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Regions Apart: How South Africa and Nigeria Responded to COVID-19

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Abstract

Africa reacted rapidly and collectively to COVID-19. The AU, under the chairmanship of South African President Cyril Ramaphosa in 2020, mobilised health ministers before the first case was reported on the continent, predicated by fears the virus would overwhelm fragile health systems and sluggish economies. This paper explores how African regional organisations have responded to the crisis and whether these responses have been adequate and effective. It then focuses on the case studies of South Africa and Nigeria, the two biggest African economies, examining whether the public view their governments' responses as balanced, constitutional, inclusive and justified.

The pandemic had the potential to cause large-scale devastation in Africa, given the poorly functioning national health systems and the presence of pervasive comorbidities of HIV/AIDS infections, tuberculosis, anaemia, malnutrition and malaria. This made a regional response imperative and the continent called for debt relief, pooled procurement and fair vaccine distribution with a united voice. The Africa Centres for Disease Control and Prevention (Africa CDC) was pivotal to mounting a continental approach to the effects of COVID-19, and the West African Health Organisation (WAHO), the Economic Community for West African States (ECOWAS) and SADC played important roles regionally.

South Africa's precarious economic position and social inequalities were exacerbated by the pandemic: trade was severely disrupted, as were tourism, hospitality, food security, small businesses and many other sectors. The country has the most recorded cases in Africa, with 742,394 cases by 11 November 2020, and at one point had the fifth highest number of total infections globally. South Africa instituted a total lockdown on 23 March 2020. While measures were put in place to assist individuals and firms, and various consultative bodies were established to advise government such as the National Command Council and the Ministerial Advisory Committee, the lockdown was severely criticised for its adverse effect on jobs and livelihoods, and the lack of transparency and accountability. There are fears that COVID-19 strengthened the powers of the police and army, and that after the pandemic, government will be reluctant to cede coercive powers arrogated to itself during the crisis.

In Nigeria, the pandemic has been far less severe, with 64,516 cases recorded by 11 November 2020, but there has been less testing than in South Africa. Nevertheless, COVID-19 put pressure on Nigeria's ailing public healthcare systems. Drawing heavily on its experiences with polio and Ebola, Nigeria initially imposed lockdowns in heavily affected states and while the federal government announced a range of assistance measures, including monetary assistance and food provision to poor households, distribution has been plagued with corruption. There have been tensions about who holds power between the federal and state governments and, similar to South Africa, security forces have often used violence to enforce regulations, as well as threats to media freedom.

In conclusion, Africa has thus far been more prepared and has fared much better than expected in handling COVID-19, but the on-going impact from economic hardships

will have a much great and longer lasting impact than the deaths caused by the virus. Countries like Nigeria and South Africa have managed to 'flatten the curve' but are still dealing with the socio-economic consequences of lockdowns. While both countries have taken extensive economic assistance and recovery measures, the economic impact of the pandemic is unlikely to be eradicated as rapidly as a vaccine is expected to eradicate the disease. In both countries, job losses will no doubt increase existing poverty and inequality and will therefore require urgent attention from government. It is imperative that both governments are transparent about the allocation of public funds to economic recovery and improvement, and post-COVID economic recovery programmes should include investment in the health sector and social capital.

Introduction

Since COVID-19 was first confirmed in China at the start of 2020, it has spread rapidly, and the World Health Organization (WHO) declared COVID-19 a global pandemic on 12 March 2020. On 11 November 2020, total cases sat at 51,251715 million, with 36,710,569 recoveries and 1,2670,930 million deaths.¹

The African continent was one of the last places to be affected by COVID-19. After first cases were recorded in Egypt in February 2020, the virus spread relatively slowly but by mid-July 2020, the situation began to change.² Case numbers on the continent rose drastically on a week-to-week basis, with the Africa Centres for Disease Control and Prevention (Africa CDC) confirming up to a 14% weekly increase of reported cases.³ By 11 November 2020, there were 1,917,960 cases reported in Africa, with 46,272 deaths and 1,622,252 recoveries.⁴

Africa will be severely affected by COVID-19, especially given the uncertainties associated with the virus and the threat of numerous reinfection waves in the future

Africa will be severely affected by COVID-19, especially given the uncertainties associated with the virus and the threat of numerous reinfection waves in the future. The current rate of new infections is alarming, but the global response which resulted in the severe

¹ Statistics as at 11 November 2020, WHO, 'WHO Coronavirus Disease (COVID-19) Dashboard,' https://covid19.who.int/.

² Peter Mwai, "Coronavirus: What's Happening to the Numbers in Africa?," BBC, October 17, 2020, https://www.bbc.com/news/world-africa-53181555.

³ Mwai, "Coronavirus: What's Happening".

⁴ Africa CDC, "Coronavirus Disease 2019 (COVID-19)", https://africacdc.org/covid-19/.

lockdown of markets will have profound socio-economic and political impacts on the continent, many of which have yet to fully play out.

At the continental and sub-regional levels, the paper briefly explores how African regional organisations have responded to the crisis in their respective regions and whether these responses have been adequate and effective. Africa had the institutions, foresight and political will to act early, cooperatively and decisively, even before the pandemic had reached the continent. Compared to other regions, such as Latin America, countries opted to cooperate, rather than go their own way.⁵ At the national level, this paper examines the initial impact of COVID-19 on the two major economies in sub-Saharan Africa, namely South Africa and Nigeria, and considers the policy responses by their respective governments. Both South Africa and Nigeria faced major economic challenges at the onset of the pandemic, including low growth, high unemployment, volatile currencies, a plunging oil price, large debt burdens and credit rating downgrades, which left them poorly positioned to manage the impacts of COVID-19. This paper examines the health, political, and economic measures these countries have taken to deal with the pandemic, assessing their effectiveness, shortcomings and lessons learned. The paper also briefly discusses the degree to which the pandemic has affected the political stability within ruling parties in South Africa and Nigeria, examining whether the public in these countries saw their governments' responses as balanced, constitutional, inclusive and justified.

Africa had the institutions, foresight and political will to act early, cooperatively and decisively

Finally, the paper explores whether clear plans are in place to carefully manage the economic and social costs of the response over the next 18 months, the generally accepted timeframe posited by the WHO before an effective vaccine might be widely available and/or an adequate medical protocol or medicines to manage the clinical risks of the disease. It concludes with a set of policy recommendations on how these countries can and should manage the broad impact of the pandemic more effectively and how they could potentially collaborate on securing a more supportive and effective national, regional and global environment to face the challenges of COVID-19.

Tanzania has been the exception, as it refused to impose any lockdowns. President John Magufuli has been a staunch COVID-19 denialist.

Africa and COVID-19

The African continent was proactive and coordinated in its response to COVID-19. There were several efforts by the AU and its institutions to support member states in a variety of ways, especially through the Africa CDC. South Africa's President, Cyril Ramaphosa, was the AU chairperson in 2020 and has generally been praised for his leadership on COVID-19, both at home and on the continent.

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Learning from the Ebola crisis in West Africa – including the vital role of community structures in outbreak responses in Africa – in 2017 the AU established and launched the Africa CDC meaning that a continental institution was already in place with a direct mandate to tackle health emergencies. In partnership with the WHO, the Africa CDC moved quickly to coordinate the responses of African governments to adopt measures to combat the disease. With just a handful of cases in Africa at the time, AU ministers of health held an emergency meeting in Ethiopia on 22 February 2020 and adopted a joint strategy to combat the virus. They knew the pandemic had the potential to cause large-scale devastation in Africa, given the poorly functioning national health systems and the presence of pervasive comorbidities of HIV/AIDS infections, tuberculosis, anaemia, malnutrition and malaria. This made a regional response imperative.

The pandemic had the potential to cause large-scale devastation in Africa, given the poorly functioning national health systems and the presence of pervasive comorbidities

As will be been seen in the South African and Nigerian case studies, Africa faces many pre-existing challenges which predated COVID-19. Africa's high baseline vulnerability

does not work in its favour and could worsen the impact of COVID-19 on the continent.⁶ Baseline vulnerability in Africa is magnified by weak healthcare systems and the prevalence of illnesses that are, for the most part, preventable. The continent is also plagued by 'inadequate water, sanitation, and hygiene infrastructure, population mobility, and susceptibility for social and political unrest during times of crisis.' Social unrest is of particular concern, since the AU and Africa CDC note that it could potentially arise in response to 'healthcare facilities having insufficient capacity, stock-outs of essential food, medications, or other supplies, and resistance to social distancing policies that limit work, school, cultural events, and/or religious practice.'⁷

The AU and the Africa CDC rapidly recognised the potential havoc of the pandemic and reacted swiftly and firmly to coordinate national responses

The AU and the Africa CDC rapidly recognised the potential havoc of the pandemic and reacted swiftly and firmly to coordinate national responses. The Africa CDC set up the Africa Task Force for Coronavirus (AFTCOR) in February 2020 focused on six pillars: 1) enhanced surveillance; 2) laboratory testing and subtyping; 3) risk communication and community engagement; 4) logistics and supply chain management; 5) infection prevention and control; and 6) case management.⁸ AFTCOR works with the WHO on surveillance, including screening at borders, infection prevention and control in hospitals and clinics, patient management for severe cases, laboratory testing and diagnosis, and engagement with communities.⁹

The AU established task forces at ministerial levels on health, transport, finance, trade and industry. Institutions such as the UN Economic Commission for Africa (UNECA) and the African Peer Review Mechanism published reports on early efforts to combat the pandemic and China and Africa held a virtual summit on COVID-19 responses in June 2020.

The AU also set up the Africa COVID-19 Response Fund and called for debt rescheduling and debt cancellation for African countries. Ramaphosa held a virtual consultation with the Bureau of the AU Heads of State and Government in which he was urged to push G20 countries for a large economic stimulus package, including debt relief, interest waivers and deferred payments. In an online meeting of the G20 in April 2020, it was agreed to suspend

⁶ Africa CDC and the AU, The Africa Joint Continental Strategy for COVID-19 Outbreak, 5 March, 2020 (Addis Ababa: Africa CDC and AU, 2020), https://africacdc.org/download/africa-joint-continental-strategy-for-covid-19-outbreak/.

⁷ Africa CDC and AU, "Joint Continental Strategy", 2.

⁸ Africa CDC and AU, "Joint Continental Strategy".

⁹ Jean Nachega, Moussa Seydi, and Alimuddin Zumla, "The Late Arrival of COVID-19 in Africa - Mitigating Pan-Continental Spread" OUP Public Health Emergency Collection, PMC7184327, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7184327/pdf/ciaa353.pdf.

official debt obligations until 2022, in a so-called 'debt standstill' for Low Income Countries (LICs). It could postpone \$12 billion in payments in 2020, with a total temporary relief of over \$20 billion. However, this only covers about a quarter of Africa's expected debt service payments, and when the debt is unfrozen, it will need to be paid again. No relief was offered to lower-middle income countries, such as Côte d'Ivoire, Ghana, Kenya and South Africa.¹⁰

In addition, the AU appointed four Special Envoys to help raise resources for Africa's COVID-19 efforts from G20 states, international organisations, other donors and African businesses. They have a target of securing debt relief of \$44 billion, seeking a blanket suspension of interest payments for all African states and a stimulus package of \$100-150 billion. UNECA has also been active in lobbying bodies such as the World Bank and the International Monetary Fund (IMF) for substantial economic assistance for Africa. UNECA convened a virtual meeting of African ministers of finance in March 2020 and took their concerns to these international financial institutions.

In June 2020, led by the Africa CDC, the AU's Africa Medical Supplies Platform was launched. This is a single continental marketplace where African countries can access critical medical supplies, such as test kits, from suppliers and manufacturers in Africa and around the world in the necessary quantities and at competitive prices, using collective buying power. This platform complements the work being done to ensure that sufficient pharmaceuticals and medical supplies, personal protective equipment and hospital facilities are available to manage the anticipated increase in COVID-19 patients.

