

COUNTY ASSEMBLIES

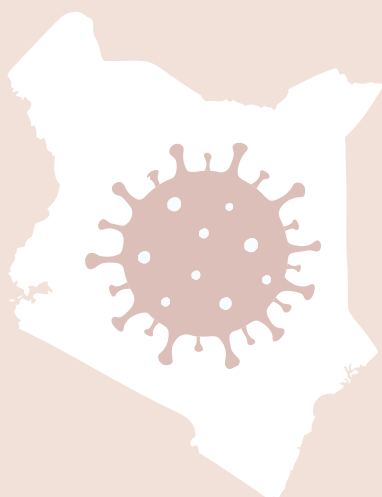
COVID-19 TECHNICAL ADVISORY NO. 1,
JULY 2020



SOCATT (K)

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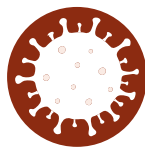
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Background of SOCATT (K)

The Society of Clerks at the Table in Kenya - SOCATT (K), is a registered society whose membership consists of Clerks of the 47 County Assemblies (CA) and the County Assemblies Service Staff. The object of SOCATT(K) is to harmonize the operations of the 47 County Assemblies, create a platform through which best practices in procedure and practice in legislative affairs can be exchanged and adopted, as well as create a platform through which technical skills and capacities can be enhanced through peer learning exchanges and capacity development. SOCATT's mission is to provide Clerks' of the County Assemblies and Technical Staff procedural advice, administrative and support services to enable them to carry out their responsibilities in an efficient and effective manner.

Statistics - The COVID-19 Pandemic:



11 March, 2020
WHO declares
Corona Virus
COVID-19 a global
pandemic



16,105

Up to 10,105
confirmed cases
of COVID-19
infections in Kenya
as of 15 July, 2020



1st case of Corona
Virus COVID-19
discovered in Kenya
on 13 March, 2020



165,196

Approx. 165,196
tests, 143 deaths
recorded by 30
June, 2020



12.6 Mil

Global COVID-19
infections to date
approximately
12.6million



65 COVID-19
Protocols,
Regulations
and Guidelines
published by GoK/
MoH

Measures to contain the spread:

- Restriction of movement of persons in and out of the Nairobi Metropolitan Area) as well as in Kwale, Kilifi and Mombasa Counties (Legal Notices No.51, 52, 53 and 54 of 2020 respectively)
- GoK/MoH regulations key of which included:
 - Cessation of gatherings
 - Maintaining social distance
 - Enhanced hygiene practices including use of face masks, regular sanitization
 - Recommendation to for stay at and work from home
- Nationwide dusk till dawn curfew instituted

Why this Advisory:

The COVID-19 pandemic and the measures put in place to contain it have had substantive impacts on the operations of Legislative houses at the National Level in Parliament and for the 47 County Assemblies in Kenya. In addition to the health-related risks to legislators and technical staff, the pandemic has greatly impacted on the functioning of County Assemblies. The measures put in place while positive and essential at such a time have led to temporary indefinite adjournment of some County Assemblies, limited the ability of members to attend Assembly sittings due to the restrictions imposed on the movement of persons and the nationwide dusk-till-dawn curfew. The Assemblies have during this period been struggling with the need to transact business while at the same time ensure comply with GoK-MoH guidelines a situation that has proven challenging to many. In addition to this, Assemblies have had to function with limited technical support from the County Assembly Service due to the aforementioned reasons and the need to reduce exposure and enhance the safety of staff members. It has also emerged that a pandemic is only but one of the unexpected occurrences that may drastically affect operations of the County Assemblies thereby preventing them from exercising the critical mandate bestowed upon them by the Constitution.

