Briefing Paper for Parliamentarians on Placement of Climate Change Responses at the Center of Efforts to Reconstruct Economies Post COVID-19

Table of Contents

1. Introduction

The COVID-19 pandemic had devastating impacts on the African continent, which created a human development crisis. The pandemic came when the continent is trying to recover and manage climate-induced disasters that include droughts, locust plagues, and cyclones threatening the continent's peace and security. To manage and control the COVID-19 pandemic, most countries in Africa put in place regulations which include lockdowns that necessitated people to stay at home and exercise physical distancing. However, the crowded informal urban settlements which characterise Africa's cities made physical distancing and total lockdown difficult, therefore increasing the vulnerability of the poor populations. This situation is worsened by lack of access to clean water, poorly funded and inadequate health systems, and poverty. However, this crisis allows sustainable economic transformation if the COVID-19 recovery frameworks are people centres and include climate considerations. The African Union (AU)'s Pan-African Parliament (PAP) which was set up to ensure the full participation of African peoples in the economic development and integration of the continent, offers space to develop model laws a people-centred just recovery for the continent. The Africa Climate Legislation Initiative (ACLI) which sits with the PAP, allows for capacity building, facilitation, and climate change dialogue and response processes in Africa. The East African Legislative Assembly (EALA) which has legislative authority, can play a critical role in developing the just recovery model law. However, there are challenges with both the PAP and the EALA, which may pose some challenges. Still, the Pan-African Climate Justice Alliance (PACJA) and other Civil Society Organisations (CSOs) in Africa can play a critical role in Africa's regional institutions to support progressive model laws on the continents which speak of the aspirations of African peoples.

2. Background to the Legislative work in Africa

The Pan-African Parliament (PAP), also referred to as the African Parliament was founded in March 2004 to form the African Union's legislative arm (AU). The PAP, which comprises five members per Member State that ratified the Protocol that established it, functions as the advisory body with consultative power and plays an oversight role over the AU. The PAP was put in place to ensure the full and much-needed participation of the African people in their economic integration and development. The PAP is intended to allow the inclusion and involvement of African states.

The selection of the PAP members is made through the Member States, which assigns elected legislators consistent with the PAPs' aim, which gives the members full legislative powers. The members of the PAP are supposed to have been elected through universal suffrage. One of the crucial functions of the PAP members is having budgetary oversight within the AU, and promoting peace and security is one of the PAP functions. The legislative power of the PAP derives from the Malabo Protocol, which still has to come into force. One of the challenges that have noted as posing a threat to PAP legitimacy is two-pronged. The PAP members are not elected directly, and secondly, they do not have binding legislative powers[1]. The PAP does not have significant legislative power, and the absence of strong accountability mechanisms are some of the existing constraints of the PAP. Allegations of extravagance and licentiousness further

---

[1] https://theconversation.com/why-the-pan-african-parliament-must-clean-up-its-act-if-it-wants-to-survive-97095

threaten the very existence of the PAP with speculation that the continuation of the PAP in its current form, threatens its very existence and that donours may abandon it.[2].

The Africa Climate Legislative Initiative (ACLI) is a space where the Parliamentarians of Africa can engage with other stakeholders, including Civil Society groups like the Pan-African Climate Justice Alliance (PACJA) to strengthen their capacity on climate change issues and climate legislation. PACJA is holding this space as it facilitates and builds the capacity of the ACLI by supporting the work of Pan-African Parliament and other regional legislative bodies. The work has included intensive engagement on policy and practice processes at continental levels, promoting and enhancing parliamentarians' participation as an important constituency for policy and legislative agenda. The work with ACLI has brought together members of Parliament from National Assemblies and Regional Parliaments across the continent. It is envisioned that parliament members with ACLI will translate policies into laws to enable an environment for implementing the Paris Agreement and Nationally Determined Contributions. ACLI is gradually emerging as a platform for African parliamentarians' engagement in climate change discourses. The voice of parliamentarians in these discourses is vital in the context of shrinking space of civil society not only in UN processes but in many African countries. This creative partnership with parliamentarians can help in advancing the civil society standpoints in policy and law framing as they are an arm of government which makes the Laws[3].

The East African Legislative Assembly (EALA) - One of the spaces that can be engaged for the development of model law that informs a just COVID-19 recovery is the East African Legislative Assembly (EALA) is an organ of the East African Community which was established under Article 9 of the Treaty for the Establishment of the East African Treaty. The most important aspect of engaging with the EALA is that it has legislative authority missing in the PAP, but the challenge is that it is only a subregional institution. The countries which form the EALA are Uganda, Kenya, Tanzania, Burundi, Rwanda and South Sudan. Currently, the EALA has 54 elected Members and 8 ex-officio Members, which gives 62 members. All member states are represented through the 9 members that have been elected by each partner state, ex-official members consisting of the Minister or Deputy Minister responsible for the East African Community Affairs from each Partner State, the Secretary-General and the Counsel to the community[4].

The EALA has a cardinal role in advancing the East African Community objectives, and its function includes the legislative, representative and oversight mandate. Apart from having legislative powers, the strength of using the EALA to advance the legislation of a COVID-19 Just Recovery which has climate change and people at the core of it is that the Assembly liaises with the National Assemblies of the Partner States on matters relating to the Community and that it has the mandate of discussing all matters about the Community and make recommendations to the Council as it may deem necessary for the implementation of the Treaty for the Establishment of the East African Community.

2.1   The Continental Early Warning Mechanism

---

[2] Ibid1
[3] https://upload.openaid.se/document/ethiopia/pacja-narrative-report-to-sida.pdf
[4] https://www.eala.org/assembly/the-east-african-legislative-assembly

The PAP is tasked with promoting peace and security on the continent as war and violence are considered some of the stumbling blocks to economic integration and development in Africa[5]. A resolution was passed by the PAP recommending on the need for reinforcing the Continental Early Warning Mechanism (CEWM) to prevent and address possible conflict on the Continent. The CEWM's mandate is to carry out research, data collection and analysis, and collaborate with International Nongovernmental Organisations, the United Nations and its Agencies, academic institution and other necessary institutions to advise the Peace and Security Council (PSC) on the possible impending conflicts and threats to peace, stability and security in Africa, and make recommendations for the best course of action to avert the potential conflicts and threats to peace and security in Africa.[6]. The establishment of the CEWM is provided for in Article 12 of the Peace and Security Council (PSC) Protocol. Article 12(2) of the Protocol provides for an observation and monitoring unit, also referred to as the Situation Room which is situated at the Conflict Prevention and Early Warning Division of the African Union and takes the responsibility of data collection and analysis; and is also responsible for observing and monitoring the Units of the Regional Mechanisms for Conflict Prevention Management and Resolution which are directly linked to the Situation Room[7].

One of the challenges with the CEWM is that it does not directly consider climate change, climate-induced pandemics, and disease outbreaks as a threat to peace and stability on the continent. The economic integration and development of Africa cannot be isolated from the pandemics like the COVID19 and climate-induced disasters, which have become more frequent over the past 10 years. Due to the uncertainties related to the cause and effect relationship of events and conflict, the task of the CEWM becomes quite challenging. There are several underlying challenges such as climate change, poverty, degradation, and disease outbreaks which pose a real challenge to developing regions like Africa which often the underlying causes of the conflicts and instability in Africa. There is, however, general agreement amongst scholars that there is no one variable that can explain the incidences of conflict.

