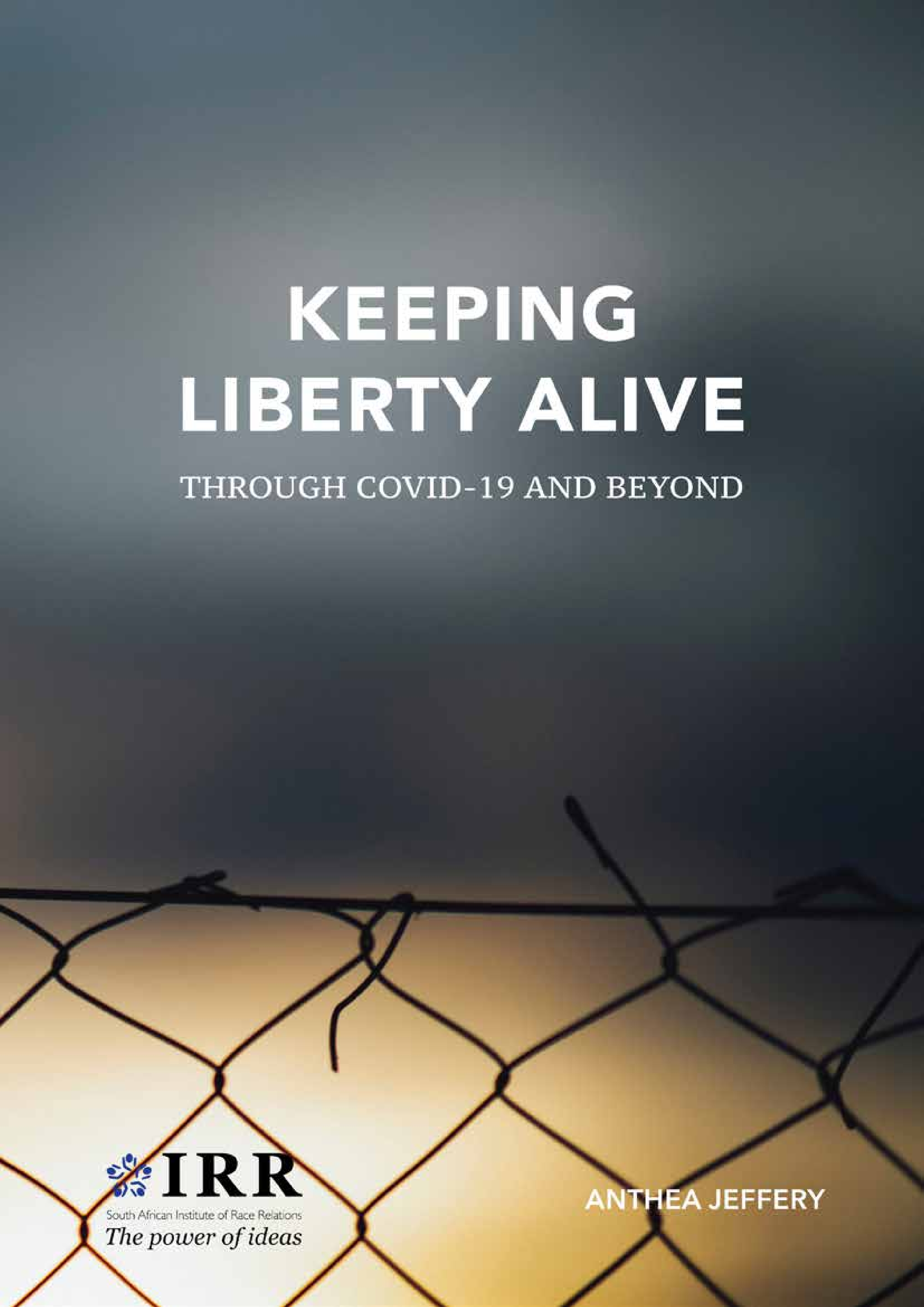

KEEPING LIBERTY ALIVE

THROUGH COVID-19 AND BEYOND

IRR

South African Institute of Race Relations

The power of ideas

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April and May 2020

Published by the South African Institute of Race Relations (IRR)
2 Clamart Road, Richmond
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Telephone: (011) 482–7221

ISSN: 2311-7591

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Cover design by Alex Weiss

Note: The main report outlines the challenges in keeping liberty alive up to the end of April. This was when the lockdown was formally expected to end – despite some indications that it might be further prolonged. The update at the beginning of this document describes events in May, and emphasises the increased urgency of keeping liberty alive under the indefinite lockdown that now applies.

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INDEFINITE LOCKDOWN RAISES THE RISKS

A lockdown of indefinite duration

When the lockdown came into effect on 26th March 2020, it was supposed to last for 21 days alone. It was then extended for another 14 days, so was set to expire at the end of April. Now, however, the government has adopted a 'risk-adjusted' strategy, with five different lockdown levels, which is likely to remain in place for six to eight more months. On that basis, the lockdown will last until October or December this year.

The economic damage from a lockdown of any such length will be catastrophic. As the National Treasury has recently warned, South Africa's economy could contract by 16% in 2020, while more than 7 million jobs could be lost in this situation. Even if the pandemic is quickly contained and the economy bounces back, GDP will shrink by 5.5% this year while almost 3 million people are likely to lose their jobs, the Treasury adds.

Business For South Africa (B4SA) has even worse projections, for it sees GDP contracting by 10% this year (if we move to Level 2 in June) and by 17% (if level 5 returns in the winter months from June to August). At the same time, the South African Revenue Service (SARS) warns that revenue collection could shrink by R285bn this year.

Yet not even the hard (Level 5) lockdown the country endured for five weeks was able to slow the spread of the virus in overcrowded areas such as Khayelitsha. Detected infections there grew by 3 300% over a four-week period in April, despite the hard lockdown then in force. If a hard lockdown fails to stop the spread of infection in high-density areas – where social distancing and strict hygiene cannot be maintained in practice – then the lockdown strategy (as Professor Alex van den Heever, health economics expert at Wits University, has pointed out) is 'equivalent to no intervention' at all for millions of people.

At the same time, the harm caused by the lockdown – especially to the poor not protected by it – is enormous. According to a recent opinion poll conducted by the Human Sciences Research Council, 24% of all South Africans lack the money to buy food. So too do 55% of those living in informal settlements and two thirds of township residents. A smaller survey by Victory Research has further found that 79% of the people living in shack settlements find it hard to obtain food and other essentials. Poverty, hunger and desperation are already acute – and will intensify for as long as the lockdown persists.

The threat to liberty is expanding too. Now that it has become clear that the lockdown is not a temporary phenomenon but a fixture for the foreseeable future, it is all the more vital to examine the threat it poses to the political and economic freedoms of all South Africans.

The political dimension

Many disturbing questions have arisen. These include the role of the National Coronavirus Command Council, the deployment of virtually the entire army to help combat the pandemic, the apparent unwillingness of the minister of defence to suspend the soldiers involved in the death of Alexandra (Sandton) resident Collins Khosa, the government's determination to root out what it describes as 'misinformation' and 'disinformation' regarding its response to the virus, and the increasingly coercive threat that people who are infected will be forced into state-run quarantine facilities irrespective of their capacity for self-isolation.

The National Coronavirus Command Council

All decisions regarding the lockdown are apparently being taken by the grandly entitled 'National Coronavirus Command Council' or NCCC. But the Constitution makes no provision for this body, which is why two advocates (Nazeer Cassim SC and Erin Richards) wrote to President Cyril Ramaphosa last week asking for clarity on how the NCCC had been established and what powers it had been given.

The director general and secretary of the Cabinet, Cassius Lubisi, responded with a condescending letter that failed to answer these questions. Instead, Dr Lubisi stated, in essence, that Cabinet ministers are accountable for the exercise of their powers, that they regularly report to Parliament, and that 'there are no rules to direct the Cabinet on how it works...through [its] choice of clusters'. In addition, 'the administration and functions of the Disaster Management Act' have been assigned to Dr Nkosazana Dlamini-Zuma, who is 'empowered to issue the necessary regulations', while other cabinet ministers are continuing to exercise their usual powers and report to their respective portfolio committees.[1]

Presidential spokesperson Khusela Diko also ducked the advocates' questions in telling the *Financial Mail* that the NCCC has been expanded (from its original 19 members) to include all 28 ministers, along with the president and his deputy. According to Ms Diko, the NCCC is simply 'a co-ordinating structure of the Cabinet that meets twice a week, reaches decisions by consensus, and makes recommendations to the Cabinet on its Covid-19 response'. However, why the Cabinet should need to meet as the NCCC in order to make recommendations for the Cabinet to consider and decide has not been explained.[2]

In addition, the president himself has clearly stated that three key decisions – to institute the lockdown and then extend it at two separate times – were taken by the NCCC and not the Cabinet. DA interim leader John Steenhuisen agrees with this assessment, saying that the NCCC is far more than 'a co-ordinating' body that simply 'facilitates the work of the Cabinet'. Rather, 'the NCCC has usurped the functions of the Cabinet' and 'the tail is wagging the dog'.[3]

Adds Mr Steenhuisen: '[The NCCC] makes all the decisions affecting the running of the country, while the National Assembly has no ability to access information or exercise oversight as intended in the Constitution.' The DA has long urged the establishment of a parliamentary ad hoc committee to oversee the work of the NCCC. But the ANC has refused this on the basis that Cabinet ministers are individually responsible to Parliament.[4]

More importantly still, the legal authority and powers of the NCCC have yet to be explained (as the two advocates, now joined by a third, have pointed out in a follow-up letter to the president). If the NCCC is simply a co-ordinating body, then it can have no decision-making power. But if it is indeed a decision-making body (as Mr Ramaphosa has thrice stated) then the sources of its decision-making powers must be made clear.

In this second letter, the advocates acknowledge that the Cabinet has a discretion on the mechanisms it adopts to 'coordinate its internal administrative functioning'. However, this does not mean that the Cabinet can delegate its powers to another body without an 'express and lawful' decision to this effect. Delegation to the NCCC is also barred by the Constitution unless the NCCC meets the definition of an 'executive organ of state', which seems unlikely.

Add the advocates: 'If the NCCC is a properly established, constituted and authorised body, it would not need to seek ratification [from the Cabinet] of its decisions. To the extent that the NCCC is not properly established, constituted and authorised,...any decision it has taken or will take is unlawful, and it is doubtful that the Cabinet is empowered to ratify an unlawful decision by an unlawful body'.[6] How the president responds to these criticisms remains to be seen.