African sub-regions have also been proactive. The pandemic response of the AU and the continent's different Regional Economic Communities (RECs) are meant to be integrated and the Africa CDC works closely with five newly created Regional Coordination Centres (RCC).

ECOWAS has created its own specialised agency for managing healthcare in the region, the West African Health Organisation (WAHO).¹⁴ In a recent study of regional pandemic responses in Africa, four general types of regional responses were noted: 'information and

ECOWAS was significantly better prepared in comparison to the other RECs to 'assume a regional information and communication role

James Henry Murray, "Africa's Debt Burden and the COVID-19 Economic Crisis," Accord, June 3, 2020, https://www.accord.org.za/analysis/africas-debt-burden-and-the-covid-19-economic-crisis/.

¹¹ The Special Envoys are well-known and respected Africans: Ngozi Okonjo-Iweala of Nigeria, Donald Kaberuka of Rwanda, Tidjane Thiam of Senegal and Trevor Manuel of South Africa.

¹² Murray, "Africa's Debt Burden".

¹³ For further information on ECA responses see: https://www.uneca.org/eca-covid-19-response.

Alfonso Medinilla, Bruce Byiers and Philomena Apiko, "African Regional responses to COVID-19" (Discussion Paper No. 272, European Centre for Development Policy Management (ECDPM), May 2020), https://ecdpm.org/wp-content/uploads/African-regional-responses-COVID-19-discussion-paper-272-ECDPM.pdf.

communication; nudging and guidance; coordination of actions; and collective action'.¹⁵ It was found that ECOWAS was significantly better prepared in comparison to the other RECs to 'assume a regional information and communication role' and one month before the disease was confirmed on the continent, the WAHO had already provided states in the region with guidelines surrounding the pandemic and continues to provide detailed, regular updates on the pandemic response on its website.¹⁶

Individual ECOWAS member states were invited to contribute towards the AU Solidarity Fund and the REC also tried to persuade its members to set aside a minimum of 15% of their national budgets toward investing in better health care. However, under the current economic strain imposed by the pandemic, this seems unlikely especially in the Nigerian case where the country has to deal with the economic effects of low oil prices, as well as the new shocks imposed by the pandemic. ¹⁷ ECOWAS member states have placed the Nigerian president in charge of coordinating the sub-regional pandemic response.

In ECOWAS, the experience of dealing with Ebola outbreaks has proven invaluable to managing COVID-19 responses and they rely heavily on the Regional Centre for Surveillance and Disease Control set up in response to Ebola. It is argued that the Ebola outbreak in the region ultimately strengthened the commitment of ECOWAS states to create 'functioning regional health institutions', and the WAHO has improved since following its delayed response to the Ebola outbreak by responding swiftly to COVID-19 and procuring the necessary testing and treatment equipment early in the disease outbreak.¹⁸

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In April 2020, SADC published guidelines that aimed to limit the spread of COVID-19 through transport across borders and facilitate the flow of essential goods, including fuel, food and medicines. The guidelines call for simplified and automated trade and transport facilitation processes and documents, information sharing and providing guidance on services by governments, transport operators and transport operators associations.¹⁹

¹⁵ Medinilla, et al., "African Regional Responses", 11.

¹⁶ Medinilla, et al., "African Regional Responses", 13.

¹⁷ Medinilla, et al., "African Regional Responses", 13-15; Mma Amara Ekeruche, "Assessing the Socio-Economic Impact of COVID-19" (webinar, SAIIA-BRICS Policy Centre Event, May 5, 2020).

¹⁸ Medinilla et al., "African Regional Responses", 20.

[&]quot;SADC adopts regional Guidelines for harmonising and facilitating movement of critical goods and services across the region during the COVID-19," *Tralac*, April 8, 2020, https://www.tralac.org/news/article/14498-sadc-adopts-regional-guidelines-for-harmonising-and-facilitating-movement-of-critical-goods-and-services-across-the-region-during-the-covid-19.html.

SADC also displays COVID-19 statistics and situation reports for member countries on its website, and regularly publishes research on COVID-19-related issues, including food security, transport and the economic impact of the pandemic.²⁰

South Africa

South Africa had a population of 56.6 million and a GDP of \$351 billion in 2019, translating to GDP per capita of \$6,000, according to World Bank figures.²¹ The country had a growth rate of just 0.15% in 2019 and the economy is forecast to contract by 7.2% in 2020 – the largest contraction in 90 years, according to Statistics South Africa (Stats SA).²² The country is already in a recession and has been downgraded by all three major credit rating agencies to subinvestment grade or 'junk status', making borrowing much more expensive. Indebtedness is rising, projected at almost \$255 billion, or 81.8% of GDP by the end of the 2020-2021 fiscal year, an increase from the estimate of 65.6% of GDP projected in February 2020. Debt-service costs will increase from \$13 billion in 2019/20 to \$15 billion in 2020/21, or from 4% to 4.9% of GDP, and are expected to reach \$19 billion, or 5.4% of GDP, in 2022/23.²³ The budget deficit is steadily growing, government budgets are being cut and tax revenues are down by over \$5 billion. The rand had depreciated 18% against the dollar at the end of June 2020.

Unemployment has topped 30%²⁴ and South Africa is reeling from the effects of 10 years of cronyism, corruption and 'state capture' under the Jacob Zuma administration. It is also characterised by massive inequalities between rich and poor, with the second highest Gini Coefficient in the world (0,625, narrowly behind Lesotho).²⁵ Politically, South Africa has been dominated by the African National Congress (ANC) since 1994, but the party is riven by factionalism, corruption and infighting. Ramaphosa has to balance many competing interests and seeks to mitigate the effects of state capture by reconstructing governance institutions and rebuilding trust in these organisations.

In terms of key health indicators, South Africa spent 8.1% of its budget on health in 2017, at just over \$500 per capita.²⁶ The health system struggles with a high incidence of HIV/AIDS, tuberculosis, malaria and other comorbidities and the quality of public health facilities is generally low. One of the most pressing concerns in South Africa, like other countries, has been the availability of critical medical resources and space in hospitals. Not only have

 $^{20 \}qquad \text{SADC, "SADC Region: COVID-19 Status Update"}, \\ \underline{\text{https://www.sadc.int/issues/covid-19/.}}$

²¹ World Bank, "South Africa", country database, https://data.worldbank.org/country/ZA.

[&]quot;South Africa's Recession Deepens as First Quarter GDP Sinks 2%," Business Tech, June 30, 2020, https://businesstech.co.za/news/finance/412009/south-africas-recession-deepens-as-first-quarter-gdp-sinks-2/#:~:text=%E2%80%9CThe%20South%20African%20 economy%20is,end%20of%20this%20fiscal%20year.

²³ Business Tech, "South Africa's Recession".

^{24 &#}x27;SA economy sheds 2,2 million jobs in Q2 but unemployment levels drop,' Statistics South Africa, http://www.statssa.gov.za/?p=136 33#:~:text=The%20significant%20changes%20in%20the,recorded%20since%20quarter%203%3A2009.

World Population Review, 'Gini Coefficient by Country 2020', https://worldpopulationreview.com/country-rankings/gini-coefficient-by-country.

²⁶ Tawanda Makombo, "Fast Facts: Public health sector in need of an antidote," Fast Facts 6, no. 298 (2016): 6.

hospitals had to deal with regular illnesses and procedures, they are now faced with a rapidly spreading disease requiring critical medical care in its most extreme form.

Not only have hospitals had to deal with regular illnesses and procedures, they are now faced with a rapidly spreading disease requiring critical medical care in its most extreme form

Based on the predictions of the COVID-19 Modelling Consortium and its projections for both best and worst case scenarios, South Africa would have a shortage of intensive care beds for patients during the peak of COVID-19 in both scenarios.²⁷ Prior to the pandemic outbreak, South Africa only had a total of 3,300 beds in intensive care units available and according to the Consortium model, the demand of intensive care beds between June and November could range anywhere from 20,000 to 35,000. General hospital beds in the country number 125,390 and according to the same data, 75,000 to 90,000 of the available general hospital beds will be required to accommodate COVID-19 patients, in addition to the required intensive care beds.²⁸

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The availability of healthcare practitioners in South Africa is also concerning. According to WHO guidelines, the ideal ratio of healthcare practitioners is 30 per every 10,000 citizens. In South Africa this figure roughly equals 3.2 healthcare practitioners for every 10,000 people.²⁹ This is the background against which the COVID-19 pandemic is playing out.

Policy responses to COVID-19

Like many countries in Africa, South Africa's economy was affected by the pandemic before infections actually arrived on the continent, due to the globalisation of the world.

^{27 &}quot;Is SA's Healthcare System Prepared for COVID-19?", *Investec*, July 13, 2020, https://www.investec.com/en_za/focus/beyond-wealth/ is-south-africas-healthcare-system-prepared-for-covid-19.html.

²⁸ Investec, "Is SA's Healthcare System Prepared?"

²⁹ Investec, "Is SA's Healthcare System Prepared?"

The lockdown imposed in Wuhan, China, and then in parts of Europe had a significant effect on economic activity, particularly commodity exports, as global supply chains were severely disrupted. The Organisation for Economic Co-operation and Development (OECD) estimated that the first half of 2020 showed a decline of almost 13% in global GDP.³⁰ It notes that air freight costs were up 30% for China-US routes, and over 60% on some key North-America routes. Other effects include 10%-20% year-on-year drops in cargo in shipping ports, stranded containers when China shut down, increased food cargo prices, lockdown-affected labour reduction at ports to unload ships, and added costs and time for additional health and safety precautions.³¹

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Economically, the virus has affected trade (initially with China and then everywhere), mining, oil, tourism, hospitality, food security, small businesses, informal trade and investment, among many other sectors. Developed countries are also struggling to cope with COVID-19, in a manner never witnessed before. The world has seen lower investment, budget reallocations and plummeting tax revenue. COVID-19 saw a 3% drop in global trade values in the first quarter of 2020 and the UN Conference on Trade and Development (UNCTAD) predicts a quarter-on-quarter decline of 27% in the second quarter. Commodity prices fell by a record 20% in March, driven by steep drops in oil prices. UNCTAD forecast that the global tourism sector could lose between \$1.2 trillion and \$3.3 trillion in 2020, between 1.5% and 4.2% of global GDP.³²

In online maps plotting the number of COVID-19 cases in Africa, the largest circle by some distance hovers over South Africa, with about ten times more cases than the next biggest outbreaks, in Morocco and Egypt.³³

The first confirmed COVID-19 case in South Africa was announced on 5 March 2020 and by 11 November 2020, the country had registered 742,394 confirmed cases, with 686,458 recoveries, and 20,011 deaths.³⁴ South Africa at one point had the fifth highest number of total infections in the world, after the US, Brazil, India and Russia, all much larger and more

OECD, COVID-19 and International Trade: Issues and Actions, OECD policy responses to COVID-19, (OECD, 2020), https://www.oecd.org/coronavirus/policy-responses/covid-19-and-international-trade-issues-and-actions-494da2fa/.

³¹ OECD, "COVID-19 and International Trade".

³² UNCTAD, "Coronavirus will Cost Global Tourism at least \$1.2 trillion", UNCTAD, July 1, 2020, https://unctad.org/en/pages/newsdetails. aspx?OriginalVersionID=2416.

[&]quot;Coronavirus in Africa Tracker: How Many Covid-19 Cases an Where?", *African Arguments*, October 15, 2020, https://africanarguments.org/2020/07/26/coronavirus-in-africa-tracker-how-many-cases-and-where-latest/.

³⁴ Government of South Africa, Department of Health, "Update on Covid-19", https://sacoronavirus.co.za/, November 12, 2020.

populous states. By early November 2020, South Africa was registering more than 2,000 new cases daily, considerably lower than its peak of almost 13,000 new cases per day in early August 2020.³⁵

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On 15 March 2020, Ramaphosa addressed the nation for the first time regarding COVID-19, after reaching out to scientific experts, other political parties, government, business, organised labour and civil society, and continued to provide regular updates since.