3. Impact of COVID-19 in Africa

The outbreak of COVID-19 in Africa has negatively affected economies, regional integration, social cohesion and health systems within the countries in Africa. The African Union's Agenda 2063, the Sustainable Development Goals and other development goals and targets are under threat[8]. If not effectively and efficiently addressed, the pandemic can result in internal tensions and conflicts in the AU Member States. To avert the impacts of the COVID-19 pandemic, the AU member states have adopted a strategy that is targeted at avoiding severe illness and loss of life from COVID-19 and reducing social and economic disruptions. This was further strengthened by the establishment of the Coronavirus Fund with pledges totalling USD 20 million. Most African countries have put in place Lockdowns, compulsory testing of suspected cases and contact tracing as they attempt to contain the virus's spread.

---

[5] https://africlaw.com/tag/stumbling-blocks/
[6] Ibid3
[7] http://www.peaceau.org/en/page/28-continental-early-warning-system-cews
[8] https://www.nepad.org/publication/african-union-covid-19-occupational-safety-and-health-guidelines-series

The United Nations Secretary-General Antonio Guterres has been calling for and giving broad political support for a global ceasefire initiative towards ending the conflict. Still, the COVID-19 pandemic has not been accompanied by a markable reduction political violence. For example, Cameroon's separatist militants have shown that there are challenges in getting the other armed actors on the ground to adhere to the often unilateral ceasefire announcements.[9] This has proved that the pandemic is not a catalyst for peaceful processes as some of the conflicts have actually intensified during the pandemic. Though the COVID-19 pandemic and violence are often analysed as separate phenomena, it can be argued that the spread of the virus has direct impacts on the conflict dynamics, for instance, the spread of the virus can weaken the leadership of a conflict party. However, several reports state point to policy measure being put in place to control the spread of the virus creating an opportunity for state and non-state actors to tighten their grip and control and undermine their opponents further, therefore reducing the chances of effective peacebuilding.[10].

3.1   COVID-19 and Climate Change

In response to the COVID-19 pandemic, the PAP is urging its member to make sure that the AU member states allocate enough funding for their healthcare systems so that they can respond to the demands imposed by the COVID-19, noting that inadequate healthcare facilities impede the continent's response to the novel COVID-19[11]. While it is critical to address the COVID-19 pandemic urgently, Africa is devastated by climate change. The frequency and severity of climate-induced disasters have increased, creating a need for the climate crisis to be treated as an emergency. The analysis of climate change, health pandemics and conflict as separate problems poses a challenge in addressing all three, which are inextricably linked. At least 57% of the countries experiencing the greatest burden of the combination of climate-induced and political fragility hazards are located in Sub-Saharan Africa. These risks transcend boundaries, and the responses from continental bodies such as the AU is critical so that the climate-related security risks are identified, analysed and responded to. In a statement in the Pan-African Parliament in Midrand, South Africa, in March 2019, H. E. Ambassador Smail Chergui is quoted stating that:

> *"According to the United Nations, Africa is home to nearly a third of the world's refugee and internally displaced persons. Four African countries, Kenya, Uganda, Sudan and Ethiopia are among the top countries in the world hosting refugees due to both natural and human-made causes. The former includes the growing scarcity and mismanagement of natural resources and vulnerability to natural disasters linked to climate change. The impact of increased environmental degradation threatened conflict in the short- term and increased forced displacement in the long term."[12]*

The continent's vulnerability to climate change-induced displacements and the possibility of conflicts arising from the same is acknowledged. The acknowledgement of this risk lies on the intersections of

---

[9] https://reliefweb.int/report/world/effects-covid-19-pandemic-peace-and-conflict
[10] Ibid7
[11] https://au.int/en/pressreleases/20200618/african-parliamentarians-aim-increased-health-budgets-amid-covid-19-pandemic
[12] cps-speech-to-pap-5-march-2019.pdf (peaceau.org)

climate change, and security falls short of the inclusion of pandemics such as COVID-19 which come in a context of a continent disproportionately affected by climate change as compared to other regions globally.

Though a direct link between climate change and the spread of COVID-19 may be difficult to prove, there is evidence that climate change has changed how humans relate to other species on earth in a way that affects the health of both humans and animals through increasing the risk of infections. As the earth's heat is increasing, animals, both on the land and in the sea, migrate to areas that are cooler to escape from the increasing heat. This implies that animals are getting in contact with other animal species they normally would not be contacted with, including humans, creating an environment where pathogens get into new hosts. This may not apply to the COVID-19 pandemic but to other pandemics that have been caused by human/animal contact[13]. This calls for countries worldwide to commit to lowering greenhouse gas emissions and addressing the root causes of climate change. This should, in turn, reduce the risks of pandemics such as COVID-19. This implies that efforts to rebuild after the COVID-19 should consider the climate crisis, and address both crises at the same time. The recovery from COVID-19 cannot be tackled without dealing with climate change.

One main reason why the climate crisis should not be ignored in Africa's COVID-19 recovery plans is that the disasters on the continent are increasing in frequency and intensity. This implies that the COVID-19 pandemic is taking place within the climate crisis, therefore, worsening the state of affairs in most countries in Africa, frustrating the continent's development goals. The climate-induced disasters in Africa have resulted in the loss of life, impoverishment, destruction of infrastructure, injury, climate change-induced diseases like malaria exacerbated by the increased warmth and humidity in some countries. The social and economic disruption goes beyond the coping capacity of the countries. Therefore any policy proposition in the region which seeks to address the COVID-19 pandemic and other disease outbreaks should not ignore the climatic conditions and the context in which the pandemics are taking place. Addressing the climatological disasters like the droughts, heatwaves, and hydrological disasters such as the floods, which include the meteorological like cyclones, cannot be divorced from the biological disasters like the epidemics, plagues and disease outbreaks, as to how countries experience the impacts of the disasters is not isolated from the other existing conditions.

Southern Africa as a sub-region is considered the most vulnerable to climate-induced droughts since the 1900s, and from the 1980s, the severity, intensity and frequency of the droughts has increased, necessitating humanitarian interventions to prevent intra-regional crises[14]. Africa is in a climate crisis with the Sahel experiencing long dry seasons that is causing desertification of the subregion. Burkina Faso, Mali, Mauritania, Niger, Chad and Nigeria has been trying to control the deadly inter-communal violence that often spins out of control[15], and threatening the stability of the whole subregion. The droughts and

[13] https://www.hsph.harvard.edu/c-change/subtopics/coronavirus-and-climate-change/#:~:text=expensive%20to%20fix%3F-,Does%20climate%20change%20affect%20the%20transmission%20of%20coronavirus%3F,and%20our%20risk%20for%20infections.

[14] https://systematicreviewsjournal.biomedcentral.com/articles/10.1186/s13643-018-0796-4

[15] https://www.weforum.org/agenda/2019/01/all-the-warning-signs-are-showing-in-the-sahel-we-must-act-now/#:~:text=Tension%20between%20herders%20and%20farmers%20is%20rising%20across%20the%20Sahel.&te

floods in the Sahel are becoming more frequent and longer, with temperatures rising 1.5 times more than the global average, the pastoralist territories are becoming smaller, necessitating some jihadi insurgencies creating no-go areas which are worsening an already bad situation, with 33 million people in the Sahel classified as food insecure. The coming in of the COVID-19 pandemic in a situation such as the those existing in the Sahel and Southern Africa implies that the continent is not faced with just the COVID-19 pandemic which has caused health a climate crisis as well, making it a twin crisis. The geographic and socio-economic character of East Africa makes the subregion vulnerable to climate-induced temperature variations. The expansion of drylands impacts heavily on water and food access to livestock, wildlife and humans, the intensification of climate-induced plagues, diseases, sea level rise and the fast retreat of glaciers on Mount Kilimanjaro in Tanzania and Mount Kenya in Kenya[16].