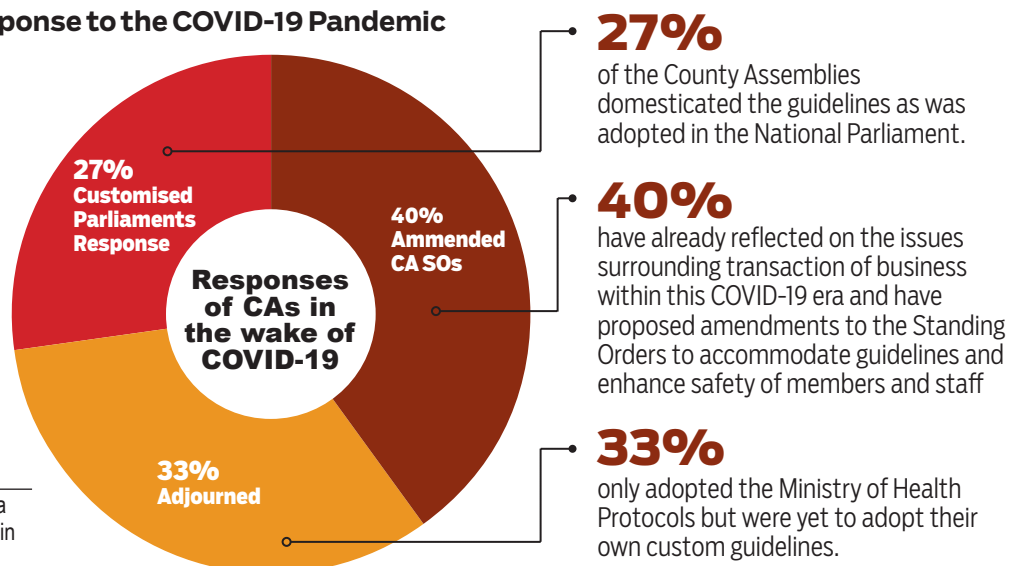
This advisory seeks to advise on the current status of operations with regard to legislative affairs and provides guidelines on how County Assemblies may adapt to the current situation to ensure effective continuity of operations as well as make provisions for such unforeseen calamities in future. The advisory also outlines the measures various County Assemblies have instituted to deal with the situation as well as the guiding procedure for implementation.

Effects of the COVID-19 Pandemic on County Assemblies	Impacts on County Assemblies:
<p>Indefinite adjournment “sine-die” of some County Assemblies due to lock-down and closure of some Counties and areas termed as “high risk”</p> <p>Difficulties in holding plenary and committee sittings while conforming to GOK-MoH COVID-19 Guidelines</p> <p>Limited technical support from County Assembly Service due to reduced number of staff present</p> <p>Procedural challenges in conducting substantive business especially for matters that require a defined quorum of legislators present and voting</p>	<ul style="list-style-type: none"> Increased pressure on Assembly staff to produce critical legislative instruments within shorter time periods for the emergency. Difficulty with enforcement of ‘social distancing’ measures in accordance with official guidance given space considerations. Disruption in Assembly Calendar, programs and business. Reduction in business transacted in the Assemblies. Impediments to effective oversight over the County Executive due to insufficient scrutiny. Reduced available staff capacity from adoption of measures and thus a cut in available expertise for Committees and the House. Challenges with modalities for ensuring plenary sittings and the pecuniary benefits thereto. Reduced public participation and media access critical to openness. Inability of Members of County Assemblies to effectively undertake representation or communicate with constituents more effectively.

County Assemblies Response to the COVID-19 Pandemic

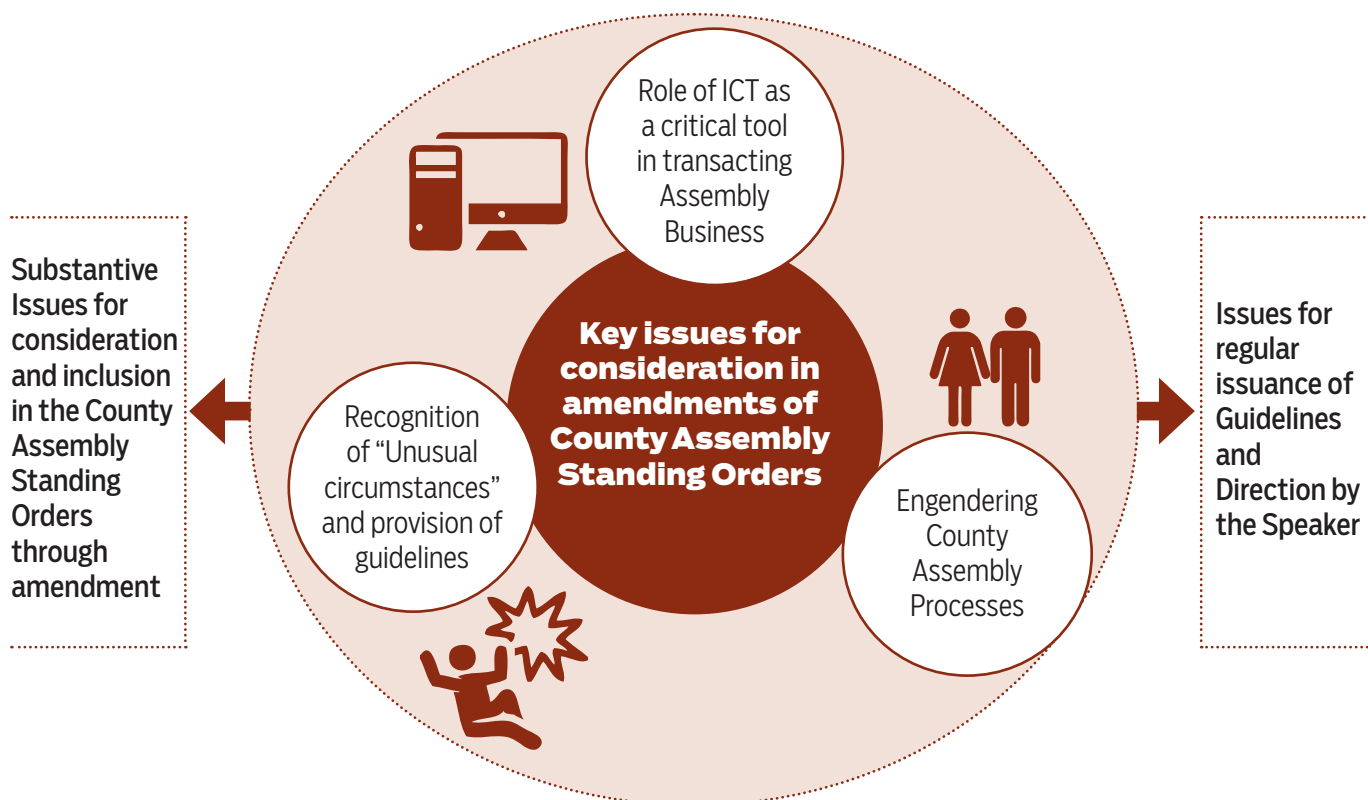
In the process of formulating this Advisory, SOCATT (K), conducted a rapid assessment to document the progress and current status of various county Assemblies with regard to the COVID-19 pandemic. The findings of the assessment are summarized in the chart below:

The assessment was conducted on a sample of 14/47 County Assemblies in the Republic of Kenya.



Source SOCATT (K) Rapid Assessment of County Assemblies Responses to the COVID-19 pandemic, July 2020

With the emergence of the COVID-19 Pandemic various gaps have been identified with Standing Orders of County Assemblies. A principal realization was that and the Generic Standing Orders of County Assemblies did not envision situations where convergence was limited or impossible as a result of “unusual occurrences and circumstances” such as war, Acts of God, disease or Government restrictions etc. Further, the Legal Statutes and Standing Orders have also not evolved with time to embrace emerging social and technological developments globally. Emerging ICT tools and platforms may aid in the transaction of business within County Assemblies thereby enhancing their efficiency. This advisory sheds light on some of the key issues County Assemblies ought to put into consideration and provides various guidelines for reflection by the Procedure and Rules Committee in making their proposals to the Assembly.



Issues for Consideration and Inclusion in County Assembly Standing Orders:

Object:	Key Considerations:	Checklist for debate:
<p>1. Provision for the inclusion of a section recognising likelihood of an “Unusual occurrence or circumstances”¹ and the conduct of proceedings of the County Assembly in such a period</p> <p>Presiding, Calendar, Sittings and Adjournment of the County Assembly</p>	<ul style="list-style-type: none"> • Definition of “Unusual occurrence or circumstances” • Invocation clause in the Standing Orders • Determination of the start and ending of such invocation 	<p>1.1 Definition of “Unusual Occurrence or Circumstances” may be based on definitions adopted by the Parliament of Kenya or other Legal Statute that may provide guidance</p> <p>1.2 In the absence of other statute or authoritative reference, The County Assembly may formulate its own definition of what would constitute “Unusual Occurrence or Circumstances”</p> <p>1.3 Determination of when this Standing Order may be invoked and the time at which it shall cease to apply</p>

¹“Unusual occurrence or circumstances” in this context depicts a situation which precludes Members of the County Assembly in whole or in part from conducting a physical meeting