Ramaphosa declared a National State of Disaster by invoking the Disaster Management Act (Act 57 of 2002). He stressed that the government would be taking drastic and urgent measures to slow the spread of the virus, but also that they would do things 'by the book', giving ample time for regulations to be promulgated and adhered to. Ramaphosa called for hand hygiene, social distancing and imposed restrictions on social gatherings. He instituted a travel ban on foreign nationals from high-risk countries, later extended to a total grounding of flights except for repatriations. Ramaphosa urged South Africans not to travel and said returning travellers would be subject to quarantine. He announced closure of a number of border posts and seaports, and all public schools and universities. He urged institutions remaining open to increase hygiene protocols, and later promoted the wearing of face masks.

On 23 March, Ramaphosa announced a total national lockdown which effectively kept the population in their homes for five weeks, with the exception of essential service workers. The bulk of the economy was in a stand-still until the end of May 2020. Thereafter, the country gradually eased restrictions from level 5 (the highest of the country's five levels) and by September 2020 the country had moved to level 1 (the lowest of the five levels).

Ramaphosa deployed the South African National Defence Force (SANDF) to assist the police in enforcing the regulations,³⁶ marking a transition from self-isolation to government-mandated isolation. It was noted, 'The public health justification for isolation or quarantine is undisputed. However, civil liberties will of necessity be infringed, and

³⁵ Government of South Africa, Department of Health, 'Update on Covid-19 - 11 November 2020,' https://sacoronavirus.co.za/2020/11/11/ update-on-covid-19-11th-november-2020/.

South African Government, "President Cyril Ramaphosa: Escalation of Measures to Combat Coronavirus COVID-19 pandemic", speech, March 23, 2020, https://www.gov.za/speeches/president-cyril-ramaphosa-escalation-measures-combat-coronavirus-covid-19-pandemic-23-mar.

historically, such limitations on individual liberties have been associated with abuse and discrimination.'37

Ramaphosa also announced several economic measures, developed in consultation with labour and business. These included: setting up a Solidarity Fund for financial contributions from individuals, firms and foreign governments; measures to prevent huge price hikes and stockpiling by customers; a wider safety net for the informal sector; a Temporary Employee Relief Scheme to enable employers to continue to pay workers; utilisation of funds from the Unemployment Insurance Fund to support small and medium enterprises as well as other assistance; and tax breaks for the poor and tax relief for certain businesses.³⁸

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Other measures to stabilise the economy, deal with drops in supply and demand and to protect jobs included a \$31.7 billion social and economic support package, approximately 10% of GDP. In the medium to longer term, once the worst of the pandemic has passed, measures should be introduced to stimulate both supply and demand through projects such as infrastructure developments, structural economic reforms and a focus on jobs and growth.

Between January and July 2020, the South African Reserve Bank cut the reporate by a total of 300 basis points (3%), to its lowest ever level of 3.5%.³⁹ This in turn reduced commercial interest rates to relieve some pressure on debt servicing.⁴⁰

In the June 2020 Supplementary Budget Review, the South African National Treasury wrote:⁴¹

The lockdown has taken a severe toll on an already fragile economy. The limited data available suggests a steep contraction across all sectors over the past three months. Construction, retail and hospitality were particularly hard hit, and retail

Keymanthri Moodley, Adetayo Emmanuel Obasa and Leslie London, "Isolation and quarantine in South Africa during COVID-19: Draconian measures or proportional response?," South African Medical Journal (SAMJ) 110, no. 6 (2020), https://www.samj.org.za/index.php/samj/article/view/12913/9308.

³⁸ South African Government, "President Cyril Ramaphosa".

³⁹ Trading Economics, "South Africa Interest Rate", https://tradingeconomics.com/south-africa/interest-rate.

Emmanuel Sekyere et al., "The Impact of COVID-19 in South Africa" (Africa Program Occasional Paper, Wilson Center, Washington, DC, 2020), https://www.wilsoncenter.org/sites/default/files/media/uploads/documents/The%20Impact%20of%20COVID-19%20 in%20South%20Africa_0.pdf.

⁴¹ South African Government, National Treasury, http://www.treasury.gov.za/documents/National%20Budget/2020S/review/Chapter%203.pdf.

sales restrictions had significant knock-on effects across the economy. Reduced global demand and border closures, alongside uncertainty about the application of lockdown regulations, further hampered activity.

An overview of how the pandemic impacted different sectors can be seen in Table 1.

TABLE 1 IMPACT OF PANDEMIC ON TRADING STATUS BY SECTOR*				
Percentage	Trading at full capacity	Trading at partial capacity	Permanently ceased trading	Temporarily ceased trading
Agriculture, hunting, forestry & fishing	11.8	22.4	11.6	54.2
Mining & quarrying	5.6	72.2	-	22.2
Manufacturing	7.5	48.0	6.1	38.4
Electricity, gas & water supply	12.8	43.6	-	43.6
Construction	0.6	18.5	13.7	67.2
Trade	4.6	29.6	5.9	59.9
Transport, storage & commulcation	7.8	58.9	8.9	24.4
Real estate & other business services	13.8	57.3	4.1	24.8
Community, social & personal services	8.5	32.5	12.0	47.0
Other	6.9	35.3	6.0	51.8

^{*} percentage of 2 182 respondents surveyed from 14–30 April 2020

Source: South African Government, National Treasury, Supplementary Budget Review 2020 (Pretoria: National Treasury, 2020), http://www.treasury.gov.za/documents/National%20Budget/2020S/review/FullSBR.pdf, citing StatsSA

According to StatsSA, for the first two weeks of April, nearly 90% of businesses reported below-normal turnover, 48% ceased activity temporarily and 9% permanently closed operations. Business confidence in the second quarter of 2020 was at its lowest level since the series began in 1975.⁴²

In October, Ramaphosa outlined the country's economic recovery plan. Most importantly, the plan targets unemployment, infrastructure development, improving electricity generation and improving social welfare. The South African government hopes to include more renewable sources in its electricity generation and aims to provide an additional 11,800 MW of power by 2022. Over the next two years, the government hopes to drastically increase employment opportunities: it has set aside \$5.5 billion, and a further \$880 million for immediate use to create 800,000 new jobs by March 2021. Ramaphosa also announced

⁴² StatsSA, "COVID-19: Nine in ten businesses report reduced turnover", May 14 2020, http://www.statssa.gov.za/?p=13313.

that the \$22 monthly social welfare grant instituted as part of COVID-19 relief measures would be extended by a further three months.⁴³

On the health front, in addition to the country's world-class National Institute for Communicable Diseases (NICD)⁴⁴ and the Ministry of Health that publish daily statistics related to COVID-19, a number of other bodies were established to combat the disease. Ramaphosa set up and chairs a National Command Council (NCC) composed of 19 cabinet ministers (including members of the Inter-Ministerial Committee on COVID-19), their respective directors-general, the National Police Commissioner, head of the SANDF, and a secretariat. The NCC receives information from the National Joint Operations and Intelligence Structure (NatJoints). In March, a high-powered Ministerial Advisory Committee (MAC) was also established. Critics have, however, decried the opaqueness and lack of scrutiny and accountability of these bodies. It is not clear whether the National Health Council was consulted about the establishment of MAC, which the National Health Act requires. Questions have been raised about the governance of MAC: how members were selected, who it reports to and what the scope of its work is. It has also faced criticism as being unrepresentative of a broad spectrum of civil society organisations in the country, and on being too focused on the medical side of the pandemic, neglecting the economic repercussions.

Reactions to policy provisions

The intention of the lockdown was to 'flatten the curve' of infection rates, to ostensibly buy time to improve the health system's capacity to cope with the full impact of COVID-19. However, many questions remain around the efficacy of the lockdown measures given the closure of businesses, rising unemployment and the impact on millions of livelihoods.

Many questions remain around the efficacy of the lockdown measures given the closure of businesses, rising unemployment and the impact on millions of livelihoods

South Africa's lockdown has had stark effects; social, economic and political. The lockdown was touted as saving lives but criticised for destroying livelihoods as businesses had to close their doors and lay off staff. Many did not reopen. The poor were worst off due to lost income, lost jobs and rising hunger. The Southern Africa Agri Initiative (SAAI) estimates that

⁴³ Bloomberg, "South Africa's Economic Recovery Plan in a Nutshell," *Business Tech*, October 16, 2020, https://businesstech.co.za/news/business/441174/south-africas-economic-recovery-plan-in-a-nutshell/.

⁴⁴ For more information, see the National Institute for Communicable Diseases website: https://www.nicd.ac.za/.

350,000 livelihoods were under threat due to the alcohol ban, on farms and in restaurants. The wine industry contributes \$2.4 billion to the South African GDP and \$5.2 billion was lost in tax since March, more than the \$4.5 billion borrowed from the IMF.⁴⁵

Approximately three million people in South Africa lost their jobs between February and April 2020, with about two million of those women

According to a recent study, approximately three million people in South Africa lost their jobs between February and April 2020, with about two million of those women. Many jobs were in the informal sector. The study contends that (already low) employment levels declined by 18% between February and April, with a disproportionate effect on vulnerable groups. Many of those who lost jobs did not have access to social grants. An estimated one million people fell into poverty, each with an average of three dependents. According to the Centre for Development and Enterprise, the number of young people with a job fell by 500,000 between 2008 and 2019 – well before the pandemic. Over 8 million South Africans aged 15-34 are classified as 'NEETS' – not in employment, education or training.

Initially praised for his firm and logical leadership from some quarters, many others condemned the measures by Ramaphosa as 'too little too late.' 49 Many questioned whether shutting down the economy had any benefit. Heavily populated informal settlements and townships made social distancing nigh impossible. These areas also lack adequate water and sanitation facilities, which are critical in reducing COVID-19 infection, on top of a creaking public healthcare system, chronic undernourishment, poverty and high comorbidities from HIV/AIDS, tuberculosis, hypertension and diabetes. The ability to test, trace and track at the scale required has simply not been feasible in this context.

A report by the African Peer Review Mechanism on early responses by African countries to the pandemic illustrates these underlying challenges starkly. It sheds light on the particular predicament of South Africa where 47% and 51% of people do not have access to residential

⁴⁵ Rob Rose, 'Dlamini Zuma relied on 'unsound scientific data and hearsay', 'Financial Mail, August 3, 2020, https://www.businesslive.co.za/fm/opinion/2020-08-03-rob-rose-dlamini-zuma-relied-on-unsound-scientific-data-and-hearsay/.

The National Income Dynamics Study (NIDS) Coronavirus Rapid Mobile Survey (CRAM) assesses the impact of COVID-19 on employment and welfare of a representative sample of 7,000 South Africans. Participants were surveyed between 7 May and 27 June 2020.

⁴⁷ Lameez Omarjee, 'Covid-19 Cuts SA Employment Figures by three million, Women Worst Affected – Study,' *News24*, July 15, 2020, https://www.news24.com/fin24/economy/covid-19-cuts-sa-employment-figures-by-three-million-women-worst-affected-study-20200715.

⁴⁸ Centre for Development and Enterprise (CDE), *Agenda 2019: Tackling Youth Unemployment* (Johannesburg: CDE, 2019), https://www.cde.org.za/agenda-2019-tackling-youth-unemployment/.