Africa is not a major contributor to greenhouse gases. Still, the failure to manage strategic ecosystems by way of allowing deforestation in various forests in the East African sub-region which is mainly caused by the intensification of agriculture, particularly industrial agriculture, land degradations and rapid urbanisation which is driven by rapid population growth is placing a burden on the critical natural resources whose conservation in Africa is critical in climate change mitigation. The widespread poverty and the impacts of climate change, coupled with the COVID-19 pandemic, have put most poverty alleviation initiatives into disarray on the continent. COVID-19 came at a time when East Africa was struggling with trying to control a locust invasion that covered farms in rural Kenya from December 2019 and was described as the worst in 70 years[17]. The desert locusts, Schistocerca gregaria, are considered the world's most devastating pest which can multiply 20-fold in just three months and has potential to reach 80 million square kilometres, and can consume 2g of vegetation each day, therefore, consuming an equivalent of food that can feed 35,000 people a day.[18]. Kenya is one of the nine countries that benefitted from the Intergovernmental Authority on Development by the African Development Bank and the World Bank grant to support farmers in Kenya to recover from the locusts, but this was made more difficult and sometimes impossible COVID-19 which disrupted the whole initiative.[19]. The governments in Africa should definitely strengthen resilience to cyclical drought-induced disasters while at the same time, ensuring a just recovery from both crises, that is, the COVID-19 crisis and the climate crisis.

4. Analysis of COVID-19 Containment Measures in Africa

The lockdown and frontier closure policies that were put in place in the European Union regions, the United States of America and China resulted in low production and disruptions in the whole production value chain. Even though the COVID-19 hit Africa later on, the lockdowns led to reductions in African exports' demand. The infection containment measures resulted in massive reductions in Africa's Foreign Direct Investments (FDI). Africa's tourism sector, one of the foreign exchange sources for Africa, and the

---

xt=The%20United%20Nations%20estimates%20that,more%20frequent%2C%20undermining%20food%20producti on.

[16] https://link.springer.com/referenceworkentry/10.1007%2F978-1-4419-7991-9_17

[17] https://www.bbc.com/future/article/20200806-the-biblical-east-african-locust-plagues-of-2020#:~:text=In%20February%202020%2C%20local%20media,of%20vegetation%20when%20they%20swarmed.

[18] Ibid15

[19] Ibid15

overseas development assistance (ODA) inflows are also reduced.[20]. One of the biggest challenges with dealing with COVID-19 is the uncertainty surrounding the pandemic as it is not known how long the pandemic will last, and the exact numbers of the affected are not clear. Many medical questions are being raised about the vaccines, the mutations and explanations of the variations in deaths and infection rates. These remain unresolved, resulting in variations in the policy measures and responses that have been taken in trying to address the pandemic in the region, and even at the global level. While some countries have imposed very strict and radical lockdown measures to control the pandemic and reduce infection rates, others have emphasised a liberal approach to build immunity. This has resulted in a lot of uncertainty. Africa has reported less than anticipated infection rates and a low spread of the pandemic, but this is against a background where the health system is compromised by a lack of capacity and inadequate infrastructure and resources. It remains unknown whether the continent has low infection rates indeed or this is a case of underreporting[21]. In some African countries, there are challenges with even getting the population numbers right. There are problems with the demographics. The births and deaths registries are not up to date, and therefore, the statistics given are estimates and sometimes guesses. The figures are based on best guesses on observed cases, but the margins of error are not so huge as to upend that COVID-19 has impacted the African continent to a smaller extent than Europe. This could be based on some factors which include, but not limited to climatic factors, demographic factors, infrastructure and mobility factors (populations in Africa may have relatively less long-distance commuting and air travel). Still, despite these factors which may seem to be in Africa's favour, the continent's reporting systems are lagging, and the response systems are not adequately tailored to deal with outbreaks such as the COVID-19. Europe has more capacity for effective contact tracing and mapping of infections much efficiently and effectively.[22].

One of the biggest challenges faced by the policymakers in Africa when they imagine a COVID-19 recovery plan is striking a balance between coming up with a framework that can rebuild and revive the economy and flatten the curve, on the one hand, the other. The trade-offs can be quite difficult as there is a need to reopen the economies as the continued lockdowns of the economies are proving to be quite costly for the continent, taking into consideration the pandemic's economic and social costs. As populations are facing uncertainty and increased poverty due to the lockdowns that have eroded their incomes, people are becoming increasingly restless, and Governments are now uncomfortable as these lockdowns have resulted in conflicts in some of the countries, like Kenya and Zimbabwe, even the USA has faced demonstrations during the lockdowns. The citizens are now accusing the Governments of using the lockdowns to trample on people's human rights. The logic of continuously locking down economies to contain the virus is viewed as bleeding the economies in a situation where the infection rates fluctuate, and no one is sure when the COVID-19 pandemic will end. The draconian measures that have been put in place to contain the virus are viewed as necessary for public health but bad for the economy. Workers,

---

[20] Gondwe, G. (2020) Assessing the Impact of COVID-19 on Africa's Economic Development, United Nations Conference on Trade and Development
[21] https://www.ispionline.it/en/pubblicazione/impact-covid-19-african-economies-27636
[22] Ibid19

peasants and businesses are losing incomes as governments have restricted non-essential travel to control the virus's spread.

Some countries have put in place policy framework to respond to the dire need of businesses, and the people so that economies can be revived. In the form of stimulus packages, the relief is meant to provide relief to the families, small business. In some cases, big businesses have been viewed as a fragmented emergency response strategy. The policies and instruments that necessitated the release of the stimulus packages were quickly drafted and implemented to salvage a critically bad situation. The stimulus packages included the authorisation of mortgage forbearance for property owners, evictions were halted and cutting off social services for defaulting citizens during the lockdown were stopped, and direct cash infusion programmes to families were instituted in some countries to address the economic damage caused by the COVID-19 pandemic at the household level. The sustainability of the measures that were employed by African governments has often been questioned.

Some multiples challenges were identified with the various relief measures implemented by governments. While these packages were assured to citizens in need of relief, vulnerable populations like undocumented immigrants, the incarcerated and the homeless were mostly locked out from accessing the rescue packages despite their vulnerabilities. Some sections of African citizenry, particularly Civil Society groups, had been calling for uniformity in the implementation of the packages, stating that when Governments put in place measures that direct people to stay at home to contain public health pandemics, the measures must automatically include eviction moratoriums, utility shutoff moratoriums, organised food and medicine distributions for people in distress, universal paid sick leave, a universal basic income that provides for quick and equitable financial relief. Public health response should not leave out the undocumented immigrants, those in prisons and the homeless. In many instances, the immigrants, whether registered or not, were locked out from the packages. Some governments though, particularly the South African government halted the raids and deportation of undocumented. However, the call to have the undocumented feel confident to seek care when the need arises became difficult as the healthcare systems were extremely congested. There is a need to agree on how public health pandemics trigger the broader protections, apart from such protections being the humane and moral thing to do, the pandemic responses and protections that enable everyone's cooperation with public health efforts, particularly the most vulnerable people and small businesses. It is anticipated that if measures that offer economic protections are put in place, workers and other vulnerable groups in society, including the small businesses will more likely than not, adhere to the lockdown measures.

