.</li> <li>✓ Monitor executive action and proposals and flag instances of executive overreach or efforts to undermine accountability mechanisms.</li> <li>✓ Clearly articulate any COVID-19 obstacles to fulfilling the institution’s prescribed role and ways in which the legislature or legislative committee can provide support.</li> </ul>

Autonomy and Accountability Framework	
Autonomy Category	Indicators of Autonomy
<p><b>Institutional autonomy</b> The institution's independence is enshrined in the legal framework.</p>	<ul style="list-style-type: none"> <li>• Independence of the institution from the executive branch is codified in law.</li> </ul>
<p><b>Personnel autonomy</b> Selection, remuneration and stability of tenure of independent institution leadership and staff enables impartiality and professionalism.</p>	<ul style="list-style-type: none"> <li>• Security of tenure is codified in law. The institution's founding law includes transparent selection, appointment and dismissal processes, with the aim of ensuring that appointees are insulated from removal or retaliation for political reasons.<sup>147</sup></li> <li>• Timely appointments are made, based on both behavioral and functional competencies.</li> <li>• A requirement is included in the independent institution's enabling law that vacancies in membership be filled within a reasonable timeframe.<sup>148</sup></li> <li>• Staggered terms of office are codified in law.</li> <li>• Adequate remuneration and benefits are included in annual budget for independent institutions, in line with other similar institutions and the judiciary.</li> <li>• A provision on immunity for actions taken in an official capacity is included in the institution's enabling act.<sup>149</sup></li> </ul>
<p><b>Financial autonomy</b> The institution has sufficient resources and control over their use to fulfill its mandate.</p>	<ul style="list-style-type: none"> <li>• A sufficient budget is provided to enable the independent institution to carry out its legal mandate, with a realistic timeline for disbursements as needed throughout the year.</li> <li>• Reviews of the budget proposed by the independent institution consider the institution's strategic plan and/or annual operational plan.<sup>150</sup></li> <li>• Budgets are allocated directly to the independent institution.</li> <li>• The independent institution has control over decisions on how to use allocated funds to meet its mandate.</li> </ul>
<p><b>Functional autonomy</b> The institution has decision-making powers and resources that prevent political, executive or other powerbroker interference in its activities.</p>	<ul style="list-style-type: none"> <li>• The institution's decision-making power is defined in the law.</li> <li>• The mandate and responsibilities for the independent institution are clearly codified in the law, and any overlap with other institutions is limited to areas where there is a benefit to institutional multiplicity.</li> <li>• Government avoids interference in policymaking of the independent institution within its defined mandate.</li> <li>• Government avoids interference in internal rule-setting and process of the independent institution.</li> <li>• There are no statutory or other requirements for government approval of planning processes and outputs.</li> </ul>
<p><b>Behavioral autonomy</b> The institution clearly demonstrates its independence through its decisions, actions and activities.</p>	<p>The independent institution in practice is able to establish and maintain:</p> <ul style="list-style-type: none"> <li>• Impartial policy and decision-making.</li> <li>• An administrative culture that places a priority on mission, public service, ethics, integrity, impartiality, competence and professionalism.</li> <li>• Institutionalized transparency, including via an accessible and comprehensive web presence.<sup>151</sup></li> <li>• Effective and consistent collaboration with external stakeholders.</li> <li>• Effective monitoring, evaluation and learning.</li> </ul>

Accountability Category	Indicators of Accountability
<p><b>Statutory accountability</b> Accountability mechanisms and reporting requirements for independent institutions are enshrined in law.</p>	<ul style="list-style-type: none"> <li>• A requirement for periodic reporting is codified in law with specific format and content requirements.</li> <li>• The relevant parliamentary oversight committee has the resources necessary to apply rigorous and appropriate scrutiny of reports and draft responding reports or statements if necessary.</li> <li>• Independent institutions are required to develop and report on strategic goals and/or annual performance expectations.</li> <li>• An annual internal audit is required of all independent institutions as well as periodic audits by an external body.</li> <li>• Freedom of information legislation is in place with appropriate parliamentary oversight mechanisms and resources to assess efficacy of implementation.</li> <li>• A legal framework is established for the adjudication of complaints and disputes involving independent institutions.</li> </ul>
<p><b>Public accountability</b> The implementation of outreach, public accessibility and transparency measures to ensure that the independent institution remains accountable to the public interest.</p>	<ul style="list-style-type: none"> <li>• Open question sessions and periodic performance reviews of independent institutions are held.</li> <li>• The periodic reports submitted by the independent institutions to the relevant oversight committee(s) are publicized.</li> <li>• Freedom of information legislation is fully respected and applied by independent institutions.</li> </ul>
<p><b>Internal accountability</b> The adoption of robust standards for professional and ethical conduct and internal performance monitoring that contribute to a culture of integrity throughout independent institutions.</p>	<ul style="list-style-type: none"> <li>• Independent institutions are legally empowered to report to parliament and stakeholders on their own initiative.</li> <li>• Disclosure of ethics violations in independent institutions is required in their annual reporting.</li> <li>• Whistleblower and nonretaliation policies are in place.</li> <li>• Codes of conduct and ethics are in place.</li> </ul>

# Endnotes

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