The notion that ANC MPs can be trusted to hold the NCCC to account is dubious too. Their record in holding the executive accountable has long been dismal, even on such obvious abuses as the corruption accompanying the 1999 arms deal, the disbanding of the Scorpions, and the Nkandla 'security' upgrades for former president Jacob Zuma. There is also 'very little sign', says Lawson Naidoo, executive director of the Council for the Advancement of the South African Constitution (Casac), that Parliament has been properly interrogating the lockdown decisions taken by the executive to 'ensure that they conform to the Constitution and the law'.[7]

Abuses by the police and army

When the lockdown began on 26th March, some 2 820 soldiers were deployed by the president to support the police in enforcing the restrictions. Many worrying abuses by individual policemen and soldiers soon came to light. Some people accused of breaching the lockdown rules were humiliated by being forced to do jumping squats and push-ups. Others were severely whipped and several were killed.

A recent presentation to the portfolio committee on police has since revealed that 50 people died in police custody or as a result of police action in the first six weeks of the lockdown (from 26th March to 5th May). Police minister Bheki Cele has again implicitly encouraged abuses by suggesting that the police 'push' people back into their homes. He has also reportedly urged police officers to 'destroy' shebeens selling alcohol in breach of lockdown rules. Incidents of this kind have prompted the UN High Commissioner for Human Rights, Michelle Bachelet, to raise concerns about excessive force and warn against a 'toxic lockdown culture' in South Africa.[8]

One of the worst apparent abuses took place on 10th April, when a number of soldiers on patrol in Alexandra (Sandton) accused 40-year-old Collins Khosa of violating lockdown regulations by drinking alcohol inside his yard together with a friend, Thabiso Muvhango. According to Mr Khosa's life partner, Nomsa Montsha, the soldiers took the two men out on to the street where Mr Khosa was allegedly badly assaulted: 'One member of the SANDF held his hands behind his back, while the other choked him; they slammed him against the cement wall; they hit him with the butt of a machine gun; they kicked, slapped and punched him on his face, stomach and ribs; and they slapped him against the steel gate.' Mr Khosa died of his injuries some hours later. Defence minister Nosiviwe Mapisa-Nqakula reportedly stated thereafter that the public should not 'provoke' the soldiers. Mr Khosa's death is under investigation, but the soldiers implicated in it have not been suspended and so remain on duty.[9]

The Khosa family has applied to the Pretoria high court (the Constitutional Court having denied its request for direct access) for an order declaring that the security forces must observe the minimum force rule in carrying out their duties under the lockdown. The family also seeks a declaration confirming the guaranteed right to human dignity and outlawing any resort to cruel, inhuman or degrading punishment.[10]

Despite such evidence of abuse on the part of some soldiers, military deployment has been ramped up dramatically. In late April Mr Ramaphosa wrote to Parliament informing it of his decision to employ another 73 180 members of the South African National Defence Force (SANDF), in the period from 2nd April to 26th June 2020, to help counter the pandemic. The deployment order applies to reserve and auxiliary forces, including the military health service and engineers. SANDF members will thus be used not only for roadblocks and patrols, but also to build field hospitals, help with screening for the virus, and step up the delivery of water and other essential services.[11]

The Constitution allows the president to deploy the SANDF 'in co-operation with the police service', provided he promptly informs Parliament of the numbers involved, the reasons for the deployment, and the period for which it is to last. However, the Constitution also makes it clear that the exercise of national security is 'subject to the authority of Parliament'.[12]

Yet when several of the SANDF's most senior generals met with MPs soon thereafter to discuss the deployment, they gave short shrift to any notion of accountability to Parliament. SANDF chief of staff Lieutenant-General Lindile Yam told MPs: 'You are not our client. We are not the police. We take instructions from the commander-in-chief' (the president). SANDF chief of joint operations, Lieutenant-General Rudzani Maphwanya, followed up with a warning to anyone who might want to 'undermine' the military campaign against the pandemic. 'While we are being provoked, law enforcement will not allow anyone to insult the president. We will react immediately. It is important that this is known', he said.[13]

Part of the purpose of this additional deployment is to enforce the night-time curfew (from 8pm to 5am) that was introduced on 1st May as part of the Level 4 regulations. The full might of the army has thus been rolled out – with little explanation and little parliamentary debate – to enforce a nation-wide curfew with no clear rationale in combating the virus.[14]

A mounting threat to freedom of speech

Freedom of speech is also at risk, for one of the government's first moves, even before the lockdown began, was to bar virologists, epidemiologists, and other experts from providing the test and modelled data underpinning its decisions without its consent. The rationale then provided was that information needed to be 'centralised' and the public protected from the 'noise' of differing data.[15]

The lockdown is now in its seventh week – and still the government refuses to disclose the modelled data informing its decisions. An early model, produced by the South African Centre for Epidemiological Modelling and Analysis (Sacema) and the National Institute for Communicable Diseases (NICD), predicted between 87 900 and 351 000 deaths if the government did nothing to stop the spread. But these figures have been roundly criticised by former NICD head, Professor Shabir Madhi of Wits University, who has described them as 'flawed and illogical'. Though this initial model has been replaced by others, the public is barred from obtaining the relevant projections. This time the stated rationale is to 'avoid a Covid-19 panic'.[16]

This clampdown on vital information makes it particularly difficult to assess the reasonableness and rationality of the government's response. It also conflicts with the guaranteed right to 'receive and impart information' – and with the Constitution's founding values of 'accountability, responsiveness, and openness'.[17]

The clampdown undermines the fight against the virus too, for it bars the increased scrutiny that could help refine and improve the model. Secrecy also increases the risk, says Professor Alex van den Heever, a health economist at Wits University, that the data could be 'skewed'. The country's 'entire response to Covid-19 is too dependent on the government acting on its own', he warns.[18]

The government has also established a high tech monitoring and information platform to help it bar both 'misinformation' and 'fake news' about the Covid-19 pandemic. According to acting communications director Jackson Mthembu, once fake news items or social media posts have been identified, internet service providers and other platform owners will be 'notified' and made responsible for 'removing' these items with immediate effect. Says Mr Mthembu: 'We are stepping up our campaign against digital misinformation, particularly in relation to Covid-19 and related actions such as the national lockdown.'[19] This too is in conflict with the Constitution. Eliminating what the state regards as 'misinformation' could also limit public awareness and debate about vital issues.

The ANC has since stepped up its condemnation of what it describes as 'growing patterns of misinformation' about different aspects of the lockdown. Last week, it strongly criticised the Afrikaans Sunday newspaper *Rapport* for a front-page story saying it was 'crazy' that people were not allowed to feed the hungry without a permit from a state which 'wanted to control everything'. According to the ANC, *Rapport* had 'insinuated that social and business relief measures undertaken by government...were not meant for [all] of South Africa's people'. Though the disputed article reflected government policy on the need for permits, the ruling party nevertheless condemned the newspaper for failing to be 'loyal to the truth'.[20]

More seriously still, two eNCA news anchors, Xoli Mngambi and Jane Dutton, were taken off the air for several days after they had criticised Dr Nkosazana Dlamini-Zuma's reported role in overriding Mr Ramaphosa and reinstating a ban on the sale of cigarettes at Level 4 of the lockdown. They had also described South Africa as a 'police state under the control of renegade ministers and the security forces'.[21]

The two publicly apologised, even though their comments were in keeping with a recent eNCA policy requiring that news anchors be more 'opinionated' on social and political issues. However, Mr Jackson had earlier condemned 'any suggestions that the president was undermined by members of his Cabinet', saying these were 'tantamount to falsehoods and misleading of the public'. eNCA denied having suspended the two,[22] but they were nevertheless removed from hosting its breakfast show for several days. The implication is that this was a punishment for infringing the ANC's ban on 'misleading the public'.[23]

Forcing people into state quarantine

Early in April, two state doctors living in Limpopo, who had tested positive for Covid-19, went into immediate into self-isolation in their home. Limpopo Health MEC, Dr Phophi Ramathuba, nevertheless insisted they be removed from their house and taken to the Modimolle MDR-TB facility. Here, they were locked up in separate rooms for 24 hours a day in what amounted to solitary confinement, denied any medical attention, obliged to use water bottles that could have been contaminated with TB, and ignored by the staff when they called for help. It was only after the South African Medical Association (SAMA) began legal proceedings for their release that a settlement was reached and the doctors were allowed to return home.[24]

Later in April, ten people suspected of having contracted Covid-19 were forcibly detained at the Tshepong Hospital in Klerksdorp. None had yet tested positive: some were waiting for results and some had not yet been tested. Their requests to be placed in self-isolation under proper hygienic conditions were refused. Yet the ward where they were being held was dirty and had no running water or hand sanitisers, while hospital staff reportedly moved in and out of it without wearing masks or gloves.[25]

Soon afterwards KwaZulu-Natal premier Sihle Zikalala announced that self-isolation would no longer be allowed in his province, saying: 'The issue with self-isolation – we are saying it is coming to an end. Once we have discovered that you have tested, we take you, and that is the end. Up and until you recover, we release you back into the community.' This would apply in the 'big townships as well as the suburbs' of the eThekwini District, and violations would be met with 'concomitant punishment'.[26]

The premier backed down, however, after AfriForum threatened to challenge his decision in court. Yet the risk of compulsory state quarantine now seems to be returning. Twice in the past week, in separate speeches in the Western Cape and the Eastern Cape, Dr Zweli Mkhize has stated that those who test positive for the virus must be admitted to state field hospitals or other isolation facilities, even if they have no symptoms at all.[27]

Said Dr Mkhize in his Western Cape speech last Saturday: 'We are going to put people in field hospitals... People will be kept in hospital, not because they need treatment, but until they are past the point where they are infectious.' He did, however, qualify this by saying that state quarantine would apply only to individuals that doctors considered unable to 'self-isolate properly'.[28] This is an important qualification.

However, the Level 4 regulations sometimes omit this qualification and are highly coercive. According to these rules, people who have tested positive or are suspected of having the disease may not refuse to 'be admitted to a quarantine or isolation site'. No exception is made for those with the capacity to self-isolate. People who fail to comply 'must be placed in quarantine for 48 hours, pending the issuing of a warrant by a local magistrate 'on the application of an enforcement officer'. To obtain a warrant, the enforcement officer must simply affirm that the individuals in question have either tested positive for Covid-19 or are suspected 'on reasonable grounds' of having contracted the disease. The warrant allows only for compulsory testing, but people are still denied a choice about admission to state sites.[29]

This clause is buttressed by a further regulation stating that those 'suspected to be infected or contaminated with Covid-19', must comply with the 'written directions' of an 'enforcement officer' to go to specified state isolation sites or quarantine facilities and remain there until their Covid-19 status has been determined. Those who refuse to do so may seemingly be ordered by a magistrate to comply. Self-quarantine is, however, allowed if instructed by a medical practioner or nurse.[30]

These rules are inconsistent with international best practice on the treatment of Covid-19, which calls for self-isolation for people who have already tested positive but have no or minor symptoms. They are also inconsistent with a number of the fundamental civil liberties guaranteed by the Constitution. Those able to self-isolate in their homes must thus be permitted to do so. Those without this option should be allowed, with the help of tax-funded self-isolation vouchers, to self-isolate in empty university residences, hotels, and the like.