<p>2. Invocation clause and guidelines for conduct of Assembly business upon invocation</p>	<ul style="list-style-type: none"> • Inclusion of clause defining alternative County Assembly Sitting arrangements e.g. fully virtual or hybrid meeting • Determination of quorum through structured process and verifiable indicators to ensure adequate representation of all genders and interest groups • Specification of scope of the sitting arrangement i.e. Does its invocation cover Plenary Sessions or Committee Meetings or both? • Will alternative sitting arrangements constitute fully virtual? • Provision on a clause for deferred voting in matters where the Constitution or any other written law requires a fixed majority • Admittance of persons to Committee meetings either through invitation or summons for purposes of giving evidence 	<p>2.1 Determination of quorum for such Assembly sittings</p> <p>2.2 Where a hybrid system is adopted, and where there is limited sitting space inside the Chambers, the Standing Orders on reservation of seats be amended to include:</p> <ul style="list-style-type: none"> i. A member of the Assembly representing the gender that is considered to be the minority in the Assembly ii. Other members with substantive business to transact on the specific day iii. Speaker be extended discretion to provide guidance on Gender and other considerations beyond seniority. <p>2.3 If session is virtual (fully or partial), determination of the actual location of the member i.e. is the member required to be within Precincts or can members log into the platform from any location</p> <p>2.4 Recognized hours for such sittings taking into consideration gender concerns</p> <p>2.5 Provision for the Speaker through the Procedure and Rules Committee to issue guidelines for the conduct of Assembly Sittings held under this Standing Order</p> <p>2.6 Determination of the rights and privileges of the members during such sittings for members attending physically and virtually</p> <p>2.7 Determination of the procedure to be used to admit witnesses or other persons invited to provide information to Committees</p> <p>2.8 Provisions for public access into County Assembly proceedings for sittings convened under this invocation</p> <p>2.9 Provisions for access of the media into County Assembly sittings convened during such instances</p>
<p>3. Admittance of the use of Information Communication and Technology (ICT) for Conducting Assembly business</p>	<ul style="list-style-type: none"> • Clause allowing use of emerging tools and platforms e.g. ICT to support County Assembly processes to have virtual (fully or partial) meetings or a hybrid² • Adequate security arrangements safeguarding against hacking, phishing and cyber-attacks. This should guarantee the safety and credibility of the proposed system to safeguard member's personal data before, during and after the sittings • Reliability of the system to guarantee accurate, credible and verifiable results for all processes • Simplicity of the platform and tools for use by all Assembly members including persons with disabilities 	<p>3.1 Degree of access to reliable internet connectivity to all members</p> <p>3.2 Rights and privileges of members attending Assembly sittings virtually</p> <p>3.3 Safety and credibility of the system to safeguard member's information, allow for deliberations to take place and guarantee credibility of processes e.g. voting</p> <p>3.4 Management of member's information and log-in details, devices, contributions and other critical information before, during and after the sittings</p>

²Hybrid sitting arrangement in involve a determination of legislators that must be in the Chambers with a provision of other legislators following proceedings outside Chambers within or at other locations subject to guidance by Standing Orders

Issues for Consideration and Inclusion in Speaker’s Rules, guidelines or communication

Object:	Key Considerations:	Checklist for debate:
<p>4. Guidelines outlining the conduct of fully virtual or hybrid sittings as per the Standing Orders</p>	<ul style="list-style-type: none"> Attributes of participating in the virtual platform Etiquette of the members during the proceedings under this provision Procedures and means of voting in sittings convened under this Standing Order 	<p>4.1 Devices to be used in logging in and participating (Can members use any device, pre-registered device, specifications and attributes of the device)</p> <p>4.2 Shall attendees through virtual platforms attend through audio or visual or both and procedure for participating in deliberations</p> <p>4.3 Means of voting, division and determination of a vote</p> <p>4.4 Discipline and etiquette of the members and recourse measures to be taken for members in breach of the rules</p>
<p>5. Administrative processes for the virtual meetings</p>	<ul style="list-style-type: none"> Need for pre-registration Approval process and period before the actual date and time of the meeting Addressing gender concerns to ensure equitable access e.g. provision of support to all members 	<p>5.1 Can ICT platform support pre-registration and approval of members before actual date and time of meeting</p> <p>5.2 Period in which members wishing to participate virtually will have registered</p> <p>5.3 Provision of technical support for members that may have challenges using the platform</p> <p>5.4 Increased awareness and training opportunities for Assembly members and staff on the use of ICT to conduct Assembly business virtually</p>

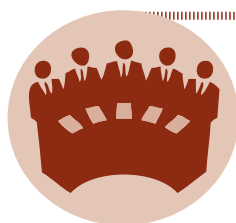
Procedure of amending Standing Orders and Speaker’s Rules



Raising the need for the County Assembly to review standing orders

Communication from the Speaker In their wisdom, the Speaker may issue communication to enlighten the Members of County Assembly on the prevailing situation and need to consider various amendments to Standing Orders

A statement by a member seeking the indulgence of the County Assembly in considering and reviewing specific provisions of the Standing



Committal to relevant committee

The matter is committed to the Committee on Procedure and Rules for consideration and reporting within a stipulated time



Reporting

Upon deliberations, the Committee on Procedure and Rules tables the report of the Committee containing its findings and recommendations for the proposed amendment of specific Standing Orders for consideration and adoption with/ without amendments by the Assembly.