4.1   *Misinformation about COVID-19 as Threats to Containment*

Technically, it is true to say that the COVID-19 disease is an equal opportunity killer, but it often attacks and severely affects society's most vulnerable members. The poor populations are more exposed, more fragile and more ill[23]. While the vulnerable groups of society vary from country to country, the vulnerability is often intersected with ethnicity, race, gender, and poverty in most African countries. The virus has a catastrophic impact on the poor. A lot of the analysis and measures adopted by countries

---

[23] https://www.nytimes.com/2020/04/05/opinion/coronavirus-social-distancing.html

during the lockdown are based on lower-middle-class families and did not consider the realities of many low-income families and the realities of the working class and peasants. Some of the information that was passed on has been deceptive and deadly misinformation. Some of the information include perceptions that the virus is a rich 'jet-setters' disease or a 'Chinese virus' should be laid to rest, but so is the belief that it affects people equally.[24] because it affects people varies based on the vulnerabilities of the affected persons. Most governments have called on workers to work from home, but did not take into consideration the realities of the largely informalised sector that is thriving in most African countries, the realities of peasants and the poor workers who cannot afford the technologies to work from home as their work may be largely manual. Workers in construction, restaurants, and grocery stores had to go to their workplaces and not afford to stay at home or even observe social distancing as they had to earn a living. Any framework that will be adopted in Africa has to consider the realities of African people. The message for everyone to stay at home can be far fetched for the majority of African people. Staying at home is a privilege that the majority of people on the continent cannot afford. Social distancing is often a privilege as some workers have to get into crowded public transport to get to work or risk starvation.

Government social welfare systems in most African countries are too weak to support the COVID-19 associated lockdowns effectively. Given the significant weight of the informal sectors in most African economies, there are many daily wage earners for whom complete shutdown essentially means no income and no basic household necessities, including food. Similar impacts will also be felt by small and informal businesses that sustain most of the poor' livelihoods. This further complicates the possibility of a complete lockdown in the face of weak (or non-existent) public social welfare and assistance systems. However, an approach that does not lockdown and emphasis staying at home has an increased risk of further spreading the virus within countries.

4.2   Lockdown Induced Violence

The enforcement of the lockdown measures often clashes between the law enforcement agents and the poor populations. The poor people were often forced to pay fines for breaking the lockdown regulations. Still, these fines often resulted in the 'offenders' arrest because the people were on the streets because they needed to earn a living and imposing a penalty was just one way of making the poor going into overcrowded prisons where they were further exposed to the virus. Public health policy frameworks containing pandemics like the coronavirus should consider the plight of the populations that they are seeking to protect; otherwise, they end up being a form of structural injustice and violence to the poor. Whilst it goes without saying that people should be encouraged to stay at home, there should also be aware that not everyone can or will stay at home and that it is not simply a pathological disregard of the common good.

---

[24] Ibid22

5. Recovery from COVID-19

The questions that are being asked currently is how do we recover from the impacts of the COVID-19 in ways that guarantee justice and equity, and addresses the needs of the people and businesses. Having looked at the impacts of the pandemic on Africa, there is a need to look into the Governments' mechanism that ensures Africa's social and economic protection. Before putting in place recovery plans, there is a need for planning for the responses to COVID-19 when the vaccines are made available. These plans should inform other public health pandemics that may come in future. When the vaccines under development are considered effective and safe and authorised for use, they will not be immediately available to everyone. Planning is therefore required to ensure that there is equitable distribution of the vaccine. There is a need to develop an overarching framework that can be used in the allocation of the vaccine to support policymakers within the domestic and regional health bodies. The framework must be built based on accepted foundational principles that recognise the distinctive nature of the COVID-19 disease, including its infection rates, modes of transmission, the groups and individuals susceptible to infections, and the varying rates to severe illness death amongst the groups.[25].

The framework to be developed for the implementation of the allocation of vaccines should consider that class, race, ethnicity and health equity are intertwined in a way that makes particular populations at increased risk of severe illness and death from COVID-19. The structural inequalities within the African states, and indeed, all over the world, places groups disadvantaged as a result of their class, race, ethnicity, age, gender, health status, residence, occupation, socio-economic status and other contributing factors at increased risk of not having access to the vaccines. Inequality and discrimination are major challenges in most countries in Africa and a well-established source of poor health outcomes. Due to the interconnectedness of the countries in Africa and within the African countries, the subpopulations' challenges will affect all members of society in one way or the other, as learnt from the COVI-19 pandemic. Many vulnerable groups in society disproportionately experience social and structural factors and comorbid conditions that put them at higher risk of severe morbidity and mortality from COVID-19.

6. COVID-19 and Legislative Work in Africa

COVID-19 had a tremendous impact on Africa's legislative work as most legislative work on the continent had to be shelved as the regional institutions focus on trying to contain the pandemic. The role that the regional bodies should play in the development of recovery efforts is very critical. One of the bodies that could give policy recommendations on a just recovery is the PAP, though currently, the PAP has no legislative powers. However, its eventual aim is to progress into an institution with a complete legislative mandate whose members run for office and are elected by universal adult suffrage.[26]. When this is achieved, the PAP will be transformed into the AU's most democratic organ, empowered with the legislative authority to enact Model Laws applicable to the entire continent.

---

[25] National Academy of Sciences (2020) Framework for Equitable Allocation of COVID-19 Vaccine, National Academies Press, Washington DC

[26] Centre for Human Rights (2020) Toolkit for Civil Society Advocacy in the Pan-African Parliament, University of Pretoria, Pretoria

To make this ambitious goal a reality, a simple majority of the AU's 55 member states (28 states) would have to ratify the Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament (Malabo PAP Protocol) and deposit their instruments of ratification with the AU. By 2020, only 12 states have deposited an instrument of ratification: Benin, Cameroon, Chad, Equatorial Guinea, Gambia, Ghana, Madagascar, Mali, the Sahrawi Arab Democratic Republic, Sierra Leone, Somalia and Togo. South Africa, where the PAP is seated, is evidently absent from this list. Until 28 ratifications have been secured, the PAP will only ever exercise consultative and advisory functions While its members are free to deliberate over any event on the continent, they can do no more than making non-binding resolutions and recommendations to table before the AU organs, Africa's regional economic communities (RECs) and individual AU member states.[27].

The PAP has advisory powers that can lead to recommendations. This means that it has the authority to discuss, at its own initiative, and express opinion on any matters relating to the AU, AU organs, RECs or any member state. Many of the PAP's broad advisory powers have a direct impact on AU policy. Therefore, this is a space where Civil Society Groups can engage with and make evidence-based policy recommendations for COVID-19 recovery policies. Exercising these powers, the PAP is free to make a non-binding recommendation on 'any matter' relevant to respect for human rights, consolidation of democracy, the promotion of good governance in Africa, and the promotion of the rule of law. Therefore, engagement with the PAP is a conducive space to engage on COVID-19 Just Recovery efforts.

The PAP has a Committee on Health, Labour and Social Affairs that supports the implementation of social development, labour and health policies and programmes within the AU, including regional and international cooperation strategies. The Health, Labour and Social Affairs Committee is one of the ten committees, and is tasked with advising and recommending on programmes for the improvement of the lives of African peoples; and to consider issues relating to regional and international cooperation in strategic planning and implementation of social development and health policies and programmes.