Economic freedom sharply eroded

The initial five-week lockdown obliged some 80% of businesses to close their doors and stop operating. Level 4 of the government's 'risk-adjusted strategy', which took effect on 1st May, still bars some 60% of businesses and individuals from returning to work. How long Level 4 is likely to last remains unclear, moreover, whereas the initial hard lockdown (now designated as Level 5 on the state's sliding scale) at least had a specified duration.

The government has also made it clear that the country's key metropoles – where infection rates seem to be rising faster than elsewhere (perhaps because more testing is being done in these urban centres) – could be pushed upward to Level 5 again. Businesses allowed to operate at Level 4 would then be forced to shut their doors. Any business where a Covid-19 infection is discovered may also be forced to stop operating.

Uncertainties of this kind put all businesses in an invidious position. Comments Russell Lamberti, founder of ETM Macro Advisors: 'Businesses cannot tolerate a system where politicians can just randomly turn their businesses on or off. No meaningful investment or hiring or strategic operational decisions can be made under such circumstances.'[31]

The government's risk-adjusted strategy is also coercive, centralised, and inordinately bureaucratic. Officials are been tasked with deciding which sectors should be allowed to open at each of the five levels. But the criteria they must apply are often vague and inherently uncertain. In addition, not all businesses fit within a single sector, while a sector-wide classification may be inappropriate for many of the varied businesses within it. Businesses allowed to open at Level 4 may also need supplies from other sectors that have been allocated to lower levels and hence are not yet permitted to function.

The restrictions imposed by officials – for example, that non-essential manufacturers must function at Level 4 with only 30% of their normal staff – may also be unworkable in practice. Some Level 4 limitations are inherently irrational too: for example, the rule that unfettered online shopping cannot be allowed because this would pose 'unfair competition' to spaza shops.

Movement to lower risk levels is to depend entirely on health criteria, with economic factors left out of account. Two health tests are to rule: in essence, whether infections are still spreading and whether health services are sufficiently ready. Yet the increased testing now being rolled out is sure to pick up many more SARS-CoV-2 infections – and especially so in the cold winter months that lie ahead, when flu becomes more common.[32]

If these health tests remain the key deciders, the lockdown is most unlikely to be lifted until the end of the year, as Dr Dlamini-Zuma has mooted. Though restrictions will presumably diminish over time, it may well take until December 2020 to attain the 'low virus spread' the government seeks.[33] Even in this benign situation, moreover, health sector readiness could still be found wanting – and this in itself could then be used to delay the final lifting of restrictions.

The economic consequences of the lockdown are expected to be devastating. As earlier noted, B4SA is strongly urging the government to shift rapidly to Level 2 and so limit the likely economic contraction to 10% of GDP. By contrast, if the Level 4 lockdown remains in place for a month, with a gradual move to lower levels, the economy is likely to contract by 14.5%, B4SA warns. The situation will be even more devastating if Level 4 remains in place until the end of the year, for GDP may then diminish by an extraordinary 30%.[34]

The lockdown has snuffed out much of the (diminishing) economic freedom that South Africans earlier enjoyed. It has vastly increased the government's control over the economy, allowing it to decide what businesses should be allowed to operate and under what conditions. It has prevented millions of people from working and earning, and is busy pushing thousands of firms (including major corporations such as Edcon and Comair) into business rescue or liquidation.

Draconian lockdown controls have also triggered an upsurge in dependency on the limited support the state is able to provide. Until such time as the lockdown is lifted and the economy recovers from the massive blow it has been dealt, millions of South Africans will find themselves bereft of the economic independence they previously enjoyed and ever more reliant on the government to fulfil their core needs.

Freedoms restricted with few compensating gains

Major restrictions on political and economic freedoms have not been counter-balanced by evident health gains. Even the initial hard lockdown proved unable sufficiently to slow the transmission of the virus in the many teeming townships and informal settlements where social distancing and regular hand-washing cannot be achieved. This is why the reproduction rate of the virus (the R number), despite an initial fall as imported infections were reduced, has remained above 1 in all subsequent weeks of the lockdown.

An R number below 1 is important because, if every infected individual infects less than one other person, the virus will stop spreading. By contrast, if R remains above 1 and every infected individual infects more than one other person, then the virus will continue to spread and will do so with increasing speed.

Professor van den Heever sets out the ramifications. The R number has remained at 1.1 to 1.2 since early in April, when community transmission became evident in Khayelitsha and elsewhere. The initial lockdown was thus unable to bring the R number below 1. If this number remains at around 1.2, 'we can expect around 3 000 new infections per day by 31 May and 26 000 new infections per day by 30 June. After that, the numbers become seriously large'.[35] In addition, so little testing is being carried out (in all areas of the country) that the R number could in fact be significantly higher.

The Level 5 lockdown failed to achieve the government's key objective of 'flattening the curve', as this goal can be met only where the R number falls to 1 or lower. Persisting with a Level 4 lockdown, or even taking the lockdown level back to 5, will make no difference, moreover. These measures will likewise 'fail to bring R down below 1, as is the case to date', says Professor van den Heever.[36]

The lockdown has helped prepare the health system (insofar as this is possible in a short time), but testing and tracing have remained far too slow and ineffective. According to Professor Madhi, 'to curtail the transmission of the virus at an early stage, you have to be effective at tracing 80% of the contacts. If you are not able to trace 80% of contacts, you will not be able to control the spread of the virus.'[37]

South Africa has never achieved this 80% goal because its testing is too limited and is also far too slow. It currently takes five to 14 days for test results to come back, by which stage it is impossible to trace all the contacts an infected person might have had a week or more ago. Test results need to come back within 24 hours, says Professor Madhi, so that contacts can effectively be 'traced and tested and put in isolation or quarantine'. This is 'a mammoth task', he adds. 'It works at the start of a pandemic, when there are few cases. But you reach a tipping point when it becomes implausible' to do this.[38]

With the number of detected infections above 10 000, South Africa has probably passed that tipping point. The government has thus squandered what could have been a key benefit of the lockdown. As Professor Madhi notes, it erred in its timing by introducing the lockdown before it had developed the capacity to test and trace at the volume and speed required.

Likely Covid-19 deaths compared to non-Covid fatalities

As earlier noted, the government has refused to disclose the modelled fatality figures underpinning its lockdown decisions. Some weeks ago, however, health minister Zweli Mkhize published a slide with some of the relevant numbers. According to this slide, the government expected 12-million Covid-19 cases without the lockdown, but the number has now fallen to 8 million with the lockdown in place. It expects 6 million people (75% of the 8 million) to be asymptomatic and 2 million people to fall ill. Assuming an infection fatality rate of 1%, it anticipates that 20 000 out of those 2 million people will die.[39]

Comments Katherine Child: 'Put another way, Mkhize's slide suggested the lockdown prevented 4-million cases, stopped 1-million people getting sick and, using that 1% fatality rate, ensured that 10 000 deaths didn't happen.'[40]

Based on these figures, the essential aim of the lockdown is to prevent those 10 000 deaths. Yet this projection is based on an infection fatality rate of 1%, which is probably too high. With research into the disease accelerating in many different countries, the evidence increasingly suggests that the true infection fatality rate is between 0.1% and 0.4%.[41] On this basis, the deaths the lockdown is seeking to prevent range from 1 000 to 4 000.

If the lockdown had not been instituted, the 30 000 deaths then anticipated by Dr Mkhize would have been much the same as the 28 700 TB deaths that were recorded in 2017 (without any thought of a lockdown being introduced). With a prolonged lockdown now in place, however, so many people will be pushed into poverty and hunger that deaths from TB in 2020 are likely to rise far above the 2017 level. Deaths from diabetes, heart disease, HIV, cancer, malnutrition, and other non-Covid causes are likely to rise sharply too. Cumulatively, these non-Covid fatalities will far exceed the death toll from the virus. This is why 19 doctors wrote to President Cyril Ramaphosa a fortnight ago, urging him to lift the lockdown with immediate effect – and warning that every day of its continuation would cause more harm.[42]

The constitutionality of the lockdown

The national state of disaster declared by the government in response to the Covid-19 pandemic has not formally suspended any of the fundamental rights guaranteed by the Constitution. These include the rights to human dignity, equality, and just administrative action. Also guaranteed are rights of assembly, demonstration and free speech, along with freedom of movement, freedom of association, and freedom of trade, occupation, and profession.[43]

The lockdown infringes all these rights in various ways. To name but one example, for people to be confined to crowded shacks in informal settlements for many weeks, if not for many months, is a clear infringement of their right to human dignity.[44]

Derogations from guaranteed rights are permitted under Section 36 of the Constitution, but must satisfy all aspects of what is known as the 'proportionality' test. Restrictions on guaranteed rights must thus be 'reasonable and justifiable' in an 'open and democratic society'. There must also be a clear link between the restrictions and the purpose they are intended to achieve, while the absence of 'less restrictive means' to achieve that purpose must be demonstrated too.[45]

However, many lockdown rules are clearly not 'reasonable and justifiable'. Examples include restrictions on e-commerce (on-line shopping) in order to prevent 'unfair competition' to spaza shops; the rules allowing construction to resume on public projects but not on private ones, even though transmission risks at all building sites are essentially the same; and the arbitrary distinctions that allow supermarkets to sell electric heaters during Level 4 but not electric kettles.

Whether the lockdown as a whole is 'reasonable and justifiable' is doubtful too. The decisions to introduce and extend the lockdown have been made by the NCCC, a body with no clear constitutional authority to act in this way. In addition, the lockdown has failed to bring the R number below 1 or to ensure rapid testing and tracing – which means it cannot achieve the government's core aims of limiting infections and reducing the death toll. By contrast, the lockdown is like to trigger far more deaths from TB and other non-Covid diseases than it saves in virus fatalities. 'Less restrictive means' of reducing the Covid-19 death toll could also have been found, for the focus should instead have been placed on protecting the relatively small group of elderly and ill people particularly vulnerable to the virus.

Keeping liberty alive

If liberty is to be kept alive, it is vital to challenge every unreasonable and unjustifiable decision – from the irrationality of specific rules to the constitutionality of the lockdown as a whole. It is also important for South Africans to think ahead to the period beyond the virus, when the key need will be to revive and reinvigorate the economy after the devastation resulting from the lockdown.

Last week Mr Ramaphosa said that the country was witnessing the 'total destruction' of the economy. He blamed this destruction on the virus, when most of the damage has in fact arisen from the lockdown – and will grow worse the longer the lockdown is maintained.