Adoption and amendment of

Amendments to Standing Orders upon approval of the County Assembly are temporarily Annexed to the Standing Orders and shall be binding to the same extent of the Standing Orders in general. Such rules continue to remain in force until they are amended or repealed by the County Assembly.

Other critical elements for consideration by County Assemblies



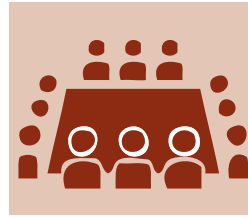
1. Health and safety for Members and Technical staff to remain a key consideration in times of the pandemic. All Assembly processes to adhere to set WHO protocols

- 1.1 All persons within the precincts of the Assembly should wear a mask correctly to be admitted into precincts and to be able to transact any business within the Assembly Positioning of sanitizers and hand washing stations at strategic places within the Assembly be emphasized
- 1.2 All processes to facilitate reduced physical contact
- 1.3 Leveraging on ICT to minimize physical contact through reduced handling of physical objects



3. Making the Assembly Gender Sensitive for members and staff by ensuring social and economic wellbeing of all in the COVID-19 era

- 3.1 Allowing flexible working from home hours to enable members and staff balance household and family duties taking into consideration the gender roles and responsibilities of all
- 3.2 Ensure adequate allocation of resources and equipment to assist members and staff to work effectively remotely
- 3.3 Ensure that all Assembly proceedings including virtual sittings and requests for technical support from staff take place during normal office hours
- 3.4 Ensure that pay is guaranteed especially for casual and non-salaried Assembly staff whose services have been temporarily halted or been asked to stay at home due to age or other medical conditions
- 3.5 Encourage Assembly members to challenge existing stereotypes and traditional division of work at home and at work to support empowerment of women and girls within the Counties



2. Formation of Ad-hoc Committee to oversight County Government Initiatives on COVID-19

- 2.1 Committee to be gender responsive through equitable representations of all genders including women, youth PWDs and representatives from marginalized communities
- 2.2 Key role is to ensure that legislation passed towards mitigating impact of COVID-19 is gender responsive and based on sex-disaggregated data, responsive to the specific needs of women, the elderly, disadvantaged and marginalized residents
- 2.3 Committee's mandate is to ensure initiatives by the Executive are responsive to the needs of various genders



4. Mainstreaming gender equity in all Assembly processes

- 4.1 Putting in place mechanisms to ensure that opportunities and resources are distributed equitably with due consideration to women, PWDs and marginalized groups
- 4.2 Development of a Gender Mainstreaming and Oversight Checklist for the County Assembly
- 4.3 Adopting a gender sensitive and responsive culture within the Assembly including language and use of gender sensitive terms e.g.
 - Chairperson instead of Chairman/woman
 - Security officers instead of watchman
 - Personal Assistant/secretary
- 4.4 Involvement in Corporate Social Responsibility (CSR) initiatives to assist less fortunate and disadvantaged County residents in times of the COVID-19 pandemic and beyond

Additional Reference Material:

African Centre for Disease Control and Prevention; Guide for Physical Distancing and Social Support During the COVID-19 Pandemic
https://au.int/sites/default/files/documents/38262-doc-africa_cdc.pdf

COVID-19 - What does it mean for gender?" <https://www.ipu.org/news/voices/2020-03/covid-19-what-does-it-mean-gender>

Government of Kenya, Ministry of Health; Interim Guidance for Health and Safety Measures in Workplaces in the Context of COVID-19
<https://www.health.go.ke/wp-content/uploads/2020/06/INTERIM-GUIDANCE-FOR-HEALTH-AND-SAFETY-IN-WORKPLACE.pdf>


Parliaments in times of a Pandemic
<https://www.ipu.org/parliaments-in-time-pandemic.pdf>


Plan of action for gender-sensitive parliaments <https://www.ipu.org/resources/publications/reference/2016-07/plan-actiongender-sensitive-parliaments>


Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) Act, 2020; Legal Notice No. 58
http://kenyalaw.org/kl/fileadmin/pdfdownloads/LegalNotices/2020/LN58_2020.pdf

**SOCATT (K)**

This County Assemblies COVID-19 Technical Advisory No. 1, July 2020 was formulated by SOCATT-K with technical and financial support from UNWOMEN. This advisory is part of the outputs of an intervention by UNWOMEN to support continuity of Legislative Services in the wake of the Corona Virus pandemic.

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