COVID-19 has not replaced the climate crisis but has actually made African citizens worse than it was. As mentioned earlier, the COVID-19 pandemic came when the continent is in a climate crisis away. Although some of the measures taken to limit its spread have temporarily reduced greenhouse gas emissions, these reductions are only temporary. They have not improved states' ability to limit the increase of global average temperatures to 1.5°C. Responses and recovery mechanisms to the pandemic risk exacerbating the climate crisis if they roll back environmental protections, unduly delay climate action, or entrench fossil fuel dependency[28].

There is a need to reimagine and rethink our relationship to the environment, moving away from a solely exploitative model, and promoting and implementing the right to a safe, clean, healthy and sustainable environment to ensure that humans thrive as part of nature. It should be noted that the decision that is going to be taken now have huge implications for our future. Therefore, in managing the pandemic's

---

[27] Ibid24
[28] https://reliefweb.int/sites/reliefweb.int/files/resources/IOR3026232020ENGLISH.PDF

economic fallout, responses must limit, rather than increase, global heating. Given the size of their economies and their contribution to the climate crisis, G20 states must lead in adopting stimulus packages and recovery measures that facilitate the transition to a zero-carbon economy and resilient society. Simultaneously, just recovery plans must provide an adequate standard of living for all, including people on lower incomes, those working in the informal sector, and others who may be at risk and most affected both by the COVID-19 crisis and the transition to decarbonise the economy.[29].

Fossil fuels and all unsustainable business practices must become a relic of the past. The G20 must provide leadership by expanding its commitment to end inefficient fossil fuel subsidies to include all fossil fuel subsidies without exception, taxing the fossil fuel-derived profits of energy companies, and boosting investment in human rights-consistent renewable energy through targeted fiscal measures including subsidies. The G20 countries' failure to take all feasible steps within their available capacity to reduce emissions in the shortest possible time frame puts the lives and human rights of billions at risk and could violate their human rights obligations.[30].

One of the PAP Committees that can be engaged and influenced to pursue a just COVID-19 recovery policy is the Rural Economy Agriculture, Natural Resources and Environment which is tasked with considering the development of common regional and continental policies in the agricultural sector and assist the PAP to oversee and assist with the harmonisation of policies for rural and agricultural development and promote the development of policy and the implementation of programmes of the AU relating to natural resources and environment. Rural development, agriculture and management of natural resources and environment can be frustrated by climate change. Therefore there is a need to engage this committee to find ways of integrating the climate considerations into the covid-19 just recovery policies in Africa, both regional and country.

6.1   The Pan-African Parliament and African Climate Legislative Initiative

The PAP carries the aspirations of the people of Africa. The recovery of the continent from COVID-19 and the climate crisis must be informed by African people's context and needs through their legislators. The ACLI is a space that should enrich and capacitate the African legislators to continuously interrogate and reflect on the situation in the region and their home countries to come up with recovery policies that are socially, environmentally and economically just that can be developed into laws to govern the continent and the African countries. The development of model laws about climate change is important as it opens debate and discussions on what works and what may not work for particular contexts as it is up to the states to choose to adopt or reject the model laws. If a state adopts the model law, then it becomes a statutory law of that state. The purpose of developing model laws by the ACLI is to attempt to homogenise all states on climate change.

---

[29] Ibid26
[30] Ibid26

6.2   The East African Legislative Assembly

Articles 14(3)(b) and 59(1) of the Treaty for the Establishment of the East African Community, states that the Council of Ministers and Members of the Assembly are empowered to initiate and submit Bills to the Assembly. The Assembly under the Rules of Procedure must consider and pass all Bills introduced in the House. During the consideration of Bills, the Assembly is required to carry out extensive consultations (public hearings) with the people of East Africa and any other stakeholder(s) it may deem necessary[31]. The public hearings are important in the EALA driven processes as they allow for the participation of groups and people who will be impacted by the proposed laws. The public opinion, which is very important in law-making, is obtained through the public hearings, which is also important as it allows the citizens to participate and input into the making of laws that affect their lives and wellbeing.

Once the Assembly passes a bill, it requires assent to all Members of the Summit before it becomes an Act of the Community. In addition to the above specific functions, the Assembly has a vital role to play in connecting Partner States' Assemblies and their political structures into the integration process. The Assembly exercises its representation mandate through receipt and consideration of petitions, seeking responses to oral and written questions from the Council of Ministers and Members raising matters of urgent public importance on the House's floor.[32]. The acceptance of petitions from groups and citizens by the EALA creates that democratic space that allows citizens to air their views on important issues and question the laws, decisions, and policies that harm their lives. The importance of EALA lies in its ability to take on board the concerns of African peoples in their jurisdiction through taking the proposed laws to the people and allowing the voices of the people and their representatives to come in. This is part of the legislative function of EALA which is needed within the COVID-19 just recovery legislation which should include addressing the climate crisis as the COVID-19 pandemic is not isolated from the climate crisis which is the biggest crisis of our time that the legislative bodies, as representatives of the people, have to deal with.

At the regional, continental and global levels, the Assembly is mandated to provide a strategic link between the EAC, Regional Parliaments such as the Pan African Parliament, Economic Community Of West African States (ECOWAS) Parliament and Southern African Development Community (SADC) Parliamentary Forum, the African Union and International Organizations and to use these linkages to promote among others, the AU 2063 Agenda and the UN 2030 Sustainable Development Goals (SDGs). The engagement of EALA with the regional and international bodies on development issues is quite critical for coming up with a strong COVID-19 Just Recover plan which incorporates climate change considerations as the economies of African countries do not operate in isolation from the each other. They are in no way isolated from the rest of the world. The African economies are increasingly dependent on the global economy, making it necessary for the regional and subregional institutions to engage with each other and international bodies.

---

[31] https://www.eala.org/uploads/Strategic_Plan_2019-2024.pdf
[32] Ibid32

7. Analysis of the Twin Crisis

While the threat of potential recession in Africa is vivid mainly through the international trade links, very few countries have the capacity to implement stimulus packages to cushion their economies form such an impending COVID-19 global recession. Most of the adopted measures include cutting interest rates and providing liquidity assistance to cushion households and firms. One the climate crisis front, the governments overseeing the region have largely not prioritised strengthening resilience to cyclical drought-induced disasters, which has often led to a reactive disposition that undermines development gains. Responding to disasters imposes a high burden on economies. Most of the region's governments have resorted to the externalisation of disaster response to the humanitarian community as a coping mechanism. Governments require assistance when their resources are overwhelmed by sudden disaster occurrences resulting from which the humanitarian community is urged to help. However, governments have a mutual obligation to build and strengthen resilience, especially to repetitive threats such as droughts, which have become a 'new normal'.

Many of the root causes of climate change also increase the risk of pandemics. Deforestation, which occurs mostly for agricultural purposes, is the largest cause of habitat loss worldwide. Loss of habitat forces animals to migrate and potentially contact other animals or people and share germs. Large livestock farms can also serve as a source for spillover of infections from animals to people. We have many reasons to take climate action to improve our health and reduce risks for infectious disease emergence.