The president also stated that this 'total destruction' presented an important opportunity to 'reconstruct' the economy. He stressed the need to 'put in place the pillars of a new economy', in which 'the government would identify new sectors' and 'find, create, and build jobs for the many of our people who are going to lose jobs'. In this new economy, 'state capacity' would be 'built and strengthened', state-owned entities would function in 'a developmental,...ethical...and innovative way' – and 'radical economic transformation would underpin the economic future'.[46]

This is a recipe for ever greater state intervention and control. In combination with a host of other factors over many years, it indicates that the ruling ANC/SACP alliance is determined to use the Covid-19 crisis to press ahead with the Soviet-inspired national democratic revolution (NDR) to which it has been committed since at least the 1960s.

The alliance wants to use the crisis to weaken the private sector, build dependency on the government, introduce prescribed assets for pension funds and other financial institutions, induce the Reserve Bank to print the money needed to maintain state spending, overcome resistance to the nationalisation of private healthcare under the NHI, and open the way to the uncompensated expropriation of land and other assets.

Given the massive inefficiency and often rampant corruption in the public service and SOEs, the notion that increased state control will speed up economic recovery and ensure its success should be laughed out of court. But the opposite is likely to occur. The voices speaking out in defence of capitalism – which has in fact helped lift billions out of poverty all around the globe – are likely to be limited. For more media coverage is sure to be given to the Left's demands for ever more state ownership and control. Increasingly, this will become the only accepted narrative.

The public's often mute acquiescence in the lockdown may also encourage the ANC/SACP alliance to believe that expropriation without compensation, the NHI, prescribed assets, the unrestricted printing of money, and accelerating state ownership and control will be accepted in the same passive way. All that will be needed to secure the adoption of these highly damaging measures will be to keep depicting them as vital to the 'reconstruction' of the ravaged economy.

The real formula for a resurgence in growth and a rebound in employment could not be more different. The government is deep in debt, while the country's domestic savings are far too small to finance any major expansion in infrastructure or other spending. An upsurge in direct foreign investment will thus be urgently required. That means that the confidence of foreign investors will have to be rebuilt.

If this is to be done, the ANC and its allies will have to abandon the NDR, end their ideological hostility to capitalism, and start acknowledging the vital contributions to jobs, income, and social welfare that business has long made. Instead of further weakening the economy – as NDR interventions over two decades have already done – the government should focus on strengthening property rights, removing harmful regulation, reducing barriers to employment, equipping the disadvantaged for upward mobility, promoting high rates of inclusive growth, and helping to generate the millions of private sector jobs that South Africans most need for both income and independence from the state.

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KEEPING LIBERTY ALIVE THROUGH COVID-19 AND BEYOND

Unprecedented regulatory powers

Under the Covid-19 lockdown that began on 26th March 2020, the government has assumed unprecedented regulatory powers. It has closed down an estimated 80% of the economy, effectively suspended Parliament, deployed the police and army to keep most people in their houses, given itself the capacity to confine those who test positive to state-run quarantine centres (rather than allowing them to self-isolate at home), increased its surveillance powers, prohibited price increases on key products, assumed a monopoly on the release of virus-related data, and introduced draconian penalties for publishing 'fake news' with the intention to deceive – an intent it may be willing to infer.[1]

The government has also given itself the power to decide what goods and services are essential and which businesses may be permitted to keep operating. Various economic stabilisation measures have also been introduced to help cushion the massive economic damage. But these initiatives are limited in scope because the government – after decades of poor policy, corruption and mismanagement – lacks the fiscal space to do more. At the same time, having to rely on government aid undermines business autonomy and increases mass dependency on the state. Economic freedom has thus already been diminished, while a significant degree of nationalisation could in time result. In the interim, the government claims to be working in close partnership with the private sector in a new-found spirit of social solidarity. But whether the ANC and its allies in the SACP and Cosatu have truly changed their deep-seated ideological hostility to the private sector remains to be seen.

The regulations in a nutshell

The South African government has followed China's example in imposing a stringent lockdown on the country for an initial 21 days. This has already been extended for two weeks (to the end of April 2020) and will be maintained for whatever longer period may be considered necessary.

The lockdown has been introduced by declaring a national state of disaster, rather than a state of national emergency. A national emergency could not lawfully be introduced, as a key constitutional criterion – the existence of a threat to 'peace and order' – could not be shown. In addition, a state of emergency automatically expires after 21 days unless it is extended by the National Assembly, while any extension lasts a maximum of three months at a time. By contrast, under the Disaster Management Act of 2002 a state of national disaster can last for an initial three months and then be renewed from month to month without limit. All that is required to extend it is a ministerial decision, which can be taken without reference to Parliament.[2]

Political freedoms restricted

Under its disaster regulations, the government has armed itself with all the lockdown powers evident in many other countries (people may go out only to buy or sell essential goods and services) and some unusually draconian ones (individuals are barred from buying alcohol, cigarettes and fast food, from walking their dogs, and taking even solitary jogs).[3]

The saga began on 15th March 2020, when President Cyril Ramaphosa announced that the outbreak of Covid-19 in the country was a national disaster. This opened the way for the responsible minister, Dr Nkosazana Dlamini-Zuma, minister of cooperative government and traditional affairs, to gazette a formal declaration to this effect.

Now that this declaration has been made, the Act empowers the minister to make a host of further regulations aimed at protecting the public, safeguarding property, providing relief, combating disruption, and otherwise dealing with the effects of the disaster. Towards these ends, the minister may release any of the government's resources (including equipment and vehicles) and instruct state personnel to deliver emergency services. Normal procurement rules may also be suspended to speed up the tendering process.[4]

The initial regulations introduced restrict international travel, prohibit gatherings of more than 100 people, close down schools and other educational institutions, and bar the sale of alcohol after 6pm (a prohibition since made absolute). They also provide that any person who 'intentionally exposes another to Covid-19' may be prosecuted for murder or attempted murder.[5]

On 23rd March the government went further, announcing a 21-day lockdown to run from 26th March to 16th April 2020. For as long as the lockdown lasts, South Africans may leave their homes only under strict conditions: to seek medical care, buy food, medicine and other essential supplies, draw money from banks, and collect social grants. All businesses have been instructed to 'cease operations' unless they are involved in the supply of essential goods and services. Retail stores selling essential goods are barred from selling non-essential items, including clothing, alcohol, and cigarettes.[6]

Movement across provincial or municipal boundaries is prohibited. Parks, hotels, cinemas, and shopping centres (except for stores selling essential items) must be closed. Public transport is restricted, for commuter trains have been withdrawn while buses and taxis may carry only essential workers. Taxis, which normally transport some 16.5m people a day, may operate only at specified hours and with fewer passengers than normal. (Transport minister Fikile Mbalula has flip-flopped on permitted taxi passenger numbers, initially saying they could carry 50% of the usual number, upping this to 100% when taxi owners complained, and then taking it down to 70% when worried commuters raised objections.)

Many of the regulations are ambiguous or poorly thought through. The ban on crossing provincial borders, for example, meant farmers could not get essential products to market, so organised agriculture has had to work with government to overcome this obstacle.[7] The blanket ban on all non-essential businesses made no provision for the continued operation of those able to work remotely, but this has now been changed. The Department of Trade and Industry (DTI) initially insisted that essential businesses had to register to keep operating even though this is not specified in the regulations and the dedicated portal established for this purpose was often inoperative.[8]

Surveillance powers have been expanded by the communications ministry, which has issued directions authorising the use of location-based data generated by cell phone companies. The current purpose – to assist in tracking the spread of the virus – is benign and seems to echo the steps taken in various European countries to help control the spread of the pandemic. Yet even the gathering of location-based data is sensitive. Hence, it normally requires a prior judicial order to sanction its release.[9]

Under the regulations, by contrast, the director general of justice may instruct cell phone companies to provide information on the location and contacts of people known or suspected to be infected with the virus. The director general must also report each week to a designated judge (in this instance, Ms Justice Kate O'Regan, a retired Constitutional Court judge). But prior consent is no longer needed, while the designated judge is confined to making non-binding recommendations on how to safeguard the privacy of those affected.[10]

Monitoring of this kind is far less pervasive than the constant camera and other surveillance implemented in China. But monitoring of citizens by drones has also now begun,[11] and it remains uncertain how far this could be taken.

Many worrying abuses of police and army powers have been witnessed since the lockdown began. Most of the 2 700 or so people arrested for breaking the rules in the first week were presumably taken into custody without illegal force. But some people were humiliated by policemen and soldiers (forced to do jumping squats and push-ups), while others were severely whipped and several were shot. According to the Independent Police Investigative Directorate (IPID), a statutory agency responsible for monitoring police abuses, six people were killed in police action in the first week. Among these was a man reportedly beaten and tasered for buying alcohol at a tavern in Ravensmead (Cape Town), and another shot inside his own property in Vosloorus (east Rand). Two more people died in police custody, bringing the number of deaths to eight. Some 30 further instances of abuse (and one alleged rape by a police officer) were also reported.[12]

On the first day of the lockdown, police minister Bheki Cele brushed off public concerns over excessive force, saying 'wait until you see more force'. ANC MP and parliamentary whip Thabo Mmutle responded to complaints by (wrongly) claiming that the Bill of Rights had been suspended and saying that soldiers forcing individuals to do frog-jumps were merely 'assisting our people to be disciplined'.[13] President Cyril Ramaphosa may also have encouraged abuses by donning a military uniform the night before the lockdown began and telling soldiers that those who disobeyed the rules were 'challenging the state, challenging the president'. In practice, this may have had more impact on soldiers and policemen than his call on the security forces to implement the lockdown 'with compassion and humility'.[14]

The government has also barred virologists, epidemiologists, and other experts from talking to the media about the pandemic, saying information needs to be 'centralised' and the public protected from the 'noise' of differing data. All information must thus come from a public entity, the National Institute for Communicable Diseases (NICD). What this means, reports News24.com, is that 'with a few exceptions, only the government's version of the spread of the virus is reaching the public'. Some senior researchers and academics have expressed frustration at this constraint, saying the NICD is too overwhelmed to speak to the media and that 'not enough information is getting out'.[15] In addition, the right to 'impart information' is guaranteed by the Bill of Rights – and there is nothing in the disaster management regulations to authorise the gagging of these experts.[16]

The government has also sought to bar the publication of 'fake news' about the pandemic. Its regulations prohibit any person from 'publishing any statement through any medium, including social media, with the intention to deceive any other person about Covid-19...or any measure taken by the government to address the disease'. However, a direct 'intention to deceive' is not necessary for conviction, writes Professor Omphemetse Sibanda of the University of Limpopo, as the necessary intent may be inferred from what the accused must have foreseen.[17]

This prohibition again is disturbingly broad and in breach of the guaranteed right to free speech. In addition, the police barred the media from attending the court appearance of a man accused of publishing fake news about the Covid-19 crisis. (Stephen Birch had claimed on social media that the medical swabs used during screening were contaminated with the virus.) Excluding the media in this way was a breach of the regulations and marked a further derogation from the Bill of Rights.[18]

Worse still, the government has now set up a high tech monitoring and information platform to increase the state's capacity to act against both 'misinformation' and 'fake news' about the Covid-19 pandemic. According to acting communications director Jackson Mthembu, once fake news items or social media posts have been identified, internet service providers and other platform owners will be 'notified' and made responsible for 'removing' these items with immediate effect. Says Mr Mthembu: 'We are stepping up our campaign against digital misinformation, particularly in relation to Covid-19 and related actions such as the national lockdown.'[19] But this too is in conflict with the Constitution. Eliminating what the state regards as 'misinformation' could also limit public awareness and debate about vital issues.