⁴⁹ See for example: Dirk Kotze, 'What Ramaphosa's COVID-19 decisions say about South Africa's democracy', *The Conversation*, June 16, 2020, https://theconversation.com/what-ramaphosas-covid-19-decisions-say-about-south-africas-democracy-140186.

piped water and toilet facilities respectively, and 44% of citizens in rural areas have to leave their place of residence to access water. Under the lockdown measures, working from home was encouraged but only 58% of citizens have access to reliable electricity supply. The urban-rural divide is clearly visible in terms of access to basic services with only 22% of citizens in rural areas able to access these, as opposed to 67% in urban areas.⁵⁰

Reflecting on the dynamics of social distancing protocols in South Africa, there were many difficulties for those living in closely-located informal housing, where social distancing is impossible in these confined spaces. While many people are safest outside, the army and police enforced lockdown regulations, heightening tension between people and the security forces during the hard lockdown period and resulting in violence at times.⁵¹ The government has been criticised for several deaths and many injuries caused by heavy-handed enforcement of the regulations. The South African Human Rights Commission acknowledged that the government's prompt response in de-escalating the spread of the pandemic was a well-intentioned strategy, but expressed concerns regarding the excessive use of force.⁵²

The lockdown did make a difference, initially, in slowing the spread of the virus, and the South African government has been lauded for adhering to a scientific and evidence-based approach.

But despite this rhetoric, government was also accused of being indifferent to the desperate plight of the majority of its citizens. Initial trust in and strong support for Ramaphosa's leadership and government actions eroded over time, in part due to the violence exhibited by the security forces enforcing regulation, and also in part due to the rapid escalation in infections anyway once lockdown restrictions were eased, such as the reopening of schools. Subsequent infections of teachers and learners, and climbing infection numbers generally, caused Ramaphosa to reimpose public school closures in late July.

While technology enabled the rapid spread of fake news and unreliable information about COVID-19, it has also helped in tracing who infected people have come into contact with. The government, for example, collaborated with the University of Cape Town to develop the Covi-ID chatbot to provide up to date information. Government also asked for assistance from technology companies to help develop a national COVID-19 tracing database and by September 2020, a smartphone application for digital contact tracing had been launched. The application relies on Bluetooth networks and when in close proximity, records the presence of other devices using the application. Users then anonymously indicate in the application if they have tested positive for COVID-19 and based on the devices registered

African Peer Review Mechanism (APRM), *Africa's governance response to COVID-19*, preliminary report 2020, (Midrand: APRM, 2020), https://www.aprm-au.org/publications/africas-governance-report-to-covid-19/.

⁵¹ Sekyere et al., "The Impact of COVID-19".

South African Human Rights Commission (SAHRC), 'SAHRC Call on the State - Including the SANDF and SAPS - to Uphold and Respect Human Rights during Lockdown,' media statement, April 14, 2020, https://www.sahrc.org.za/index.php/sahrc-media/news-2/item/2326-media-statement-sahrc-calls-on-the-state-including-the-sandf-and-saps-to-uphold-and-respect-human-rights-during-lockdown.

While technology enabled the rapid spread of fake news and unreliable information about COVID-19, it has also helped in tracing who infected people have come into contact with

previously, other users are notified of possible exposure.⁵³ A former Constitutional Court Justice was appointed as the COVID-19 designate judge to protect people's personal information and privacy, especially in terms of electronic tracking and tracing.

For many, technology allowed people to work from home and to do home schooling, but the pre-existing 'digital divide' between those with good internet connectivity and smart devices, and those without, has been sharply exposed once again.

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Politics and the pandemic

The public announcements made during the pandemic indicate that long-standing divisions in the ruling ANC have not been resolved by the crisis. With ministers contradicting each other and some backtracking on regulations, there was a growing sense that despite all the institutions created, government was insufficiently coordinated.

The ideological differences in the ruling party about the role of the state, how the economy should be managed and how to pay for reforms are still manifest, as well as vested interests in the lucrative procurement kickbacks on offer in public tendering. Ramaphosa chastised those implicated in diverting COVID-19 funding for corrupt purposes in his July 2020 national address. Cabinet ministers continue to disagree about job losses and the future of South Africa's failing state-owned enterprises, and the virus has only amplified these splits.

Opposition parties and industry associations have taken government to court over the legitimacy of some regulations, including the decision to ban tobacco products on the

Government of South Africa, Department of Health, 'COVID Alert SA App,' https://sacoronavirus.co.za/covidalert/.

Opposition parties and industry associations have taken government to court over the legitimacy of some regulations

basis that COVID-19 is a respiratory disease.⁵⁴ The ban allowed the widespread black market to flourish. Government also banned alcohol sales, then allowed them, and then banned them again, saying it wanted to reduce alcohol-related admissions to free up beds for COVID-19 patients, in over-stretched public and private hospitals.⁵⁵ Both bans were later rescinded. Table 2 provides an overview of legal proceedings against the government.

TABLE 2 COURT CASES CHALLENGING LOCKDOWN MEASURES IN SOUTH AFRICA*				
Date	Description	Outcome		
4 May 2020	The Fair-Trade Independent Tobacco Association (FITA) lodges an application with the High Court of South Africa (Pretoria) for the overturn of the government's ban on the sale of tobacco products as part of its COVID-19 lockdown regulations. ^a The case was heard on 10 June 2020 and judgment delivered on 26 June 2020. ^b	Application dismissed on 26 June 2020; FITA has appealed against this decision, heard on 15 July 2020, resulting in an order dismissing the appeal on 24 July 2020. ^c		
Mid-May 2020	The Democratic Alliance (DA) challenged the government on its lockdown regulations, particularly the nationwide curfews, restrictions on personal movement, and the prohibition of e-commerce during hard lockdown. The DA also challenged the lockdown's constitutionality. ^d	The DA was not granted direct access to the Constitutional Court and the case was dismissed. ^e		
21 May 2020	The Helen Suzman Foundation (HSF) approached the Constitutional Court to correct perceived disregard for the constitutional stipulation of separation of powers. The HSF maintained that both legislative and executive power have been confined largely to the Minister of Cooperative Governance and Traditional Affairs (COGTA) under the Disaster Management Act and not with the Executive and Parliament as per the constitution.	Having considered the application, the Constitutional Court ruled on 3 July 2020 that it did not fall within the exclusive jurisdiction of the Court. On 24 July 2020 the HSF filed an application with the High Court. ⁹		

⁵⁴ Lawrence Hamilton, 'What Sets Good and Bad Leaders Apart in the Coronavirus Era,' *The Convers*ation, June 7, 2020, https://theconversation.com/what-sets-good-and-bad-leaders-apart-in-the-coronavirus-era-140013.

The gulf between public and private healthcare has been laid bare. For example, two-thirds of the 3,300 ventilators in South Africa are in private hospitals, and hence unaffordable by the majority of the population. However, an agreement was reached to share these important resources.

28 May 2020	An application in which Mr Reyno Dawid De Beer and the Liberty Fighters Network challenge the Minister of COGTA directly over the validity of lockdown regulations was heard in the Pretoria High Court. h	Judgment was delivered on 2 June 2020; the Court ordered the regulations imposed under Section 27(2) of the Disaster Management Act unconstitutional and gave the Minister of COGTA 14 days to amend the legislation. On 10 June 2020, the minister appealed the decision.
17 June 2020	The Freedom Front Plus (political party) questioned the constitutionality of the Disaster Management Act in the High Court. ^k Interestingly, the party cited similar concerns to those of the HSF. ^l	The case was dismissed early in July. ^m
June-July 2020	Mmusi Maimane (former DA leader) and his One South Africa Movement challenged the government's decision to reopen schools and shift to level 3 lockdown. The matter was initially brought before the Constitutional Court where it was dismissed. The same matter was then brought before the Pretoria High Court.	The Constitutional Court dismissed the application on 5 June. The application to the High Court was also unsuccessful and dismissed on 1 July 2020.
2 July 2020	The case by Equal Education and two school governing bodies challenging the Minster of Basic Education and various MECs on irregularities in the National School Nutrition Programme (NSNP) was heard. ^q When schools closed as a result of the pandemic, the NSNP was suspended. Equal Education argued that the provision of meals for students should resume with the reopening of schools and should apply to all learners whether they are attending in-person classes or not. ^r	Judgment was delivered on 17 July 2020; the order includes the stipulation that meals continue to be provided to learners under the NSNP whether they are physically at school or not. ^S
Late July - August 2020	British American Tobacco South Africa (BATSA), following the defeat of FITA, intended to challenge the ban on the sale of cigarettes and other tobacco products with a hearing by the Western Cape High Court scheduled for August 2020. ^t	A hearing was scheduled for August 2020, but the ban was lifted at lockdown level 1, so the hearing became moot.
18 August 2020	The Southern Africa Agri Initiative (SAAI) – representing about 120 family-owned wine farms facing ruin – brought court proceedings against the COGTA minister over the alcohol ban.	Ban lifted, so the case was withdrawn.

^{*} A number of court cases have been applied for throughout South Africa's lockdown and while some are still ongoing, this table presents some of the most prominent court cases in the country.

- a Ernest Mabuza, 'The High Court Hears Case on the Lockdown Tobacco Sales Ban', *Times Live*, June 10, 2020, https://www.timeslive.co.za/news/south-africa/2020-06-10-timeline-how-the-legal-fight-to-unban-cigarette-sales-has-unfolded-so-far/.
- b Fair-Trade Independent Tobacco Association v The President of the Republic of South Africa and the Minister of Co-operative Governance and Traditional Affairs, 21688/2020, High Court of South Africa, June 26, 2020, http://www.saflii.org/za/cases/ZAGPPHC/2020/246.pdf.
- c Fair-Trade Independent Tobacco Association v. The President of the Republic of South Africa and the Minister of Co-operative Governance and Traditional Affairs, 21688/2020, High Court of South Africa, July 24, 2020, http://www.saflii.org/za/cases/ZAGPPHC/2020/311.pdf.
- d 'DA to Challenge 'Irrational' Lockdown Rules in Court', *Business Tech*, May 14, 2020, https://businesstech.co.za/news/government/397953/da-to-challenge-irrational-lockdown-rules-in-court/.

- e Bonga Dlulane, 'DA Denied Direct Access to ConCourt to Challenge Lockdown Regulations', *Eye Witness News*, July 1, 2020, https://ewn.co.za/2020/07/01/da-denied-direct-access-to-concourt-to-challenge-lockdown-regulations.
- f Helen Suzman Foundation (HSF), 'Press Release: HSF Approaches the High Court in Relation to COVID-19', press release, July 28, 2020, https://hsf.org.za/news/press-releases/press-release-hsf-approaches-the-high-court-in-relation-to-covid-19.
- g HSF, "Press Release"
- h Reyno Dawid De Beer and Liberty Fighters Network (LFV) vs The Minister of Cooperative Governance and Traditional Affairs, 21542/2020, High court of South Africa, June 02, 2020, http://www.saflii.org/za/cases/ZAGPPHC/2020/184.pdf.
- i De Beer and LFN vs The Minister of Cooperative Governance and Traditional Affairs".
- j Ektaa Deochand, Tendai Mafuma and Mbalenhle Baduza, 'Covid-19: Constitutional Conundrums as Lockdown Court Challenges Mount', City Press, June 12, 2020, https://www.news24.com/citypress/voices/covid-19-constitutional-conundrums-as-lockdown-court-challenges-mount-20200612.
- k Helene Eloff, 'The Latest on Five Lockdown Court Cases', *Lowvelder*, June 19, 2020, https://lowvelder.co.za/627049/the-latest-on-five-controversial-lockdown-court-cases/.
- I Zelda Venter, 'Lockdown Challenge by Freedom Front Plus Flops in Court', *IOL*, July 08, 2020, https://www.iol.co.za/pretoria-news/lockdown-challenge-by-freedom-front-plus-flops-in-court-50584893.
- m Venter, "Lockdown Challenge".
- n Dan Meyer, 'Maimane Loses High Court Bid to Prevent Reopening of Schools', *The South African*, July 1, 2020, https://www.the southafrican.com/news/mmusi-maimane-one-sa-movement-school-reopening-high-court-1-july-2020/.
- o Dan Meyer, 'Maimane Loses Con Court Bid to Stop School Reopening', *The South African*, June 5, 2020, https://www.thesouth-african.com/news/maimane-loses-constitutional-court-schools-education-angie-motshekga-5-june-2020/.
- p Meyer, "Maimane Loses High Court Bid".
- q Equal Education and others vs The Minister of Basic Education and others, 22588/2020, July 17, 2020, http://www.saflii.org/za/cases/ZAGPPHC/2020/306.pdf.
- r Equal Education, 'Joint Media Statement: School Meals Court Case to be Heard this Thursday 2 July, as Education Departments Shamefully Fail to Honour Latest Promise', media statement, June 29, 2020, https://equaleducation.org.
 shamefully-fail-to-honour-latest-promise/.
- s "Equal Education and others vs The Minister".
- t Jan Cronje, 'British America Tobacco SA Says Cigarette Ban an 'Exercise in Smoke and Mirrors' in Court Filing,' *Fin24*, July 29, 2020, https://www.news24.com/fin24/economy/south-africa/british-american-tobacco-sa-says-cigarette-ban-an-exercise-in-smoke-and-mirrors-in-court-filing-20200729.