While it is technically possible that the spread of the virus itself would more directly influence conflict dynamics, for example by weakening the leadership of a conflict party, the effects of the pandemic on conflict dynamics mainly derive from the policy measures taken in response, and the economic and social consequences that follow these measures. Unfortunately, the policy measures to control the spread of the COVID-19 have given opportunities to state and non-state actors alike to tighten their control and undermine their opponents while also hindering possibilities for effective peacebuilding. Simultaneously, and increasingly so, the economic and sociopolitical consequences of pandemic measures risk feeding into existing global trends in conflict-inducing ways. Jointly, these aspects make the pandemic's effects on initiating or continuing peaceful processes difficult.

The COVID-19 pandemic risks and the climate crisis will likely strengthen key political grievances that induce conflict. After initially going down, civil resistance across the globe has reemerged, as people voice concerns and grievances related to the socio-economic effects of lockdown measures, most of which came in the midst of a climate crisis in Africa and other regions across the world. What is particularly concerning is that these grievances feed into two existing megatrends in conflict-inducing ways. First, the negative consequences of the pandemic and the climate crisis, and the responses to it threaten to deepen inequalities by hitting hardest those groups and people already marginalised within their societies. This can threaten civil peace by widening the gap between the elites and the masses and between different societal groups. Second, these grievances are also taken advantage of by disinformation and conspiracy theory campaigns being spread worldwide in real-time

in the digital realm. Digitalisation, while a hugely positive force in our societies, can allow malicious actors to use the pandemic and the climate crisis as a tool to polarise and increase distrust in societies.

While the twin crisis (COVID-19 pandemic and climate crisis), particularly the responses to it, exacerbates opportunities and grievances that can contribute to conflict, the escalatory effects remain preventable by swift action. There is nothing inherently conflict-inducing in the COVID-19 pandemic itself. Rather, its effects on peace and conflict depend on how different political forces are willing and capable of responding to the opportunities and challenges to manage the health crisis invoke. There are several measures that the international community can take to prevent further escalatory dynamics and support peaceful processes.

It is urgent that, despite the immediate crises, multilateral efforts are defended to ensure investment in upstream conflict prevention that addresses underlying vulnerabilities, particularly inequality and youth unemployment, as well as corruption and dysfunctional governance. Adopting a long-term perspective, tackling the root causes of grievances, and investing in the existing local capacities to recover from crises is not important solely from the perspective of the pandemic, but also in the face of other global threats, in this case, climate change, to peace and security.

8. Analysis of the Role of Regional Legislative Institutions in Africa

The critical question is what the regional legislative institutions can play in coming up with model laws and policies to guide the COVID-19 just recovery, and what role regional Civil Society players like PACJA can play in this legislative work. If we take a look at the PAP, it has advisory and consultative powers. In this regard, the PAP may 'examine, discuss or express an opinion on any matter and make any recommendations it may deem fit. The PAP is also empowered to request the AU officials to attend its sessions, produce documents or assist in the discharge of its duties. Theoretically, the parliament seems to have enough room for manoeuvre to shape and drive its own agenda on key issues affecting the continent. And as it is also empowered to request briefings and reports from AU organs, a key component of oversight and accountability for any parliamentary body, it appears that the PAP may have enough authority to make substantive contributions towards the realisation of its mandate and vision.

The PAP has also sent out numerous fact-finding missions and election-observation missions across the continent. These, combined with the sessions and the committees' work, facilitate implementing the PAP's Strategic Plan and attainment of AU and PAP prescripts and objectives. Democratic Republic of Congo (DRC) (2006), Kenya (2007), Zimbabwe (2008) and Angola (2008). The delegations prepare reports and draw up recommendations and resolutions based on their observations, and these are submitted for debate and adoption by the full parliament.

When recommendations and resolutions are voted in, the Bureau of the PAP is mandated to forward such decisions to the relevant bodies, principally the AU Summits of Heads of State and Government, the Commission, the Peace and Security Council (PSC) and even international organisations, such as the UN. In this case, the PAP has stood head and shoulders over others.

8.1 Challenges with the Pan-African Parliament

Apart from the PAP being constrained by lack of legislative power, one of the critical challenges facing the PAP when it comes to the role that it can play in putting in place legislation for a COVID-19 just recovery is PAP's weak institutional capacity. This relates to, among other things, the lack of independent financial resources, and specifically the lack of control over its own budget. Presently, the PAP budget forms part of the regular budget of the AU, meaning that the PAP can neither initiate, draw up, nor amend its own budget based on its assessed needs. This arrangement severely constrains the PAP's capacity as it cannot prioritise issues and activities, or even carry out its plans independently. The PAP Fund was established to address some of these challenges, but it is still relatively small and depends on funders' contributions. Equally critical is the PAP's need to clearly define and strengthen its financial management and monitoring and accountability systems. All this falls very heavily on the role that the PAP is supposed to play in the region.

The PAP faces a further challenge in building a professional parliamentary service of its own. There is a critical need to address human resources' issue regarding the recruitment of skilled personnel and support staff needed to facilitate parliamentary work, such as adequate research support, qualified committee clerks and procedural officers. Presently, the PAP continues to depend on support from, and collaboration with, outside service providers, a situation that may create dependency or, at worst, the potential for external influence. There is a need for the PAP to be independent so that it can make decisions that serve the interests of African people. Autonomy becomes a challenge when an institution has to depend on other institutions for its operations. The PAP needs to build its own professional support service, but it needs to increase and develop its own resources to do this. This may appear an insignificant issue, but it must develop proper infrastructure for the PAP to have any impact or be taken seriously.

The lack of a proper oversight and control mechanism compromises an effective legislative body's most central responsibilities. Article 11 of the PAP Protocol provides that the PAP can examine, discuss or express an opinion on any matter; make any recommendations it may deem fit; request officials to attend its sessions, produce reports or assist it; or perform such other functions as it deems appropriate to advance the objectives of the Protocol', yet there is very little evidence that this has happened. Whilst these challenges remain significant, a closer look at Article 11 of the PAP Protocol shows that there is indeed enough scope for the institution to manoeuvre and assume several functions and responsibilities, if only it could interpret and use the current provisions innovatively to expand its formally recognised powers.

8.2 Lessons from the European Parliament

In the absence of clear indications of how the PAP is to attain legislative powers, or to what extent it will be transformed, creative utilisation of its current arrangements remains best in the interim. The European Parliament (EP) presents a model that the PAP can adopt. However, it should be noted that the EP did not gain legislative powers overnight, these were assigned gradually over a period of time. From the time that

the EP was launched in 1958, the EP's power was first increased in 1987 when the Single European Act (SEA) came into force. The EP then gradually and incrementally gained real legislative powers, first through the Maastricht Treaty, which came into force in 1993, and then through the Amsterdam Treaty of 1999. The successive treaties have thrust the parliament's role and power to the fore and have propelled it to a key role in law-making within the EU. The EP presently shares legislative power equally with Council of the EU, particularly in budget and law-making. When considering the future of the PAP against the EP, it is critical to look at these powers and reflect how they have transformed the EP's role and position within the EU governance processes.

8.3   *The Role of the East African Legislative Assembly*

It appears that, by comparison with the PAP or even other regional legislative bodies, the EALA has significant powers and far-reaching responsibilities. This makes the EALA an important object for any legislative work that has to be pursued in the region. It can be used to show how the PAP may attain and exercise legislative powers over critical functional areas. Despite the EALA's legislative powers, however, some issues need to be considered when considering regional parliamentary assemblies, as they are currently constituted. No regional assembly in Africa is directly elected, but the membership is either elected indirectly or nominated by national legislatures. This makes it difficult for regional assemblies to be independent, and their members are often subject to recall by national parliaments.