Economic freedom eroded too

Under the lockdown regulations, an estimated 80% of businesses have been prohibited from operating. The economic impact is likely to be devastating. Early in April, the Reserve Bank warned that the economy could contract by 4% in 2020, that 370 000 jobs were likely to be lost, and that some 1 600 businesses would fold in the near future. After the lockdown was extended, however, it said the contraction in GDP would come in at 6.1%. Other estimates are significantly more pessimistic on both growth and job losses. The economy could contract by 5% or even 10%, depending on the duration of the lockdown. (Citi economist Gina Schoeman estimates that the two-week addition to the lockdown will result in a 7.5% to 8% contraction.) In addition, some 1.7 million jobs could be lost, with the heaviest layoffs in manufacturing (940 000); transport (300 000) and mining (230 000).[20]

A recent research report on the impact of the crisis on SMEs has warned that 75% of these businesses will not survive a lockdown lasting longer than three months. More than 1 000 SMEs in various sectors across the country participated in the survey. According to the report, 7% have already laid off staff, while 53% consider future retrenchments unavoidable. Some 60% said they were battling with cash flow to pay expenses, while 27% were struggling to retain clients or find new ones. Some 5% were battling to collect debt, while 2% were unable to get stock.[21]

The extent of the losses cannot yet be quantified – and much will depend on how long the lockdown is maintained. What is clear, however, is that the lockdown has vastly increased the government's control over the economy. It has also triggered an equivalent increase in mass dependency on such limited support as the state is able to provide. Until such time as the economy recovers from this unprecedented blow, millions of South Africans will find themselves bereft of the economic independence they previously enjoyed and ever more reliant on the state to fulfil their core needs.

Potentially harmful price controls on essential goods and services have also been introduced. The declaration of a national disaster in mid-March triggered a wave of panic buying, which depleted supplies and prompted some shops to put up prices. In response, trade and industry minister Ebrahim Patel introduced price controls on essential goods ranging from hand sanitisers, facial masks, and surgical gloves to canned vegetables, sugar, rice, and toilet paper. Such items may not be sold at prices that are 'unfair, unreasonable, or unjust' – criteria that are intrinsically vague. Offenders face fines of up to R1m and may forfeit 10% of their turnover, while prison terms of up to 12 months may also be imposed. These controls may be benign in their intent, but they could also make it more difficult to maintain supplies.[22] In addition, the government has long wanted increased control over pricing, so these powers could give impetus to more permanent restraints.

An economy already on its knees

The pre-coronavirus economic malaise

The day after the lockdown began, Moody's Investor Services became the last of the three major global ratings agencies to downgrade South Africa's sovereign credit rating to sub-investment or 'junk' status. (The other two, Fitch and S&P, had done the same in 2017, some three years earlier.) Tellingly, Moody's gloomy assessment of South Africa's economic and fiscal weaknesses highlighted longstanding problems and paid little attention to the Covid-19 crisis, which barely rated a mention.[23]

Setting out its reasons for the downgrade, Moody's noted that real GDP was likely to contract by 2.5% in 2020, while the budget deficit would rise to 8.5%. Total public debt, including guarantees to SOEs, would rise to 91% of GDP by 2023, up from 69% in 2019. Inadequate electricity supply would remain a binding constraint on growth. So too would government failures to implement structural and fiscal reforms to contain spending and increase revenues. Moody's also expressed concern that labour-market rigidities and uncertainty over property rights (code language for the government's expropriation-without-compensation or EWC proposals) were likely to remain unaddressed.[24]

After the downgrade was announced, the rand fell sharply against the dollar, breaching the $19 level and declining further towards $20 (though it has since recovered to some extent). Now that South Africa has lost its last investment grade rating, it will automatically fall out of the FTSE Russell World Government Bond Index at the end of April, when this is rebalanced. This will compel many foreign investors – who currently hold some 34% of the country's bonds – to sell out. Bond yields, which rise when prices fall, have thus remained high (often above 11%) despite Reserve Bank purchases in the secondary market aimed at shoring up demand and holding yields down.[25]

All three ratings agencies have kept the country on negative watch. This increases the likelihood that in time they will downgrade South Africa deeper into junk – as Fitch in fact did a week after Moody's decision. These successive downgrades will make any return to investment grade very much harder to secure. They could also push the country into 'a doom loop' or negative downward spiral, as Rand Merchant Bank chief economist Etienne le Roux describes it.[26]

Explained Mr le Roux to the *Financial Mail*: 'A period of deep recession and fast-deteriorating fiscal ratios could easily feed into further credit-rating downgrades, even sharper increases in debt servicing costs, and so on. In such a scenario, the government would find it increasingly difficult to fund a gaping budget deficit through traditional channels.' This risk was present even before the outbreak of the virus, but will now be exacerbated by 'the Covid-19 disaster'.[27]

Knock-out blows from the virus and the lockdown

No one can yet predict how severe the additional economic fallout from both the virus and the lockdown will be. Stock markets across the world were the first to bear the brunt, but real economies are now following suit.

The stock market rout began in February 2020, when virus infections spread outside China to Italy and the global infection total topped 83 000 (most of them still in Hubei province in China). At the end of February, the Dow Jones was 10% down since the start of the year. By the end of March (Q1 2020), it was down by 23%, its worst quarter in history. Similar devastation was evident elsewhere. The UK's FTSE 100 and Germany's Dax were both down 25% in the same period, while France's CAC dropped 26.5% for the quarter. Japan's Nikkei fell 20% in the same period and Hong Kong's Hang Sen lost 16%. China's Shanghai Composite was down 9.8% in the first three months of the year, and was the only major stock market index to end the quarter not in bear territory.[28]

The FTSE JSE All Share Index (the JSE) lost 22% in the same period. This wiped almost R4 trillion off its value in a massive blow to both corporate investors and the millions of South Africans with savings in pension funds and unit trusts. The bond market witnessed a huge (R70bn) sell-off, which saw 10-year bond yields rising from 8.5% in early March to 11.8% a fortnight later. Wrote *Business Day* contributing editor Hilary Joffe on 22 March 2020: 'The JSE's bond market saw foreign outflows of more than R37bn in a single day as the international investors who hold almost 40% of our bonds fled into their dollar safe havens'. Since bond prices drop when yields go up, 'the value of the bonds that investors still hold has crashed, while the cost of government borrowing has spiked', she cautioned.[29]

Despite the carnage on the JSE and other markets, the broader damage to South Africa's economy from the virus was initially limited. That changed with the lockdown, however, when the bulk of retail, mining, manufacturing, trade, transport, and construction businesses were forced to stop operating. More than half the national workforce, formal and informal, is thus set to suffer major earnings losses. This will sharply reduce the consumer spending that normally contributes more than 60% to GDP. The South Africa economy is thus likely to contract by more than 6% of GDP during the year. With tax revenues also falling, the budget deficit could rise to 10% or more, as the Reserve Bank has recently cautioned. This will make it ever harder to service debt and fund essential spending on social grants, health, education, sanitation, water, and housing.[30]

Sharp Covid-related contractions are also likely elsewhere. According to early estimates by the Economist Intelligence Unit, these could lead to a 2.2% reduction in global GDP, in a massive turnaround from the 2.3% growth earlier anticipated. Major contractions are also anticipated in many key economies, including the US (-2.8%), the UK (-5%), Germany (-6.8%), France (-5%), Italy (-7%), and Japan (-1.5%). Two BRIC countries will also witness sharp contractions (Brazil at -5.5% and Russia at -2%), but China will still grow (though only by 1%) and so too will India (by 2.1%).[31]

As the *Wall Street Journal* reports, 'at least one-quarter of the U.S. economy has suddenly gone idle'. This has triggered a 29% fall in US daily output since the closures began. By comparison, says economic-analysis firm Moody's Analytics, 'annual output fell 26% between 1929 and 1933, during the Great Depression' while 'quarterly output fell almost 4% between late 2007 and mid-2009', during the last recession. The output drop, says Mark Zandi, chief economist at Moody's Analytics, is also worse than what happened after the 9/11 attacks on the World Trade Centre and the Pentagon. 'In the days after the attacks, US output dropped by an estimated $111 billion in current dollars', he estimates. 'By comparison this year, in the roughly three weeks since the state-imposed closures due to the coronavirus outbreak, output has fallen roughly $350 billion.' Employment has also been hit hard, with roughly 17 million people applying for first-time unemployment benefits in three weeks, another disturbing record. If these individuals reduce their spending, as seems likely, this will put further pressure on those businesses that still remain open.[32]

Emerging markets have witnessed an unprecedented outflow from equity and bond markets, with foreigners taking more than $83bn out in March (according to the Institute of International Finance, a banking association). This is the biggest monthly outflow on record.[33]

Many of the regions soon to fall into recession trade extensively with South Africa. Notes Nedbank in a recent economic overview: 'Asia and Europe are South Africa's biggest trading partners, collectively representing 61% of total exports and 70% of total imports – and both regions have been hit hard by the pandemic.' In addition, if global contraction in 2020 were to turn into a multi-year global recession, South Africa would find it even harder to recover.[34]

Little capacity to reduce the economic damage

South Africa embarked on its strict lockdown with its fiscal cupboard largely bare and with little capacity to help reduce the economic damage sure to result from closing down most of the economy for a significant period. Hence, it cannot begin to match the support being provided by governments in the developed world, which have pledged to 'pump $7-trillion into their economies', as *Business Day* reports.[35]

To name but some examples, the US is providing $2 trillion in fiscal stimulus, which translates into $6 113 per capita and will include a helicopter payment of some $1 200 to every adult American. Promised fiscal stimulus in the UK amounts to some $450bn ($6 603 per person), and includes 'a jobs retention scheme' that pays firms up to 80% of the salaries of furloughed employees (and looks set to have a take-up five times larger than anticipated). At the lower end of the scale, Italy is providing $28bn ($463 per person) and South Korea $9.8bn ($191 per person). By contrast, South Africa's stimulus package amounts to a mere $2.3bn or $40 per person.[36]

Measures being introduced in other countries include lowering interest rates, reducing capital requirements for banks, and helping to maintain liquidity in financial markets, often through central bank purchases of government and corporate bonds; lending state funds directly to struggling firms; deferring payments on mortgages and other loan agreements, sometimes with the backing of government guarantees; deferring tax payments and municipal rates, along with contributions to UIF, social security, and statutory compensation funds; and making direct payments to individuals, as the US and various others are doing.[37]

No one knows how large such stimulus packages might need to be, but some economists have suggested that 'the fiscal stimulus should be as big as the drop in GDP'.[38] Yet even where relief of this magnitude can be provided, the overall economic fallout is still likely to be severe.