As the table illustrates, the South African government has been successful in most instances, with very few court rulings in favour of applicants.

The scientific basis of South Africa's lockdown decisions

Due to the novelty of and speed at which COVID-19 spread across the globe, the luxury of scientific study to understand and treat the disease has not been possible. Governments and health practitioners everywhere have, for the most part, had to adapt and learn in practice. Without a solid scientific basis, one that is still being developed, it is hard to make any decision with absolute certainty that the suggested measures work. There has been some scientific basis to many of the decisions made during responses, in particular relating to social distancing, the use of masks and increased hand hygiene, and lockdown measures. This section briefly details the scientific basis behind South Africa's decisions on: a) instituting a national lockdown and the subsequent easing thereof; b) the decision to ban the sale of tobacco products; and c) the decision to ban the sale of alcohol.

The fact that COVID-19 came to Africa relatively late gave the continent a slight advantage in terms of preparation. It allowed governments and health experts to observe, albeit briefly, the behaviour of disease spread and the effectiveness of preventative measures in other countries, before having to make similar decisions. South Africa's approach to the lockdown and managing the pandemic crisis has, for the most part, followed this approach of observing and adapting. The initial decision to call for a nationwide lockdown for 21 days, later extended by 14 more days, received praise from health experts because it was seen as the most effective way to limit the spread of the virus.⁵⁶

According to some experts, the options available to the South African government were that of mitigation or suppression. The ultimate aim of mitigation is to achieve herd immunity by allowing the disease to spread gradually among a population. This effectively means that the population is deliberately left at risk of contracting the disease which could overwhelm the health system. It was this observation that effectively steered the South African government away from mitigation as a response.⁵⁷ The effectiveness of this option can only really be determined over a long period of time, a luxury that the world does not have in its race to eradicate or at least effectively control this disease.

Suppression, on the other hand, involves a more hands-on approach to preventing disease spread and also involves strict control measures. The South African government followed this route based on early studies that determined a person infected with COVID-19 passes the disease on to 2.5 to 3 people, and that strictly limiting human interaction is, of necessity, very disruptive and is meant to lower the rate of infection.⁵⁸

Apart from observing pandemic responses in other countries, the South African government also relied on predictive models by expert researchers, in particular the COVID-19 Modelling Consortium that provided data based on six month forecasts for worst- and best-case scenarios. According to the predictions, South Africa could expect the virus spread to peak during July and August and that by the end of 2020, the death toll could range anywhere from 34,000 to 50,000. The South African government has seemingly followed the guidance of this model which suggested that following the lifting of level 5 lockdown, the country should spend one month under level 4 lockdown, following which social distancing should be sufficient to limit the disease spread and reduce the rate of transmission.

The government's lockdown exit strategy, a phased transition from the highest to the lowest level of lockdown, has, however, sparked controversy and criticism from some of its top medical advisors. In May 2020, the then acting Director-General of the Department of Health, said that the exit strategy was not grounded in science and at best was based on

Alicestine October, 'COVID-19: Leading Health Experts Welcome Lockdown as 'the Right Thing to Do',' Spotlight, March 26, 2020, https://www.spotlightnsp.co.za/2020/03/26/covid-19-leading-health-experts-welcome-lockdown-as-right-thing-to-do/.

October, "Leading Health Experts Welcome Lockdown".

October, "Leading Health Experts Welcome Lockdown".

⁵⁹ Marcus Low and Nathan Geffen, 'Here's What the Models Predict About Covid-19,' *Ground Up*, May 22, 2020, https://www.ground-up.org.za/article/heres-what-models-predict-about-covid-19/.

⁶⁰ Low and Geffen, "Here's What the Models Predict".

assumptions on what not to do, as indicated by examples of countries who sought to return to normal life too quickly.⁶¹ This response was surprising considering that evidence from other countries suggest a phased return to business as usual has proven to be the most responsible approach, one also supported and recommended by the WHO.⁶²

Some decisions made about the gradual reopening of the economy and a return to normal life have also raised questions. Some argued that 'the internal logic of lockdown was abandoned': people were prohibited from visiting family and friends, but were allowed to visit restaurants, casinos, and places of worship, which had in other parts of the world contributed to the rapid spread of the virus in other parts of the world.⁶³ Some religious leaders shared these concerns. President of the South African Jewish Board of Deputies (SAJBD) stated publicly that the SAJBD felt uncertain about opening up their synagogues and ultimately decided not to reopen until infection rates subsided in early September, and the Jesuit Institute of South Africa also publicly criticised the decision.⁶⁴

Some decisions made about the gradual reopening of the economy and a return to normal life have also raised questions

Attracting some of the most criticism and controversy, and even contested in court, was the government's decision to ban the sale of tobacco products during lockdown, which they defended by claiming it was based on science. Studies from China indicated that smokers are more at risk to 'a COVID-19 case becoming more severe and leading to death.'65 The high number of smokers in the country, as well as the pervasiveness of diseases like tuberculosis, diabetes and HIV/AIDS, meant that a significant portion of the population could be at risk of contracting COVID-19 and some commented the decision to ban tobacco sale 'should be viewed as taking a double shot at protecting citizens from COVID-19'.66

Azarrah Karrim and Kyle Cowan, 'Lockdown Fallout: Mkhize Defends Strategy as Scientists are Reprimanded for Speaking Out,' News24, May 17, 2020, https://www.news24.com/news24/southafrica/news/lockdown-fallout-mkhize-defends-strategy-as-scientists-are-reprimanded-for-speaking-out-20200517.

Rebecca Davis, 'Lockdown Squabbling and False Covid-19 Certainty Will Endanger Us All,' *Daily Maverick*, May 18, 2020, https://www.dailymaverick.co.za/article/2020-05-18-lockdown-squabbling-and-false-covid-19-certainty-will-endanger-us-all/#gsc.tab=0.

Judith February, 'We Need Clear COVID-19 Messaging from Government,' MSN, June 19, 2020, https://www.msn.com/en-za/health/coronavirus/judith-february-we-need-clear-covid-19-messaging-from-government/ar-BB15FMRi.

Sandisiwe Shoba, 'Living On a Prayer: Concerns as Places of Worship Prepare to Reopen Their Doors,' *Daily Maverick*, May 27, 2020, https://www.dailymaverick.co.za/article/2020-05-27-living-on-a-prayer-concerns-as-places-of-worship-prepare-to-reopen-their-doors/#gsc.tab=0.

⁶⁵ Catherine Egbe and Senamile Ngobese, 'COVID-19 Lockdown and the Tobacco Product Ban in South Africa' (Letter to the Editor), Tobacco Induced Diseases 18, no. 39 (2020):1.

⁶⁶ Egbe and Ngobese, "COVID-19 Lockdown and the Tobacco Product Ban", 1.

The Minister of Cooperative Government and Traditional Affairs defended the decision to ban tobacco sales on the grounds of 'reducing the spread of infections, limiting the severity of the illness and freeing up vital health resources.' ⁶⁷ The Minister also cited concerns about the disease spreading when people share cigarettes, drawing on studies that found a link between smoking and more severe COVID-19 symptoms and even death. The WHO, on the other hand, claims that no concrete conclusions can be drawn from early studies on the subject. ⁶⁸

Related to the ban on the sale of tobacco products is the ban on the sale of alcohol, a decision that also sparked controversy. It was posited that the government's decision to ban the sale of alcohol was based largely on research by the WHO that found the ban contributed significantly to relieving the pressure on hospitals by reducing the number of alcohol-related injuries.⁶⁹ For a large part of the country's lockdown, alcohol sales were not permitted but for a brief stint during lockdown level three alcohol was allowed to be sold on certain days and at certain times before ultimately, the ban was reinstated, and then later lifted. The procedure under which alcohol was sold during this brief period corresponds with what the WHO prescribes: limiting access to alcohol by restricting and controlling the time when it can be bought 'should be accompanied by a drop in, for instance, alcohol related violence and injuries.'⁷⁰

Having observed the pandemic response in other countries and with the guidance of experts and research, the South African government has, for the most part, followed an approach with some scientific or evidence-based foundation.

While the decision to impose a strict lockdown was well-intentioned, the government failed to acknowledge that the adjustment would be difficult and impractical for many people, resulting in the violation of lockdown regulations

Lockdown-related restrictions have also resulted in many constitutional rights being curtailed including freedom of movement, dignity and the right to earn a living, among others. Many self-employed citizens have been unable to support themselves and their families. While the decision to impose a strict lockdown was well-intentioned, the

⁶⁷ Greg Nicolson, 'Tobacco Ban: Unpacking Dlamini Zuma's Defence,' *Daily Maverick*, May 28, 2020, https://www.dailymaverick.co.za/article/2020-05-28-tobacco-ban-unpacking-dlamini-zumas-defence/#gsc.tab=0.

⁶⁸ Nicolson, "Tobacco Ban".

⁶⁹ Richard Matzopoulos and Charles Parry, 'Could the Debate Over South Africa's Temporary Alcohol Sales Ban Have a Subtext You're Missing?' *Bhekisisa*, June 11, 2020, https://bhekisisa.org/opinion/2020-06-11-why-did-south-africa-ban-alcohol-during-lockdown-covid19-coronavirus-evidence/.

⁷⁰ Matzopoulos and Parry, "Could the Debate".

government failed to acknowledge that the adjustment would be difficult and impractical for many people, resulting in the violation of lockdown regulations. It has been reported that over 230,000 arrests have been made for lockdown-related offenses. Many arrestees are still awaiting trial and cannot afford bail, which places them at a high risk of contracting COVID-19 in overcrowded prisons. Furthermore, many will receive criminal records, hampering their employment prospects after the pandemic, in a country with already high unemployment rates.

Ramaphosa's administration has been criticised for adopting a paternalistic approach in dealing with the spread of the pandemic⁷², as it has put itself in a position to control the needs and wants of the population. It is suggested that one of the lessons to be learnt during this pandemic is the fact that South Africans need a politics that enables them to express and assess their needs, and be able to put into positions of power the kind of leaders that can respond to such needs. It has also been argued that South African citizens lack real freedom because the current electoral system of proportional representation creates an accountability deficit, in that citizens are unable to vote bad individual leaders out of parliament. ⁷³ Some have judged government measures harshly: ⁷⁴

At the outset, a strict lockdown seemed like a good idea, on the important supposition, not only that people would obey the regulations, but also that they would, by and large, be in a position to do so. Both turned out to be incorrect assumptions, and the latter to be the more significant of the two... the lockdown rules pertaining to movement and personal protective equipment have really been obeyed by only a relatively small percentage of people, for reasons that the governing party failed to think through before implementing collective house arrest.

Some big lessons have already emerged. In the South African case, the government's 'law and order' approach, including the deployment of the SANDF, induced a sense of fear among the population. The emphasis on a strict or 'hard' lockdown for five weeks – against the advice of some public health professionals – instead of a careful and graduated public education campaign caused more hardship than necessary and was hugely detrimental to the economy, especially as the impact of COVID-19 is expected to continue for at least two years. A too-rapid relaxation of the restrictions has also gone against most medical advice.