A second issue relates to the powers allocated to the regional assemblies, including the power to discuss and approve the regional community's budget, as in the case of the EALA. It has been observed that the power to discuss and approve the budget does not necessarily entitle the legislative body to draw up, initiate or revise the said budget. What happens when the assembly does not approve the budget? The heads of state still retain a right of veto and can approve the budget, despite the EALA's rejection of it. Thus it is possible that, even with such powers, a legislative assembly may potentially become nothing more than a mere rubber stamp for decisions made by executive bodies. Related to this is the concern regarding legislative bodies' institutional capacity to meaningfully fulfil their role, reflecting the perceptions about the institutional weakness and limited decision-making role of these bodies in Africa. One of the challenges facing the EALA relates to a lack of clarity about the role and responsibility of the Secretariat and the Committee of House Business. This problem, it has been noted, has had the effect of raising competition and tensions between the Secretariat and politicians.

8.4   *Concerns with Regional Legislative Assemblies*

Many concerns regarding the regional legislative assemblies as currently constituted in Africa have arisen. It has been asked:
— Whether they can effectively exercise the oversight and control functions at their disposal
— To what extent the limited (advisory and consultative) powers most of these assemblies currently possess undermine their position, or perpetually subordinate them to strong executive structures

— Whether the democratic culture and political will exist in Africa for legislative bodies to be granted 'equal power' (amounting to a veto) alongside the executive structures.

9. Recommendations to the Regional Legislative Assemblies

Th e most important lesson that both the PAP and EALA can learn from the EP when it comes to legislative and other powers is to become an effective watchdog. Ongwenyi[33] proposes the following three types of powers for a parliament, especially at the regional and sub-regional levels:

— Decisional powers (the ability to influence the decision-making processes by legal means)
— Participatory powers (which guarantee the involvement of the parliament in decision-making processes)
— Political means of influence not based on the treaty or protocol

Whatever the outcome of the process leading to the PAP transformation, it is critical that practical lessons be drawn from the EALA, especially regarding the vesting of legislative powers, which alone do not guarantee an effective parliament. What seems to be critical is the binding force of the parliament's decisions, its active involvement in decision-making processes, and the need for political will and 'informal' political networks of influence.

It should be noted that remains highly unlikely that state parties (particularly the heads of state) will consider transforming the PAP or grant it significant legislative powers in the absence of a demonstrable state of readiness on the part of the AU, the member states themselves, RECs, and other entities. They may also be held back by doubts about how well the PAP has lived up to its objectives, vision and mandate. Among the issues, they may need to consider whether the PAP has developed sufficient technical and institutional capacities to handle the responsibilities that would come with the transformation. This presupposes that many of the leaders have the political will to ensure that transformation takes place, thus a concern may be raised as to whether African leaders have overcome the political culture in which the powerful executive is often not subject to oversight by legislative bodies.

The PAP faces many challenges, and there are strong reasons why it should not be vested with significant legislative powers in the short and possibly even the medium term. Yet the very same factors used to diminish the PAP's readiness for legislative power can equally be used to make a credible case for why the PAP should, in fact, be transformed, with more substantial powers, if it is to become an institution that effectively discharges and realises the objectives, mandate and vision expressed in the PAP Protocol, the AU Constitutive Act, and the Abuja Treaty. Some of the PAP challenges, which it needs to address before it can realistically aim at substantive powers and a prominent role.

The PAP's lack of enforcement powers, in other words, its inability to ensure that its decisions (recommendations and resolutions) are enforced or binding, is most significant and should be the first area to be addressed. As part of the transformation process, the PAP should be vested with mandatory

---

[33] https://www.files.ethz.ch/isn/99267/PAPER181.pdf

powers, especially if it is granted supervisory and/or assent functions and competencies. Where a legislative body's decisions carry legal force, this often enhances the institution's role and impact. The case of the EP, and to a lesser extent that of the EALA, shows how binding decisions can go a long way in strengthening the generally poor position that parliaments often occupy in Africa relative to the executive branch.

10. Recommendations for the People and Climate Centred Just Recovery

Civil Society efforts become useful only if the COVID-19 Economic stimulus measures put people and climate at the core as guided by the suggestions below:

— *Ensure that any economic stimulus packages for the formal or informal sector, including those that cover private corporations, include a requirement to prioritise support for workers over corporate profit*

— *Any assistance to fossil fuel energy companies should be targeted at workers and the protection of their rights, and the maintenance of current services, rather than for new exploration and development;*

— *Condition any such assistance with time-bound commitments to phase out fossil fuels in line with the latest scientific advice;*

— *Target any assistance to aviation companies at the protection of workers' livelihoods and make it conditional on time-bound commitments to reduce emissions in absolute terms without relying on offsets, including by reducing the number of flights within a defined period;*

— *Invest in sectors that support a just transition to a zero-carbon economy and resilient society, creating green and decent jobs and opportunities;*

— *Help workers and communities dependent on the fossil fuel industry and other sectors affected by the transition to access green and decent jobs and opportunities;*

— *Ensure women, the most marginalised and those most impacted by the climate crisis have equal access to jobs and opportunities in the emerging zero-carbon sectors.*

— *End the use of all fossil fuels, take measures to reduce energy demand and shift to human rights-consistent renewable energy as quickly as possible.*

— *Refrain from unconditionally bailing out fossil fuel energy and aviation companies that would entrench fossil fuel dependency;*

— *End all (not just inefficient) fossil fuel subsidies, as soon as possible and well before 2025;*

— *Adopt legislation requiring all energy producers within their jurisdiction to phase out all fossil fuels as soon as possible and no later than 2050 (with an immediate phase-out of the dirtiest forms of fossil fuels, in particular coal, peat, fracking and tar sands);*

— *Prohibit, in law and practice, further investments to expand fossil fuel exploration, extraction and production including the development of new infrastructure;*

— *Stop financing fossil fuel projects in other countries;*

— *Impose taxes on profits of energy companies derived from fossil fuels rather than consumers;*

> — *Provide subsidies for the development of renewable energy sources that respect human rights throughout the entire supply chain;*
> — *Adopt and implement laws obliging companies to respect human rights and conduct human rights and environmental due diligence on their global operations, value chains and business relationships and establishing civil and criminal liability for damage;*
> — *Ensure transparency over recovery plans and facilitate diverse and public participation in shaping and influencing the recovery and the transition towards a zero-carbon economy, paying particular attention to the needs and voices of the most marginalised, those most impacted by the effects of the pandemic and the climate crisis;*
> — *Explicitly and publicly recognise the important role that human rights defenders play in responding to the pandemic, including monitoring government responses concerning climate and ensuring they are protected from physical and verbal attack and enabled carry out their important work.*
> — *Increase international cooperation and assistance, and support developing countries' move towards zero-carbon economies at the speed we need while protecting people affected by climate impacts.*
> — *Recognise the right to a safe, clean, healthy and sustainable environment at the national level as well as in relevant G20 declarations and plans;*
> — *Support the global recognition of the UN's right to a safe, clean, healthy and sustainable environment.*

Source: Amnesty International (2020)

11. Role of PACJA in the Regional Legislative Assemblies

While legislative powers would be the ultimate price for the Parliament, there is also a need to focus on what the organ can do within the current framework. With the Malabo Protocol's adoption in 2014, the AU took the first steps to transform PAP into an institution with veritable legislative authority. While the Protocol has not yet entered into force, it can greatly expand the PAP's powers. However, even in its new format, the Model Laws adopted by the PAP have to be approved by the AU Assembly people. Since PAP is such a people-centred AU organ, it is only natural that it works hand-in-hand with civil society, an authentic and well-developed understanding of local issues on the continent. This part sets out how PACJA can work with and deepen their collaboration with PAP, and place their issues on the pan-African agenda.