Consider, for example, the foreseeable impact on banks alone. As the *Financial Times* (FT) reports, banks around the world have survived the market mayhem and the initial lockdown shock with significant help from their governments. But the real test of their resilience still lies ahead. Notes the FT: 'Huge swathes of the global economy, from airlines to retailers, have seen their revenues all but evaporate. Many companies and consumers will default on their loans, leading to a string of excruciating credit losses for banks that will hit profitability and blast a hole in their balance sheets. Meanwhile, ultra-low interest rates introduced by central banks to support the economy during the pandemic will put extra pressure on profits generated by lending... In addition, though many retail and consumer borrowers have been given payment holidays, some will never be able to repay their loans, which could lead to a wave of bankruptcies and repossessions.'[39]

South Africa's stimulus interventions follow much the same pattern as in other countries, but at a much lower level of magnitude. The Reserve Bank has lowered the repo rate by a cumulative 200 basis points, and started buying bonds in the secondary market to ease liquidity constraints and help hold down soaring bond yields. Through its prudential authority, it has also reduced capital reserve and liquidity requirements for banks. This will free up some R320bn in banks' capital and allow them to provide loan repayment holidays without breaching normal prudential requirements.[40]

Partial government guarantees for bank loans to businesses in trouble from the lockdown are also now being considered. But, even with help of this kind, banks face major pressures on their sustainability. Income from fees and charges is sharply down – for ATM withdrawals and other economic activities have dropped by about two thirds – and many of their customers, both businesses and individuals, could yet face bankruptcy.[41]

Support packages cumulatively worth some R1bn are to be provided to small and medium enterprises (SMEs) to help them produce more of the critical consumer goods (masks and sanitisers, for example) needed in the fight against Covid-19. At the same time, the Industrial Development Corporation and the DTI will make more than R3bn available for industrial funding for vulnerable firms, while the Department of Tourism is providing some R200m for struggling SMEs in the tourism sector. In the tourism sector at least, however, the provision of relief has been made subject to BEE requirements, so as to 'pre-qualify' those with the best BEE scores and largely (but 'not totally', according to Ravi Pillay, finance MEC in KwaZulu-Natal) exclude whites.[42]

A Solidarity Fund has been established (with seed money of R150m provided by the state) to help 'combat the spread of the virus, care for those who are ill, and support those whose lives are disrupted'. Private donations to the Fund have since poured in, increasing its coffers to some R2.2bn.[43]

The Treasury has also provided tax relief of various kinds. It has extended the youth wage subsidy (formally known as the employment tax incentive) to all employees earning less than R6 500 a month, which will allow their employers to claim a tax refund of R500 a month per employee to subsidise wages. It has also authorised employers with annual turnover below R50m to defer 20% of their PAYE payments for six months, giving them effectively an interest-free loan for this period. Together, however, these measures are worth only R15bn.[44]

Employment and labour minister Thulas Nxesi has announced that distressed companies will be reprieved from UIF contributions for a period. In addition, a special Covid-19 layoff benefit, operating through the UIF, has recently been finalised. This will pay out sums, pegged at between R3 500 and R6 700 a month, for the benefit of employees laid off because of the lockdown. Benefits will be available for three months, and will be paid to employers for onward transmission to their staff.[45]

The UIF has some R30bn to R40bn invested in the money market, so necessary funds (at least for now) are readily available. However, as *Business Day* reports, 'with an estimated 80% of the economy shut down, the administration of the benefit will be hugely demanding. The UIF has 1.8-million employers on its database. If a little over half of all employers apply for the benefit it will need to process a million claims.'[46]

In addition, the UIF layoff benefit is available only to employees in the formal sector, rather than to people operating in the informal sphere. Millions of people are also unemployed, putting half the population below the poverty line. Hence, writes *Business Day* editor at large Carol Paton, while Europe and the US are 'worrying about mortgage defaults and corporate loans', South Africa confronts a looming humanitarian disaster. For the millions of people who used to get by on survivalist incomes, 'the lockdown... means the difference between simply being poor and starvation'.[47]

The logic of the lockdown in South Africa

Renowned economist Ricardo Hausmann has cautioned that general lockdowns are 'not sustainable' and can bankrupt economies without the 'fiscal space' (budgetary resources) to cushion economic blows without compromising essential spending and pushing up public debt to 'doom-loop' proportions.[48]

Professor Hausmann is currently director of the Growth Lab at Harvard's Center for International Development and the Rafik Hariri professor of the Practice of International Political Economy at Harvard Kennedy School. 'Unsustainable situations cannot last', he warns, for 'at the limit, people will have to decide between a 10% chance of dying from the virus and a 100% chance of starving to death.' General lockdowns, he adds, are particularly damaging because they affect everyone and do not seek to 'use information about who is susceptible, who is infected and who is immune'. Many countries with 'small or dwindling fiscal space' have nevertheless opted for lockdowns of this kind – mostly because 'governments have had to make decisions quickly and without much time to think'.[49]

This assessment is particularly true of South Africa, which implemented a general lockdown in a great hurry, with no prior debate, no cost-benefit analysis, and no indication of what would constitute sufficient success to warrant the lifting of the state's extensive controls. Many other countries have also initiated general lockdowns without adequate virus data, but the problem in South Africa is particularly acute as so very few tests have been conducted. In addition, the country's teeming townships and informal settlements make it impossible for millions to achieve adequate social distancing. South Africa may also have gone too quickly into lockdown, for the virus seems to spread most rapidly in cold weather and winter is still some time away.

The difficulties with Covid-19 data

Covid-19 death rates are generally computed by comparing the number of virus-related deaths with the number of known cases. However, writes retired UK pathologist Dr John Lee in a recent issue of *The Spectator* magazine, there are many difficulties in gathering and interpreting the necessary data – even in a well-resourced country such as Britain.

In Britain, testing has mostly been carried out in hospitals among patients with significant symptoms. Few tests have been carried out among the general population. Iceland, by contrast, has tested a wider proportion of its population than any other country – and has found that out about half of those who test positive for Covid-19 have no symptoms at all. Most of the rest have only minor symptoms.[50]

This data suggests that many people in the UK might also have contracted the virus without realising it. If this is so, the real number of Covid infections in Britain could be ten or 20 times higher than the UK's current test results show. That, in turn, would mean that death rates could be ten or 20 times lower.[51]

In late March, when Dr Lee was writing, the UK had 1 019 deaths and 17 089 confirmed cases, giving an apparent death rate of 6 percent.[52] But if the number of infections were ten or 20 times higher, that would put actual death rates far lower: at 0.6% or 0.3%.

Problems are also evident in the way Covid-19 deaths are recorded. As Dr Lee points out, when people die of respiratory diseases in the UK, this is generally not recorded. Doctors do not test for flu or other seasonal infections, and 'the vast majority of respiratory deaths are recorded as bronchopneumonia, pneumonia, or old age'. If the patient has another illness, such as cancer, 'this will be recorded as the cause of death, even if the final illness was a respiratory infection'. [53]

But Covid-19 has been treated differently. It has been listed as a notifiable disease, so when a patient who has tested positive dies, Covid-19 must be recorded on the death certificate. Yet 'this is contrary to the usual practice for most infections of this kind'.[54]

Adds Dr Lee: 'There is a big difference between Covid-19 causing death, and Covid-19 being found in someone who died of other causes. Making Covid-19 notifiable might give the appearance of it causing increasing numbers of deaths, whether this is true or not. It might appear far more of a killer than flu, simply because of the way deaths are recorded.'[55]

Recent data from Italy illustrates the importance of this factor. Italy's Covid-19 fatality figures include all those who have died in hospitals with coronavirus. But Professor Walter Ricciardi, scientific adviser to Italy's health minister, has recently elaborated on what the figures mean. On a re-evaluation of the data, he writes, 'only 12 per cent of death certificates have shown a direct causality from coronavirus, while 88 per cent of patients who have died have at least one pre-morbidity – many had two or three'. In simpler terms, 88% of these patients did not die from the virus, despite being infected with it.[56]

Dr Lee notes further that a lethal new disease would generally be expected to push up death rates to a significant degree. Covid-19, however, has thus far had little impact of this kind. Britain would normally expect some 46 000 deaths in the first 28 days of March. Against this figure, the 1 019 Covid-related deaths recorded – many of which may not have resulted directly from the virus – are not a major deviation.[57]

The huge database assembled by the Johns Hopkins Coronavirus Resource Centre – which updates Covid-19 data from all over the world on a daily basis – poses yet another conundrum. As Dr Lee notes, 'this data is not standardised and is probably not comparable, yet this important caveat is seldom expressed in the many graphs we see. It risks exaggerating the quality of data that we have.'[58]

In the UK, the government's decision to implement a lockdown was largely based on the predictions of Professor Neil Ferguson and his team at Imperial College in London, who warned that an extra 250 000 people would otherwise die. Academics at Oxford University (Professor Sunetra Gupta and her colleagues) questioned this prediction on the basis that half the population might already be infected and 'herd' immunity might thus be far advanced. But the Oxford analysis was pilloried as 'speculative' and 'dangerous', helping to close down debate. Imperial College has since reduced its projections of Covid-19's UK mortality from 250 000 to under 20 000 – which is roughly the same as annual deaths from seasonal flu.[59]

A key part of the problem is that the extent of herd immunity cannot easily be assessed because the necessary widespread testing – for the antibodies that would prove prior infection with SARS-Cov-2 – has not yet been conducted in the UK. The situation is similar in the US but there at least important data about the incidence of influenza-like-infections (ILI) is beginning to emerge.