The original purpose of the lockdown - to help prepare the public and private health systems for the pandemic and ensure there were enough beds and protective personal equipment - has now been shown to be inadequate.

^{71 &#}x27;230,000 cases opened against people for breaking South Africa's lockdown rules,' *BusinessTech*, May 22, 2020, https://businesstech.co.za/news/lifestyle/400831/230000-cases-opened-against-people-for-breaking-south-africas-lockdown-rules/.

⁷² Hamilton, "What Sets Good and Bad Leaders Apart".

⁷³ Lawrence Hamilton, Are South Africans Free? (London: Bloomsbury Publishing, 2014).

⁷⁴ Bert Olivier, 'South Africa's fumbling response to Covid-19 poses questions,' *Mail and Guardian*, May 10, 2020, https://mg.co.za/coronavirus-essentials/2020-05-10-south-africas-fumbling-response-to-covid-19-poses-questions/.

There have also been allegations of the irrationality of some decisions. For example, after applying pressure to the government, minibus taxis were permitted to operate at 100% capacity, potentially serving as 'super spreaders' of the disease, while schools were forced to close. After losing a court case, the government made a commitment to retain school feeding schemes, but lacked measures to implement this. Serious allegations of corruption related to COVID-19 funding and government tenders have emerged.

Citizens want to have their rights respected, both first generation rights like civil liberties and freedom of speech, as well as the right to housing, water, health and education. There are fears that COVID-19 has strengthened the powers of the police and army against citizens not under parliamentary or civil society scrutiny. There are also fears that after the pandemic, government will be reluctant to cede coercive powers arrogated to itself during the crisis.

There are fears that COVID-19 has strengthened the powers of the police and army against citizens not under parliamentary or civil society scrutiny

People see bans on tobacco and alcohol consumption and stipulated exercise restrictions as an affront to their rights, and there have been court cases about these issues, and concerns of a lack of parliamentary oversight over government decisions and the institutions created to combat COVID-19. There have also been snap decisions made without consulting important stakeholders, which at times engendered backlash and a lack of trust.

Nigeria

Opposed to South Africa's 56.15% of the total COVID-19 cases on the continent, Nigeria makes up only 4.9%.⁷⁵ Nigeria was one of the first African countries to be affected by COVID-19, with its first recorded case in late February 2020.⁷⁶ By the start of May 2020, Nigeria ranked sixth in terms of recorded COVID-19 cases on the continent,⁷⁷ and by 11 November 2020, Nigeria had recorded 64,516 cases and 1,162 deaths.⁷⁸ With a population of 200 million people, this figure seems unusually low, and upon close observation, is not an accurate reflection of the reality of the COVID-19 spread.

⁷⁵ WHO, 'COVID-19 in the WHO African Region', https://who.maps.arcgis.com/apps/opsdashboard/index.html#/0c9b3a8b68d0437a 8cf28581e9c063a9.

⁷⁶ Nigeria Centre for Disease Control (NCDC), COVID-19 Outbreak in Nigeria, Situation Report S/N 001, 29 February 2020, 1.

⁷⁷ Mma Amara Ekeruche, "Assessing the Socio-Economic Impact of COVID-19 in Africa and Latin America", (webinar, SAIIA-BRICS Policy Centre Event, May 3, 2020), https://www.youtube.com/watch?v=K44Ek0FXGMM.

Nigeria Centre for Disease Control (NCDC), 'COVID-19 Nigeria', https://covid19.ncdc.gov.ng/.

This relatively low number of cases in the country can in part be attributed to the fact that the number of tests for the virus conducted in the country is itself low

This relatively low number of cases in the country can in part be attributed to the fact that the number of tests for the virus conducted in the country is itself low.⁷⁹ The testing capacity in Nigeria is estimated at 2,500 per day, however, only half this number are actually performed, due, in part, to the inadequate supply of testing kits and processing facilities, as well as a shortage of medical personnel.⁸⁰ On the continental scale, South Africa performs the best in terms of testing: by July 2020 the country had conducted 1,630,008 tests compared with Nigeria who had conducted just under 139,000 tests.⁸¹ By mid-October 2020, 576,184 tests had been conducted in Nigeria⁸², while South Africa had conducted 4,528,141 tests.⁸³ At the onset of the pandemic, Nigerian hospitals were already suffering from insufficient space in intensive care units and a shortage of necessary equipment, including ventilators. With no immediate end to the disease in sight, this does not bode well considering the rising number of infections and deaths.⁸⁴

National responses to the pandemic

The Nigerian government has responded to the COVID-19 pandemic in much the same way as other states around the world, instituting various 'health, social, and economic measures to cushion the impact of COVID-19.'85 In terms of health, Nigeria has largely relied on an integrated response, working with the WHO in the region by drawing on the expertise of pre-existing disease management networks set up for the management, containment and treatment of polio and Ebola. Nigeria's extreme efficiency in dealing with the Ebola outbreak in 2014 gives hope for its ability to successfully manage the COVID-19 pandemic.⁸⁶

With its vast network of 'human resources, technical expertise, disease surveillance and community networks, as well as its logistical capacity', the WHO Polio Eradication

John Campbell and Jack McCaslin, 'How Nigeria Has Responded to COVID-19 So Far,' Council on Foreign Relations, April 28, 2020, https://www.cfr.org/blog/how-nigeria-has-responded-covid-19-so-far.

⁸⁰ Siddharth Dixit, Yewande Kofoworola Ogundeji and Obinna Onwujekwe, 'How well has Nigeria responded to COVID-19?,'

Brookings, July 2, 2020, https://www.brookings.edu/blog/future-development/2020/07/02/how-well-has-nigeria-responded-to-covid-19/.

⁸¹ Dixit, Ogundeji and Onwujekwe, "How well has Nigeria responded".

⁸² NCDC, "COVID-19 Nigeria".

⁸³ Government of South Africa, Department of Health, 'COVID-19 Coronavirus South Africa Resource Portal', https://sacoronavirus.co.za/.

⁸⁴ Dixit, Ogundeji and Onwujekwe, "How well has Nigeria responded".

⁸⁵ Dixit, Ogundeji, and Onwujekwe, "How well has Nigeria responded".

⁸⁶ Clare Cummings, 'Nigeria's response to Covid-19,' Effective States and Inclusive Development (ESID), May 5, 2020, http://www.effective-states.org/will-nigerias-success-in-stamping-out-ebola-help-it-to-stop-the-spread-of-covid-19-too/.

Programme – also previously linked to the management of the Ebola outbreak in the country in 2014 – was relied on extensively by the Nigerian government from the start of the COVID-19 outbreak.⁸⁷ Initially a high proportion of those who tested positive for COVID-19 in Nigeria were individuals who returned from trips to high-risk countries, and personnel from the polio programme were relied on for contact tracing as well as community education on COVID-19 safety and prevention measures.⁸⁸

Nigeria's extreme efficiency in dealing with the Ebola outbreak in 2014 gives hope for its ability to successfully manage the COVID-19 pandemic

Similar to its response during polio outbreaks, the Ministry of Health in Nigeria put in place Emergency Operations Centres throughout the country, tasked with the surveillance and management of disease outbreaks, training of key personnel and contact tracing, among others. The polio programme also made available an electronic communication platform in the form of a mobile application designed for asking 'disease surveillance questions' modelled off its system for tracking a key polio symptom, AFP (acute flaccid paralysis).⁸⁹

The Nigeria Centre for Disease Control (NCDC) also played an instrumental role. Beginning two days after the first COVID-19 case was confirmed in Nigeria, the NCDC published daily situation reports detailing the exact number of cases, tests, deaths and recoveries, as well as the spread of infection in the country. The NCDC distributed information on prevention and control of the disease, safety measures pertaining to travel, social gatherings, and in anticipation of the elections, produced a document detailing the necessary measures for conducting elections under the special circumstances created by the pandemic. The NCDC was also responsible for training medical workers and distributing equipment, among other activities. The name of the pandemic is a special circumstance of the pandemic in the name of the name of the pandemic in the name of the

In Nigeria, it is estimated that there are only 0.9 general hospital beds available per 1,000 people, and 0.07 intensive care beds for every 1,000 people.⁹² A recent report placed the exact figure of available intensive care beds at 350 for a population of 200 million people.⁹³

⁸⁷ WHO Africa, 'Nigeria's polio infrastructure bolster COVID-19 response', https://www.afro.who.int/news/nigerias-polio-infrastructure-bolster-covid-19-response.

⁸⁸ WHO, "Nigeria's polio infrastructure".

⁸⁹ WHO, "Nigeria's polio infrastructure".

For the record of updates see: https://ncdc.gov.ng/diseases/sitreps/?cat=14&name=An%20update%20of%20COVID-19%20outbreak %20in%20Nigeria.

⁹¹ NCDC, COVID-19 Situation Report 133, 4-5, https://ncdc.gov.ng/diseases/sitreps/?cat=14&name=An%20update%20of%20COVID-19%20outbreak%20in%20Nigeria.

⁹² Amos Abba, 'COVID-19: Nigeria Lacks Sufficient Hospital Beds in Face of Viral Pandemic - Data', *ICIR*, March 21, 2020, https://www.icirnigeria.org/covid-19-nigeria-lacks-sufficient-hospital-beds-in-face-of-viral-pandemic-data/.

⁹³ Dixit, Ogundeji and Onwujekwe, "How well has Nigeria responded".

The country also faces a shortage of medical practitioners with 2019 estimates putting the number of doctors available to every 10,000 people at 2.27.94

In Nigeria, it is estimated that there are only 0.9 general hospital beds available per 1,000 people, and 0.07 intensive care beds for every 1,000 people

As with most countries, the social safety measures taken by the Nigerian government included the use of lockdowns. At the start of the outbreak, COVID-19 had mainly spread to Abuja, Lagos, and the state of Ogun, and in response, these areas were put under lockdown on 30 March 2020. A presidential announcement saw some restrictions lifted at the start of May.⁹⁵ What is interesting to note about the social response to the pandemic in Nigeria is the role played by religious organisations. The polio programme, as part of its response to the health crisis 'sensitised more than 11,700 religious and community leaders' across Nigeria.⁹⁶ The Christian Association of Nigeria and the Nigerian Supreme Council of Islamic Affairs (NSCIA) have both been influential in upholding lockdown regulations and also assisted in community education about the virus. The NSCIA further decided to close mosques in the state capital 'a full week before the government-imposed lockdown.'⁹⁷

What is interesting to note about the social response to the pandemic in Nigeria is the role played by religious organisations

The Nigerian government responded to the economic fallout of the pandemic relatively swiftly. On 24 March 2020, the House of Representatives passed the Emergency Economic Stimulus Act 2020 in order to assist struggling businesses and their employees. Under the Act, businesses are granted tax rebates of 50% to assist them in retaining their employees. This assistance, however, is conditional. Businesses only qualify for the provided tax rebates in case of registration under the Companies and Allied Matters Act and the Act only applies

⁹⁴ Mayowa Tijani, 'A Minister Claimed that Nigeria has 'More than Enough' Doctors. In Fact, There's a Huge Shortage,' *AFP Fact Check*, April 26, 2019, https://factcheck.afp.com/minister-claimed-nigeria-has-more-enough-doctors-fact-theres-huge-shortage.

⁹⁵ Campbell and McCaslin, "How Nigeria Has Responded".

⁹⁶ WHO Africa, "Nigeria's polio infrastructure".

⁹⁷ Campbell and McCaslin, "How Nigeria Has Responded".

⁹⁸ Dixit, Ogundeji and Onwujekwe, "How well had Nigeria responded"; Mma Amara Ekeruche, 'Assessing the Socio-Economic Impact of COVID-19' (webinar, SAIIA-BRICS Policy Centre Event, May 5, 2020).