PACJA and other CSOs are an important stakeholder in the workings of PAP. They provide the crucial partnership which establishes strategic corroborations to ensure that PAP performs its core mandate of representing the African people. Without the people's participation, the mantra of inclusion in all aspects of PAP remains a lofty ideal. What makes PACJA unique is its unique understanding of the African context and its mandate on climate justice, which offers a rich contribution to PAP workings on how the continent can come up with a model law that can be adopted by African countries on COVID-19 recovery. Therefore, through the opportunities for engagement with PACJA and other CSOs, the PAP can be a truly

representative organisation in composition and the issues they are handling. Creating spaces for engagement with CSOs is a mutual benefit to CSOs and PAP. There are two opportunities for CSOs to engage with PAP. These opportunities are not just available to PACJA, but any African can take advantage of them. Used effectively, these avenues of cooperation are crucial in cementing the PAP and African people's relationship. They provide a chance for the aspirations, challenges, and interests of the African people to be embedded in the PAP architecture.

The purpose of establishing the PAP under Article 17(1) of the African Union is to ensure full participation of the African people. This participation is envisioned for the development and economic integration of Africa. The PAP's objective as a platform for propelling the voice of the African people is underscored under Article 3 of the Protocol.

12. Recommendations/Opportunities for PACJA

PACJA can attend PAP's proceedings, which are open to the public: According to Rule 35 of PAP Rules of Procedure, PAP proceedings should be open to the public unless the Bureau decides otherwise[34]. This means that the general public, including PACJA, are free to attend both the Bureau and Plenary. This ensures that PAP is transparent and accessible to African people.

PACJA has the right to petition PAP: Rule 72 provides that a citizen of a member state to the Protocol has a right to petition the PAP. The petitioner may address the PAP individually or in association with other persons. This petition must be within the four corners of the AU activities, which affects the petitioner directly. The petition's formal admissibility requirements are that it must indicate the name, nationality, address, and written in one of AU official language. The PAP's President will forward the petition to the committee for considerations. If the petition is admissible, the committee will report to the PAP Plenary for adoption[35]. The decision of the PAP must be communicated to the petitioner, together with reasons. PACJA can petition the PAP to demand that the institution comes up with a model law for a COVID-19 Just recovery which protects the African people who had been disproportionately affected by the twin crisis of COVID-19 and climate-induced disasters.

PACJA can trigger motions: CSOs can trigger motions under Rule 60. They can engage with Members of the PAP and sensitise them on the need for a people, and climate centred just recovery and get them to put questions regarding the other AU organs.

Access PAP documents: For the general public to participate in the PAP activities, the right to access information is crucial. Rule 87 of PAP Rules of Procedure provide that a person who is a citizen, resides or has a registered office in member states has a right to access PAP's documents. This right is important to enabling PACJA to engage with the PAP, with full knowledge of the PAP dealings.

---

[34] https://www.chr.up.ac.za/images/researchunits/dce/resources/Toolkit_for_CSO_advocacy_in_the_PAP.pdf
[35] Ibid34

Recommendations/Opportunities for PACJA engagement with PAP and EALA

PACJA and the general public can engage with the PAP, which is not explicitly provided by the PAP and EALA Protocol and Rules. These opportunities can be inferred from the workings of the 2 institutions and existing Rules.

PACJA can lobby individual PAP and EALA to submit a motion: PACJA and the general public may approach members individually to submit a motion on the people and climate centred just recovery. Members of PAP and EALA have a representative role to bring to the PAP and EALA matters that affect the African people. This provides an opportunity for partnership between PACJA and friendly members of the 2 institutions. PACJA should identify members with whom they can have a fruitful corroboration. This is easier than lobbying PAP and EALA as institutions due to the bureaucracy of the PAP and EALA. The accessibility of individual members of the two in different countries ensures that the impact of the PAP and EALA is felt at the state level. This option is key for sensitive matters that the PAP and EALA institutions might not be willing to undertake. For example, in advancing the just recovery development, it is easier for an individual member of parliament to move such a motion than the entire parliament.

Enter into corroboration and partnerships with PAP and EALA: The PAP and EALA can enter into partnership arrangements with CSOs to advance common interest matters. These arrangements can be in the form of MOUs, providing for a working framework. The advantage of this is that the partnership is at an institutional level that gives it visibility instead of raising issues with individual members. The MOU fosters closer collaboration between the PAP/EALA and PACJA.

Mobilise expert support to PAP/EALA: Climate change and COVID-19 need technical expertise that PACJA can offer technical support to PAP and EALA's Committees. These Committees have thematic issues that require expert assistance. This provides an opportunity for PACJA to engage with PAP/EALA and influence its decisions. The advantage of this is that the PACJA will be engaging with PAP/EALA at the level of expert hence providing more authority than petitions. PACJA should identify the areas of expertise and engage with respective committees. In addition to benefitting PACJA, it will build the PAP/EALA to an institution that is led by research and expert knowledge.

Participate in public hearings on important issues: The PAP/EALA organises public participation forums on several issues of public interests. These public hearings ensure that the African people participate directly in executing the PAP/EALA mandate. PACJA can take this opportunity to air its views on issues of concern like climate justice and just recovery legislation. For instance, when the PAP/EALA is developing model laws that require the input of the people.

Support PAP and EALA advocacy activities: PACJA can provide crucial support needed to advance PAP/EALA's activities. Due to the wide presence of PACJA membership in Africa, they can act as agents of advocating for PAP/EALA's agenda. For instance, PACJA can play a crucial role in lobbying states to ratify the Malabo PAP Protocol.

Initiate and support the adoption of model laws: In PAP, a procedural guideline for model law formulation as developed, which was adopted in Plenary in October 2018. Under the Procedural Guideline, CSOs listed amongst the stakeholders to be consulted and be given an advocacy space in this process of model law

formulation, but they have recognised the right to trigger the formulation of a model law addressing a formal request to the PAP President. Therefore, PACJA has space to approach the PAP President to request to formulate the Just Recovery law.

PACJA can advance the Malabo PAP Protocol ratification: Ratification of the Malabo PAP Protocol has been a slow, laborious process[36]. To accelerate the process, PACJA should develop and share strategy papers on the Malabo PAP Protocol, for distribution to MPs, Members of the PAPs, lawmakers and other staff in the foreign ministries.

13.Conclusion

COVID-19 is not only a health and economical, but also a human rights crisis. It has also shown us that governments are capable of urgent, fast, decisive and multi-sectoral action in the emergency response that protects economic, social and cultural rights. This is an opportunity for the G20 to demonstrate global leadership as we move from emergency to recovery, to create a "new normal" that also addresses the climate crisis. There is a need for African countries to legislate the COVID-19 just recovery which centres people and climate change, with the G20 countries supporting Africa's recovery and rebuilding process.

---

[36] https://www.chr.up.ac.za/images/researchunits/dce/resources/Toolkit_for_CSO_advocacy_in_the_PAP.pdf