A recent study by Justin Silverman (Penn State University) and Alex Washburne (Montana State University) analyses ILI data from March 2020. Their study has been summarised by *The Economist*, which reports: 'Every week, 2 600 American clinicians report the share of their patients who have ILI – a fever of at least 37.8°C (100°F) and a cough or sore throat, without a known non-flu reason. Unsurprisingly, ILI is often caused by flu. But many other ailments also produce ILI, such as common colds, strep throat and, now, Covid-19.'[60]

As *The Economist* adds, the authors took this data, stripped out those with ILI who did have flu, and found that the incidence of non-flu ILI had surged in recent weeks. Moreover, the rise of non-flu ILI showed the same geographic pattern as known Covid-19 cases. There had been little additional non-flu ILI in states, such as Kentucky, where few positive Covid-19 cases had been reported. But there had been a steep rise in non-flu ILI in areas with large Covid-19 outbreaks. In addition, the estimated number of non-flu ILI cases between 8th and 28th March exceeded a historical baseline by some 23m. This was 200 times the number of positive tests for Covid-19 in the same period. The 23m number could overstate the spread of Covid-19 because ILI has other causes. But it could well understate it too, as people who had been infected with Covid-19 but had minimal or zero symptoms would see no reason to seek out their doctors.[61]

Notes *The Economist*: 'Covid takes 20-25 days to kill victims. The paper reckons that 7m Americans were infected from March 8th to 14th, and official data show 7 000 deaths three weeks later. The resulting fatality rate is 0.1%, similar to that of flu. That is amazingly low, just a tenth of some other estimates. Perhaps it is just wrong, possibly because the death toll has been under-reported. Perhaps, though, New York's hospitals are overflowing because the virus is so contagious that it has crammed the equivalent of a year's worth of flu cases into one week.'[62]

The great pressure on health facilities from rapid virus transmission is a serious problem. But a 0.1% death rate is very different from what many countries still in lockdown continue to fear.

Very limited testing in South Africa

Testing in Britain and many other countries is far advanced compared with what South Africa has thus been able to achieve. Only about 84 000 tests had been carried out by 13th April, as opposed to more than 2.9m in the US, 1.3m in Germany, 1m in Italy, close on 515 000 in South Korea, and nearly 370 000 in the UK. Moreover, of the limited number of tests conducted here, very few (only about 9 000, as at 12th April) have been carried out by the National Health Laboratory Service (NHLS), while the rest have been conducted by the private sector.[63]

Because testing has been so sparse, the government still lacks 'a true picture of the size of the problem', as health minister Dr Zweli Mkhize has acknowledged. Its decision to lockdown the country for an initial 21 days – and then for an additional two weeks – has thus been based on very sketchy information. Hence, the health ministry now plans to 'test hundreds of thousands of the population to get a better picture and contain the virus.'[64]

In late March, President Cyril Ramaphosa announced that the government would soon be 'rolling out a screening, testing, tracing and medical management programme on a huge scale'. Said the president: 'Around 10 000 field workers will be visiting homes in villages, to towns and cities to screen residents for Covid-19 symptoms. People with symptoms will be referred to local clinics or mobile clinics for testing. People who are infected with coronavirus, but who have no or moderate symptoms will remain in isolation at home or at a facility provided by government and those with severe symptoms will be transferred to hospitals.'[65]

As Dr Mkhize explains, the testing programme is currently aimed at testing for the virus itself, using a 'polymerase chain reaction' or PCR methodology. However, serological testing for antibodies to the virus will also soon begin. These serological tests will help show how many people may already have been infected without realising it, as their symptoms were minor or not apparent at all.[66]

The health ministry has made much of its plans to send out 60 or more mobile vans to spearhead the mass testing drive. But progress has been held back by equipment shortages and a host of logistical glitches (which the private sector has been helping to resolve). None of the 20 or so vans being sent out is yet able to conduct on-the-spot testing. Instead, these vehicles will transport nurses, who will screen people for symptoms, take samples from those with pointers to the virus, and send those samples back for analysis by the NHLS.[67]

Though the country's 28 000 community health workers are now also being deployed to vulnerable communities to screen and, if needs be, take samples for testing, this approach is likely to miss at least 50% to 70% of the people infected with the virus. This is evident from both Iceland – which found that 50% of those infected with Covid-19 were asymptomatic – and China, where the general testing recently initiated has shown that 70% of virus victims have no symptoms at all.[68] If testing remains confined to those with obvious symptoms, this will leave the country in the dark as to both the true Covid-19 death rate and the extent of 'herd' immunity.

Once the samples gathered by mobile vans and community health workers reach the NHLS, further delays are likely to arise. Relatively few of its laboratories are currently being used for testing – and its supposed capacity of 5 000 tests a day has only recently been met and now exceeded (with an average of some 5 700 daily tests in mid-April).[69] Various measures are being taken to expand its capacity to 36 000 samples a day by the end of April. But, even if this target can be achieved, it will still not be enough.

In practice, thus, the government cannot move ahead with its testing roll-out until May – by which time the now extended lockdown is supposed to have ended. But if mass testing starts only after people have begun moving around again, it will be far more difficult to 'identify and isolate existing clusters of infection before new ones break out', as James Myburgh, editor of Politicweb.co.za, points out.

Social isolation impossible in many instances

Millions of South Africans live in over-crowded townships where social distancing is difficult to achieve. In addition, around 5.5 million people live in teeming informal settlements, where shacks are generally erected cheek-by-jowl and hundreds of people commonly share communal taps and toilets. In circumstances such as these, social isolation is simply impossible.[70]

Moreover, the lockdown had no sooner begun than the government found itself compelled to soften its constraints so that millions of people – many of them elderly and vulnerable to the virus – could travel, often by overcrowded taxis, to payout points across the country to obtain their monthly social grants. The South African Social Security Agency (Sassa) tried to reduce the usual crush by arranging for additional pay-out days. But queues were nevertheless long and closely-packed and some of the pay-out points prematurely ran out of cash. This meant that many people had to risk travelling and queuing yet again in order to receive the monthly cash amounts vital to their survival.[71]

These factors are sufficient in themselves to underscore the sheer futility of attempting a general lockdown in South Africa. Most formal businesses can be forced to stop operating, while middle class families can successfully be confined within their homes. But the millions who live and work in very different circumstances cannot comply with social isolation rules. Most of them are also sure to suffer greatly as their meagre earnings are reduced. Moreover, though the initial regulations have been changed to allow authorised spazas and informal food traders to resume their operations, in practice their usual customers are also struggling with lost income and cannot easily buy. The lockdown has also made life much harder for the 10.3 million people who were already unemployed before the virus struck. Many of these individuals have long relied on relatives with jobs and income to help them survive. Now this key source of support for the jobless is falling away, putting the country on the brink of a humanitarian disaster.

Bad timing for the lockdown

Many commentators have praised President Ramaphosa for ordering the lockdown while the total number of recorded infections was below 1 000 and before the first fatality had been reported. This early action, it was assumed, would be particularly helpful in flattening the curve and preventing the country's faltering public healthcare system from being overwhelmed. But subsequent detected infections have been expanding much more slowly than earlier anticipated and by an average of some 4% a day.[72] This small increase has been seen as further proof of the value of the lockdown – but it also raises questions as to whether the lockdown might have been premature.[73]

The government's modelling seems to have been based on the explosive growth of Covid-19 cases in Italy and other European countries in February and March. But this discounts the seemingly important factor of seasonality. These European countries were in the tail end of their winter season, while South Africa has yet to move into its cold months. There is evidence, moreover, that SARS-Cov-2, like other viruses, is more easily transmitted when temperatures are between 5˚C and 11˚C. If that is so, then transmission may begin to accelerate only in June.[74]

In addition, South Africa has failed to align its mass testing initiative with the lockdown period. As earlier noted, the government will not be ready to begin mass testing until May, by which time the lockdown will supposedly have ended, people will be moving about, and existing infection clusters will be far harder to identify and isolate. By contrast, China's lockdown (which South Africa claims to be copying), was initiated at a much later stage of the pandemic and may well have been better timed.[75]

Writes Dr Myburgh: 'If winter comes and the virus nonetheless breaks out, anything gained in suppressing its spread during the lockdown could be lost within a matter of days, even hours. Should this happen, the current...lockdown will go down in history as a "magical solution" to a looming catastrophe that achieved, at enormous cost, almost nothing at all.'[76]

How much longer will the lockdown last?

If a lockdown is most needed in winter to halt accelerated transmission of the virus, then the government may be tempted to extend it for many more weeks – and perhaps right through to the spring – to avoid criticisms of the kind that Dr Myburgh has raised. Slow progress with mass testing could also be used as a reason to keep extending it. So too could the government's apparent inability to use the lockdown period to the full to prepare the faltering public healthcare system for the coming storm.

South Africa should be using the respite provided by the lockdown to set up dozens of field hospitals in premises now barred from their normal use, such as school and university halls and international convention centres. It should also be intent on expanding the number of intensive and high care units, acquiring sufficient personal protective equipment (PPE) for all front-line health practitioners, bringing retired doctors and nurses back into service, making it possible for medical students in their final years to help care for the sick, increasing the number of ventilators and (simpler) respirators available, and canvassing the promising treatment options being investigated elsewhere. (Chloroquine shows some potential as a remedy, for example, while six critically ill Covid-19 patients in Israel have recently survived after being treated with placenta-based cell therapy.)[77]

However, the government has been too slow off its feet to use the lockdown period to best effect. As earlier noted, most testing has been carried out by the private sector, rather than the state, and it will still take many weeks for the government to ramp up its screening and testing programmes. The state's PPE provision for health workers has been so patchy and inadequate that Nehawu (a Cosatu union allied to the ANC) took the health department to court in early April to compel it to increase its provision. (The case was settled at the last minute by agreement between the parties and a pledge from government to up its game.) Soldiers have also complained that the PPE supplied to them has been too faulty to offer any real protection.[78]

The government is also trying to use the lockdown period to ease congestion – and thus slow down transmission – in some 29 informal settlements. This is to be achieved by moving many of their residents into temporary accommodation (in converted shipping containers) on land nearby. But this plan is still in the consultation phase and cannot easily be implemented. It is sure to generate widespread resistance, which is why the government is still trying to 'convince residents that it is in their interest to be relocated', as a spokesman for the housing department has said.[79] But housing experts are sceptical about the benefits of the proposal, as are several of the provincial administrations charged with its implementation. Progress is thus certain to be slow– while the 29 areas being targeted are in any event only a tiny fraction of the 1 185 informal settlements across the country.[80]

The three-week lockdown can thus do little to achieve the 'Four T' strategy of 'Trace, Test, Track, and Treat' developed by the government.[81] Nor is it likely to succeed in slowing transmission in overcrowded areas. The two-week extension to the lockdown may thus also fail to fulfil the 'Four T' test, providing yet more reason to extend it once again. It will also be difficult to contest the state's decisions to maintain the lockdown when the markers for lifting it, as recently identified by the government's health experts, may be hard to meet.

(Professor Salim Abdool Karim, epidemiologist and chairman of the ministerial advisory committee, has indicated that test results gathered in the third week of the lockdown – when the normal two-week incubation period will have run its course – will be particularly significant. If average daily test results over this week show 90 or more new infections, then the lockdown should continue. The lockdown should also remain if the daily average of new infections is in the 45-89 range, and the screenings carried out by community health workers in vulnerable communities show that more than 0.1% of those screened have Covid-19 type symptoms.)[82]

The state's arguments for extensions could well proceed as follows: Since increased testing cannot begin on any scale until May, the government will in time state that the lockdown has to remain in place at least until the end of that month. That would mean a duration of nine weeks, rather than the three first mooted. Thereafter, the government could argue that the lockdown must be extended until the end of June, when the virus is likely to reach its winter peak. And thereafter it could readily be claimed that the lockdown has to stay in place until the end of August, when spring is finally at hand.[83] That would mean a lockdown of some 21 weeks – or seven times longer than the government initially said.