The Nigerian government responded to the economic fallout of the pandemic relatively swiftly

to the formal economy - a significant oversight on the part of government considering 65% of the country's GDP is generated in the informal economy, a sector also responsible for the employment of some 90% of the country's workforce.⁹⁹

Nigeria's economic response has also entailed offering economic security to the poor. Again, conditional to registration on a national database – the National Social Register (NSR) – at the start of April 2020 government announced that money transfers of \$52 would be made to 'poor and vulnerable households' under the NSR. The official recorded figures and actual figures do not match. The 2.6 million households currently registered under the NSR account for roughly 11 million people, but the reality is that 87 million people in Nigeria survive on under \$1.90 per day, and while the government seeks to increase registration under the NSR to 3.6 million households, this will still not account for a large majority of those in desperate need of the state's assistance. To further assist the poor, the Central Bank of Nigeria offered a \$7,800 credit 'stimulus package' to some of the poorest households in the country, but this is dependent on presenting collateral and comes with an attached interest rate.¹⁰⁰

Aside from monetary assistance, the Nigerian government also turned to the provision of food to poor households

Aside from monetary assistance, the Nigerian government also turned to the provision of food to poor households. Following the federal lockdown in Abuja, Lagos and Ogun state, Nigeria's Federal Ministry of Humanitarian Affairs, Disaster Management and Social Development decided to respond to the food shortages many households were facing by providing food relief packages. However, this form of state support has not been widespread and many still go without this vital form of assistance due to corruption and 'opaque accountability'. A high food inflation rate, one that has not affected all cities

⁹⁹ Dixit, Ogundeji and Onwujekwe, "How well had Nigeria responded"; Mma Amara Ekeruche, "Assessing the Socio-Economic Impact".

¹⁰⁰ Dixit, Ogundeji and Onwujekwe, "How well had Nigeria responded".

¹⁰¹ Dixit, Ogundeji and Onwujekwe, "How well had Nigeria responded".

equally, and an unstable supply of certain food products due to lockdown restrictions have further complicated food access.¹⁰²

Was the Nigerian government's response well received?

Not only did Nigeria's federal government impose lockdowns but various state governments followed suit, even in the absence of federal orders to do so, 103 which has become a source of 'political tension and jurisdictional confusion'. 104 Under the Nigerian Constitution, a national state of emergency can be declared by the president in the event of 'imminent danger or disaster or natural calamity affecting a community, or any other public danger constituting a threat to the country. 105 Declaring an emergency under the provisions of the Constitution necessitates the involvement of the National Assembly. However, the Nigerian President opted instead for the Quarantine Act of 1926, effectively allowing him to avoid involving the National Assembly and to instead, as has effectively happened, announce that only certain areas are infected and are therefore under certain novel interim regulations. 106

Not only did Nigeria's federal government impose lockdowns but various state governments followed suit, even in the absence of federal orders to do so

Instead of declaring a state of emergency, the Nigerian president drew on the Infectious Diseases Law, which effectively enabled him to rely on the Quarantine Act. In a nutshell, the Quarantine Act gives the president the power to initiate the measures deemed necessary to prevent the exposure to and spread of the disease both within domestic borders and to countries outside of those borders.¹⁰⁷ That the lockdown regulations were ordered under the Quarantine Act is precisely where the confusion enters. The Quarantine Act is not subject to the same review process involving both the Senate and House of Representatives

SB Morgen, The SBM Jollof Index - Fishing for Good Prices (SBM Morgen, 2020): 3-5, https://www.sbmintel.com/wp-content/uploads/2020/07/202007_Jollof-Index.pdf.

¹⁰³ Campbell and McCaslin, "How Nigeria Has Responded".

¹⁰⁴ Victoria Ibezim-Ohaeri, 'COVID-19 and the Shrinking Civic Space in Nigeria,' *Just Security*, May 19, 2020, https://www.justsecurity. org/70226/covid-19-and-the-shrinking-civic-space-in-nigeria/.

¹⁰⁵ Cheluchi Onyemelukwe, 'The Law and Human Rights in Nigeria's Response to the COVID-19 Pandemic,' *Bill of Health: Examining the Intersection of Health, Law, Biotechnology, and Bioethics*, June 4, 2020, https://blog.petrieflom.law.harvard.edu/2020/06/04/ https://

¹⁰⁶ Onyemelukwe, "The Law and Human Rights".

¹⁰⁷ Lukman Abdulrauf, 'Nigeria's emergency (Legal) Response to COVID-19: A Worthy Sacrifice for Public Health?', Verfassungsblog, May 18, 2020, https://verfassungsblog.de/nigerias-emergency-legal-response-to-covid-19-a-worthy-sacrifice-for-public-health/.

as is required when declaring a state of emergency and effectively bestows executive power on the president.¹⁰⁸

Under the stipulations of the Act, state governors may only impose their own regulations 'where the President fails to do so', thus the federal and state regulations in some cases could essentially stand in opposition to one another, the latter of course superseded by federal regulations.¹⁰⁹ Thus, when the state governors outside of the three areas in which a federal declaration of emergency was made imposed their own lockdown measures, leading to the closure of important transport routes, these governors were effectively trespassing on what is traditionally the realm of the federal government and thus issued regulations that they were not in essence authorised to make.¹¹⁰ When these social safety measures were first put in place, there seemed to be widespread acceptance of and compliance with the new regulations.¹¹¹ However, this gradually began to change as tensions rose due to the way in which authorities enforced the regulations, often leading to serious human rights violations.¹¹²

The Quarantine Act is widely regarded as being an out-of-date, out-of-touch legal mechanism and as a result the legislature sought to replace it with an updated Control of Infectious Diseases Bill 2020. This is mired in controversy with fears of putting the country at risk of the abuse of executive power, curtailing of rights, as well as concerns around the powers it gives to law enforcement.¹¹³

COVID-19 is currently 'magnifying existing threats to civic space' in Nigeria. Lockdown and other restrictions have largely been enforced through violence

It is argued that COVID-19 is currently 'magnifying existing threats to civic space' in Nigeria and that ultimately, the state's imposing and enforcement of regulations indicate 'a deliberate exploitation of the pandemic to accelerate other non-health agendas.'¹¹⁴ Lockdown and other restrictions have largely been enforced through violence, with reports coming out that the number of people killed by security forces had at one time actually outnumbered those who died as a result of COVID-19.¹¹⁵ There are also reports of torture and other forms of violence inflicted by security forces who do not hesitate to use their weapons

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108 Abdulrauf, "Nigeria's emergency (Legal) Response".
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¹⁰⁹ Onyemelukwe, "The Law and Human Rights".

¹¹⁰ Ibezim-Ohaeri, "COVID-19 and the Shrinking Civic Space".

Onyemelukwe, "The Law and Human Rights"; Campbell and McCaslin, "How Nigeria Has Responded".

¹¹² Onyemelukwe, "The Law and Human Rights".

¹¹³ Abdulrauf, "Nigeria's emergency (Legal) Response".

¹¹⁴ Ibezim-Ohaeri, "COVID-19 and the Shrinking Civic Space"."

¹¹⁵ Onyemelukwe, "The Law and Human Rights".

in order to uphold regulations. Also of concern is the rising threat to media freedom in Nigeria with certain media companies restricted from reporting on the federal government; this appears to be a leftover from 2015, when a 'vicious crackdown on social critics, bloggers, journalists, activists and civil society organisations' swept across the country.¹¹⁶

Looking to future recovery

In a country with an already high unemployment rate, one projected to increase to 33.6%, and a high level of poverty, it is no surprise that the Nigerian government's post-COVID-19 recovery plan is largely centred on the economy. The Nigerian government's current economic response is in many ways a supplement to its vision for recovery. The recovery plan focuses largely on supporting the economy and preventing mass job losses especially in the agriculture and housing sectors, supports job creation and the encouragement of local manufacturing, and improving poverty relief measures. Specific programmes provided for in the economic recovery plan include the cultivation of 20,000 – 100,000 hectares of land in all states, the reconstruction and improvement of public infrastructure, a long-term housing programme with the goal of creating 300,000 new homes every year, and providing five million households with solar power.¹¹⁷

The Nigerian government's current economic response is in many ways a supplement to its vision for recovery

While the plan is largely one of economic recovery, it is sadly silent on sectors like education, and apart from the inclusion of solar power, remains quiet about issues of power generation. Most surprisingly, the recovery plan does not make provision for government spending on improving the health care sector, all things are not unusual for the Nigerian government.¹¹⁸

The recovery plan will face challenges due to high corruption levels in Nigeria. This is further complicated by the fact that political stability in the country is largely dependent on the politics of clientelism and the relative stability is maintained on the back of political settlements, maintained in turn by vital state funds.¹¹⁹

Much about the future is uncertain, not only for Nigeria, but globally. What is clear is that in the response to the pandemic, it is not only the actions of governments that matter, but

¹¹⁶ Ibezim-Ohaeri, "COVID-19 and the Shrinking Civic Space".

¹¹⁷ Olarewaju, "Nigeria's post-COVID-19 recovery plan".

¹¹⁸ Olarewaju, "Nigeria's post-COVID-19 recovery plan".

¹¹⁹ Cummings, "Nigeria's response to COVID-19".

What is clear is that in the response to the pandemic, it is not only the actions of governments that matter, but also those of citizens

also those of citizens. While lockdown measures have become vital in the global COVID-19 response, it is clear that these decisions should always be made in a manner that respects the Constitution and that regulations should be enforced in line with constitutional provisions and should respect human rights.

Finally, it is interesting to compare the economic recovery plans and COVID-19 response packages in South Africa and Nigeria (Table 3).

TABLE 3 COMPARING ECONOMIC RECOVERY/COVID-19 RESPONSE PACKAGE (SOUTH AFRICA AND NIGERIA)*			
SOUTH AFRICA	NIGERIA		
 Social and economic recovery package to the value of \$32 billion (equivalent to 10% of GDP). Most importantly: Loan guarantee scheme comprising \$12.8 billion. \$1.3 billion directed towards municipalities for service delivery. \$1.3 billion directed towards social relief and food assistance.^a \$1.3 billion designated to the health care sector. \$3.2 billion set aside for the provision of increased social grants over a six month period beginning in May 2020. \$6.4 billion geared toward the creation and securing of jobs.^b 	 In response to the resulting economic crisis, the Nigerian government passed the Emergency Economic Stimulus Act 2020 aimed at assisting struggling business and their employees: Those business that retain their employees for the remainder of the year are eligible for tax rebates of 50%. The Stimulus Bill also addresses the payment of residential mortgages and details conditions for payment deferrals of up to 180 days. Under the Stimulus Bill, an import duty waiver is put in place on all essential medical resources for the remainder of 2020.^c 		
Various tax rebates and tax relief measures such as payment deferrals for businesses subject to conditions specified by the South African Revenue Service (SARS). ^d	In order to deal specifically with the health crisis caused by the COVID-19 pandemic, the Nigerian government put forward a COVID-19 Crisis Intervention Fund to the value of \$1.3 billion. A significant portion of these funds will be directed at the improvement of the health care sector.		
Set up of a dedicated COVID-19 Solidarity Fund for financial contributions from individuals, firms and foreign governments. Domestic donors to the Fund qualify for additional tax deductions of 10%.	Federal Government suspended State Debt, adjusted budget allocation of funds to States and made specific changes to the 2020 budget in response to oil price fluctuations. ⁹		
Measures implemented to prevent huge price hikes and stockpiling by customers.	Money transfers of \$52 to the poorest and most atrisk households under the National Social Register.		

Reorientation of the medium to longer term recovery trajectory focused on stimulating demand and supply through projects such as infrastructure development, structural economic reforms and focus on jobs and growth.	In terms of recovery trajectory, government is reviewing its priorities and projections for the medium term. ^h
Widen safety net for the informal sector.	Less attention paid to informal economy.
Employers enabled to continue paying workers through Temporary Employee Relief Scheme.	The Central Bank of Nigeria made designated credit programmes available to specified sectors of the health care industry and businesses in those industries most affected by the pandemic.
Assistance to SMEs through the Unemployment Insurance Fund.	Food scarcity increased during the pandemic and the government also turned to the provision of food to poor households; there is room for improvement in this area.
Tax breaks for the poor.	Extended deadline for submitting various tax returns; unclear whether payment extensions will also apply. ^j
The South African Reserve Bank reduced prime interest rates several times during 2020, which in turn reduced commercial interest rates to relive some pressure on debt servicing.	The Central Bank of Nigeria offers further assistance to the poor in the form of credit of up to \$7,800. Loans are granted based on collateral offered and repayment with interest.
In July, South Africa was granted an IMF loan to the value of \$4.5 billion; other organisations have also been approached for loans. ^k	Nigeria received \$90 million through the World Bank Regional Disease Surveillance Systems; in order to increase its assistance to the health industry the country has applied for another \$100 million.

- * The response and recovery measures highlighted in this table do not represent the full range of government responses, but highlight only the most important and most immediate steps taken thus far.
- a Beauregard Tromp and Sipho Kings, 'Ramaphosa Announces R500-billion Covid-19 Package for South Africa,' *Mail* & *Guardian*, April 21, 2020, https://mg.co.za/article/2020-04-21-ramaphosa-announces-r500-billion-covid-19-package-for-south-africa/.
- b Mark Hewitt, 'An Unprecedented R500 billion Relief Package,' *Moore South Africa*, April 23, 2020, https://www.moore-southafrica.com/news-views/april-2020/an-unprecedented-r500-billion-relief-package.
- c Deloitte, 'COVID-19: Economic, Tax and Other Fiscal Stimulus Measures in Nigeria', report, (Deloitte, 2020), https://www2.deloitte.com/content/dam/Deloitte/ng/Documents/tax/ng-COVID-19-economic-tax-and-other-fiscal-stimulus-measures-in-Nigeria-2204 2020.pdf.
- d Hewitt, "An Unprecedented R500 billion Relief Package".
- e Deloitte, 'COVID-19: Economic, Tax and Other Fiscal Stimulus".
- f Hewitt, "An Unprecedented R500 billion Relief Package".
- g Deloitte, 'COVID-19: Economic, Tax and Other Fiscal Stimulus".
- h Deloitte, 'COVID-19: Economic, Tax and Other Fiscal Stimulus".
- i Deloitte, 'COVID-19: Economic, Tax and Other Fiscal Stimulus".
- j Deloitte, 'COVID-19: Economic, Tax and Other Fiscal Stimulus".
- k Thando Maeko, 'South Africa Gets \$4.3bn IMF Loan. In Return the Country Must Reform,' *Mail & Guardian*, July 29, 2020, https://mg.co.za/business/2020-07-29-south-africa-gets-4-3bn-imf-loan-in-return-the-country-must-reform/.
- Deloitte, 'COVID-19: Economic, Tax and Other Fiscal Stimulus".

Conclusion

There is still a long way to go to tackle COVID-19, but the swift and decisive regional responses in Africa have so far defied the expectations of poor preparedness. Some have theorised that the low initial rate of spread in Africa was due to early and comprehensive lockdowns and to its youthful population, who are less affected than older people by COVID-19. However, this line of thinking is withering in the face of rising infections and much less testing compared to other parts of the world.

The swift and decisive regional responses in Africa have so far defied the expectations of poor preparedness

In May 2020 the WHO¹²⁰ released a forecast of projected deaths due to COVID-19 in Africa. Predicted deaths ranged between 83,000 and 190,000 in Sub-Saharan Africa, with between 29-44 million infections in the first year if efforts to contain the disease fail. This is significantly lower than the approximately 700,000 annual deaths each from HIV/AIDS and malaria in Africa. There is a fear that supply chain interruptions and a focus on COVID-19 could lead to more deaths from other diseases, and increased maternal mortality as more women are forced to give birth at home. Much more impact is likely to come from economic hardships than the regrettable number of COVID-19 deaths. By 11 November 2020, the continent had recorded 24,464 coronavirus deaths.¹²¹

Much more impact is likely to come from economic hardships than the regrettable number of COVID-19 deaths

It is clear that both South Africa and Nigeria have been and will continue to be hard hit by the social and economic impact of COVID-19. Both countries turned to lockdowns as a response measure and while these were a necessary step to combat the rapid spread of the disease, it has no doubt affected the economies of both countries negatively.

^{120 &#}x27;WHO says up to 190 000 Africans could die of Covid-19 if containment measures fail,' *IOL News*, May 7, 2000, https://www.iol.co.za/news/south-africa/kwazulu-natal/who-says-up-to-190-000-africans-could-die-of-covid-19-if-containment-measures-fail-47672410.

¹²¹ WHO, "COVID-19 in the WHO African Region".

Initial lockdown regulations in South Africa determined that only essential service providers would remain open for business while all businesses not deemed essential would have to shut their doors temporarily. The concern is that many of these so-called non-essential businesses have in fact closed permanently.

The pandemic and lockdown measures have broadened already existing social inequalities

For the most part, businesses deemed non-essential are those located in the service industry. Along with mining, these industries were the most severely affected by the national lockdown. There was also a significant drop in employment levels with 'low-skilled, low-educated' workers disproportionately impacted.¹²² The pandemic and lockdown measures have broadened already existing social inequalities and the resulting economic shock of these measures have affected the poor most harshly. South Africa has also experienced increased food insecurity due to significant changes in income resulting from the temporary shutting of many businesses.¹²³ The South African Revenue Service said that the lockdown could lead to an estimated \$16 billion deficit in revenue collection and government spending on 'education, housing and social grants' will be severely crippled as a result. It is estimated that unemployment will affect 4 out of every 10 South Africans, meaning poverty and inequality can be expected to rise.¹²⁴

As a result of the COVID-19 pandemic, the Nigerian economy has been severely impacted by fluctuations in the oil price and demand, with the lowest oil price in nearly two decades recorded in 2020. This also resulted in a decrease of funds available for government spending.¹²⁵ The lockdown in Nigeria led to a loss of employment and income particularly in the private sector, affecting hotels, media houses and restaurants, among others, most severely. Nigerian citizens have also had to contend with the rising cost of food and other essential goods resulting from so-called panic buying.¹²⁶ To illustrate, the cost of a basket of tomatoes more than doubled during the pandemic, increasing from \$1.40 on average to \$4.45. Even the price of COVID-19 prevention essentials like hand sanitiser have increased threefold.¹²⁷ Small and medium enterprises in Nigeria have felt the economic impact

¹²² Channing Arndt, Sherman Robinson and Sherwin Gabriel, 'Who Has Been Hit Hardest by South Africa's lockdown? We Found some Answers,' *The Conversation*, June 11, 2020, https://theconversation.com/who-has-been-hit-hardest-by-south-africas-lockdown-we-found-some-answers-138481.

¹²³ Arndt, Robinson and Gabriel, "Who Has Been Hardest".

^{124 &#}x27;Economic Impact of Lockdown will Linger for Years: Experts', eNCA, May 28, 2020, https://www.enca.com/business/economic-impact-lockdown.

Olatokewa Ayoade, 'The Economic Repercussions of Coronavirus Pandemic in Nigeria', *Pulitzer Center*, June 10, 2020, https://pulitzercenter.org/reporting/economic-repercussion-coronavirus-pandemic-nigerians.

¹²⁶ Ayoade, "Economic Repercussions of Coronavirus".

¹²⁷ Ayoade, "Economic Repercussions of Coronavirus"."

most severely and have had to limit the number of staff members they employ as they are generating less income. This has been particularly concerning since these businesses are responsible for 84% of employment in Nigeria.¹²⁸

The economic impact of the disease is unlikely to be eradicated as rapidly as the much hoped for vaccine is expected to eradicate the disease

The governments of both countries have taken extensive economic assistance and recovery measures. However, the economic impact of the disease is unlikely to be eradicated as rapidly as the much hoped for vaccine is expected to eradicate the disease. In both countries, job losses will no doubt increase already existing problems with regards to poverty and inequality and will therefore require urgent attention from government. In terms of the economic impact on South Africa, the pandemic has exposed significant 'vulnerabilities' and government should seriously consider the need for 'devis[ing] ways to make the economy more resilient to health, climate and other risks'. ¹²⁹ The same can be said for Nigeria.

Both Nigeria and South Africa have applied for large international loans and arguably one of the biggest obstacles to public faith is the government's ability to allocate these funds to the sectors where it is most needed. This position is informed by the history of corruption in both countries. The \$4.3 billion IMF loan under the fund's Rapid Financing Instrument awarded to South Africa in July 2020 has been met with public distrust, with many South African citizens questioning whether the funds will be allocated properly.¹³⁰ In their recovery efforts, it is imperative that both governments are transparent about the allocation of public funds to economic recovery and improvement.

It is imperative that both governments are transparent about the allocation of public funds to economic recovery and improvement

Certainly one of the biggest lessons to be learned is the importance of pre-emption and preparedness. Aside from the economic cleavages exposed, the pandemic has also

¹²⁸ Ayoade, "Economic Repercussions of Coronavirus".

¹²⁹ Arndt, Robinson and Gabriel, "Who Has Been Hardest Hit".

Paula Luckhoff, 'IMF Loan: Wastage, Corruption a Worry but let's not be too Pessimistic', 702, July 28, 2020, http://www.702.co.za/ articles/391267/imf-loan-wastage-corruption-a-worry-but-let-s-not-be-too-pessimistic-outa.

exposed weaknesses in the health sectors of both countries with regards to the availability of hospital beds and healthcare practitioners. Both countries would be wise to include investment in the health sector and social capital in their post-COVID economic recovery programmes.

Recommendations

Build on the past

African states have learned hard lessons from tackling health emergencies like HIV/AIDS, polio and Ebola. These experiences and the institutions developed should be leveraged in efforts to mitigate COVID-19.

Empower institutions

The Africa CDC has had the political will, mandate and funding to be at the forefront of continental efforts to tackle COVID-19. The organisation was able to 'hit the ground running' even before Africa had any COVID-19 infections.

Stronger together

African countries have collaborated during the pandemic to a much greater degree than states on other continents. The AU, WHO and the Africa CDC have taken the lead in this regard, and their determined collective efforts could be emulated by other regions.

Learn and share

African states have demonstrated solidarity during the crisis and the many virtual meetings held have enabled them to share experiences and learn from best practices in other countries. The AU and RECs have created spaces for these discussions.

Do things by the book

South Africa's president has provided an example of a serious, methodical and deliberate leader, who upheld the rule of law in handling the pandemic. Time was allowed for preparation before lockdowns were instituted or reduced.

Inspire trust

The pandemic cannot be contained by government alone, but governments need to build and maintain the trust of the population through transparency, accountability and inclusivity. A breakdown in trust between federal and state governments in Nigeria underlies policy confusion and power struggles.

Think through the policy consequences

Despite consultations, South African restrictions on tobacco, alcohol and exercise drew anger from citizens and industry and government faced multiple lawsuits. Deeper engagement could have prevented the destruction of industries.

Protect lives and livelihoods

Countries need to find the right balance between saving lives and saving or creating jobs. Both Nigeria and South Africa demonstrate that this balance can be difficult to achieve in dynamic circumstances, and that policies need better coordination.

Rein in security forces

South Africa and Nigeria demonstrated that while it may be necessary to use the army and police to enforce lockdown regulations, these institutions must exercise caution, respect human rights and desist heavy-handed enforcement.

Cut the corruption

In South Africa, COVID-19-related procurement resulted in the disappearance of millions of rands by corrupt officials and politicians who used less stringent tendering rules under emergency conditions for self-enrichment. This must be stamped out.

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About SAIIA

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Cover image

Informal trader has his temperature checked at the gate of Cape Town market on day five of national lockdown on March 31, 2020, .South Africa President Ramaphosa announced a national lockdown to try to contain the spread of COVID-19 (Nardus Engelbrecht/Gallo Images via Getty Images)

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