Moreover, if the lockdown is ended before herd immunity has been achieved – and the slowing of transmission is sure to prevent this – then infections are likely to start rising again, prompting the re-imposition of controls. Repeated lockdowns could thus continue until herd immunity has finally developed, effective treatment has been found, or a vaccine has been developed. No one knows how long these processes could take, but a new vaccine, for instance, would probably need 12 to 18 months to test, licence, and produce.

The government may also prove reluctant to surrender the unprecedented powers it now enjoys. Under the disaster regulations, it has expanded surveillance capacities, a monopoly over the release of Covid-19 data, a broad prohibition of fake news to buttress its control over communications, unprecedented freedom from parliamentary scrutiny, an effective ban on public demonstrations, control over the movement of all South Africans, significant restrictions on the pricing of essential items, and a wide-ranging power to decide which businesses may operate and which may not. In addition, for as long as the state of disaster lasts, leading figures in the ANC will be screened from investigation by the 'state capture' commission of inquiry, along with any risk of prosecution for corruption in the future. The government may thus be tempted to exaggerate the health risk – and downplay the expansion of herd immunity – in order to retain these useful powers.

In the end, however, the pandemic will diminish and the state of national disaster will have to be terminated – if necessary, by using the courts and the Constitution to reassert the fundamental rights of all South Africans. Already, however, enormous damage has been done to the economy, while massive additional harm still lies ahead. The key question – both now and as the pandemic recedes – is how the ANC will use the Covid-19 crisis to chart its future policy course. It could opt to abandon its destructive ideology to help reinvigorate the economy. Or it could use the crisis to double down on that ideology and to push ahead yet more strongly with its national democratic revolution (NDR).

Will the NDR be abandoned or advanced?

For 50 years and more, the ANC and its communist allies in the SACP and Cosatu have been pressing ahead with a Soviet-inspired NDR aimed at taking the country from a capitalist to a socialist (and ultimately a communist) future. The authors of the strategy have long since repudiated it, while the Soviet Union itself collapsed in 1991. But the ANC/SACP alliance has never acknowledged the failures of socialism and continues to embrace the NDR.

Since 1994 – when the tripartite alliance won the 'prime prize' of 'state power' – the government has been implementing the NDR by slow and incremental steps and in a host of different spheres. In the first 15 years, many of its interventions were aimed at eroding constitutional checks and balances on the executive and so consolidating the ANC's control over all 'levers of power'. Business autonomy and property rights have also been whittled away, while various steps have been taken to increase dependency on the state, discredit the free market system, foster racial inequality, and promote polarisation and division. Since 2012, moreover, NDR interventions have become more intrusive and more damaging. This shift reflects the ANC's determination to embark on a second and more 'radical' phase of the revolution, in which the key aim is to change the 'ownership, control, and structure' of the economy.[84]

The NDR is a complex strategy with many interwoven strands. This makes it difficult to summarise what has been done to implement it and advance its goals over the past 26 years. However, major NDR interventions are evident in at least the following spheres:

- the incorporation in the 1996 Constitution of guaranteed socio-economic rights and other provisions helpful in expanding state power and deepening dependency;
- the systematic weakening of Parliament and its capacity to hold the executive to account;
- persistent endeavours to erode judicial independence and limit the capacity of the courts to strike down legislation or executive conduct inconsistent with the Constitution;
- the use of 'cadre deployment' to strengthen ANC control over all key 'levers of power', defined by the ANC as including the judiciary, the media, universities, and the private sector;
- the introduction of ever more onerous black economic empowerment (BEE) requirements, which have eroded property rights and business autonomy while increasing inequality and otherwise greatly harming the majority of black South Africans;
- the effective nationalisation of mineral and water resources, both of which have been vested in the 'custodianship' of the state;
- the cancellation of 13 bilateral investment treaties with the United Kingdom and other 'imperialist' Western countries (all major investors in South Africa), even as similar treaties with Russia, China, and Cuba have been retained;
- the adoption of unduly rigid labour laws, which have helped to price the unskilled and inexperienced out of the labour market, worsen the unemployment crisis among black youth, and generate a sense of mounting instability;
- incremental interventions in the health sphere which have undermined efficiency and probity in public healthcare, increased private healthcare costs, and paved the way for the effective nationalisation of all health services under the National Health Insurance (NHI) proposal;
- the steady erosion of university autonomy, coupled with growing restrictions on the powers of school-governing bodies and a succession of policy mis-steps that have left the relatively well-funded education system as one of the worst in the world;
- the building of dependency among almost all South Africans, from the 18 million beneficiaries of social grants to those who receive free education, free basic water and electricity, free housing, and free (or almost free) public healthcare;
- a steadfast refusal to privatise increasingly inefficient, costly, and often corrupt SOEs with virtual or complete monopolies over the provision of electricity, railways, ports, and other essential services;
- a gradual shift towards 'prescribed asset' rules (requiring stipulated levels of investment in Eskom and other SOEs), coupled with further state controls over pension funds and other financial institutions;
- a deep-seated hostility to business as the 'primary enemy' of the NDR, together with a growing emphasis on the need to 'progressively roll back the capitalist market, decommodify basic human needs' and ensure the 'hegemony' of a 'socialised economy' in which 'social needs are placed above private profits'; and
- the seemingly deliberate engineering of land reform failures over the past 26 years, so as to provide a pretext for amending the Constitution to authorise expropriation without compensation (EWC) for land and other property.

As this (partial) list demonstrates, the NDR has been the lodestar of ANC/SACP policy right from the start in April 1994. The cumulative (and predictable) effect of these interventions has been to undermine confidence, deter private sector investment, hobble economic growth, and increase the unemployment rate to crisis levels – especially among poorly skilled black youth.

At the same time, cadre deployment and race-based employment policies have crippled the public service and SOEs by robbing them of experience and institutional memory, while rewarding political loyalty and undermining accountability. Despite some important post-1994 gains in expanding provision, the quality of public education, healthcare, housing, sanitation, and water supply has thus deteriorated over time. The pervasive inefficiency of the overpaid public service has also become a major barrier to doing business in the country. Preferential BEE procurement policies have been particularly destructive, as tenders are often granted to politically connected 'comrades' (or their companies), at prices double or even four times the norm. It is largely for this reason, that between 30% and 40% of all state and SOE procurement, currently worth some R800bn a year, is 'tainted by fraud and inflated prices', as the National Treasury has cautioned.[85]

A key overarching NDR aim is to cripple the economy – and this goal has largely been attained over the past 26 years. This objective may seem counter-intuitive at first glance, but it is not in fact surprising. If the economy was growing at 5% of GDP or more, the unemployment rate was 6% (rather than 29%), poverty was much reduced, public education and other services were sound, and people were largely able to take care of their own core needs, it would far more difficult for the ANC/SACP alliance to whip up discontent and use this to push for a socialist future.

Put differently, it is primarily because unemployment, poverty, and inequality have all worsened sharply, in the past ten years especially, that the alliance is now able to push for a fundamental change in the 'ownership, control, and structure' of the economy. In doing so, it naturally denies the impact of its own NDR interventions in driving down investment, growth, and jobs. Instead, it claims that increased socio-economic suffering is the fault of apartheid, colonialism, white privilege, and an uncaring capitalist system, which has to be brought to heel so that it starts to put social needs before its selfish private profits.

The decisions made at the ANC's Nasrec national conferences in December 2017 herald a further intensification of the NDR. The conference called for a constitutional amendment to authorise expropriation without compensation (EWC); the speedy introduction of the NHI; the nationalisation of the Reserve Bank and a shift in its mandate to align this more closely with NDR aims; and an investigation into how the trillions of rands held by pension funds and other financial institutions can be used for 'developmental' (ie NDR) purposes.[86]

Important progress towards these goals had already been made by the time the Covid-19 pandemic began. The EWC and NHI policy shifts, in particular, were already well in hand. The necessary bills were soon to be put before Parliament, while the ANC/SACP alliance was busy orchestrating an apparent outpouring of public support for both these vital NDR interventions. Pressure for the introduction of prescribed assets for pension funds – to help keep Eskom afloat and provide more funding for land reform – was also building up.[87]

For the moment, at least, the Covid-19 crisis has pushed these NDR interventions on to the backburner. Recent market turmoil and the heavy costs of the lockdown – coupled with the spiralling public debt highlighted by Moody's in its recent downgrade decision – also provide good reason for the ANC to draw back from the NDR and the further economic destruction it is sure to cause. Some commentators thus seem confident that fundamental reforms will soon be introduced – but this remains unclear.

A possible commitment to genuine reform

After Moody's announced its downgrade decision, Mr Ramaphosa spoke once again of the need for wide-reaching policy change, saying: 'Within the constraints of the current crisis, we remain committed to implementing structural economic reforms to address weak economic growth, constrained public finances and struggling state-owned enterprises. We are working together with our social partners to identify further measures we can take to limit the damage to our economy, and to ensure that as we emerge from this pandemic we set our economy on a clear path of growth.'[88]

However, finance minister Tito Mboweni was only the member of the Cabinet to applaud the president's reform call with a resounding 'Hallelujah!' To give impetus to the reform agenda, Mr Mboweni now plans to establish a special unit in the finance ministry, to be called the Vulindlela unit (after the isiZulu word for 'open the way'). As Mr Mboweni puts it, the function of this unit will be 'to look throughout the government system and the private sector [to see] whether we have proceeded in pushing these structural reforms'.[89]

Precisely what reforms are to be pursued has yet to be explained. Former *Business Day* editor Peter Bruce and various other commentators have assumed that the policy shifts now to be introduced are those mooted by Mr Mboweni in a National Treasury strategy document published in October 2019. This Mboweni package would help improve port and rail logistics, expand broadband access, bring down data prices, adjust tariff barriers to help small manufacturers, and make it easier for business to import scarce skills. But even if these proposals are implemented in full, they will not get to the heart of NDR ideology or counter the core NDR interventions so ailing the economy.

Whether the president is in fact drawing back from the NDR is also uncertain. His recent promises to focus on reform and growth are not new, but simply a repeat of his earlier 'new dawn' pledges. Actions, moreover, count far more than words – and the only policy shifts Mr Ramaphosa has actively promoted and endorsed are ones (such as EWC and the NHI) that greatly strengthen the NDR. He is also deeply beholden to the SACP for his rise to the presidency and has personally endorsed the NDR at various times.[90]

At the same time, the SACP and others on the Left clearly regard the Covid-19 pandemic as providing a perfect opportunity to advance the NDR. They are well aware that stigmatising and weakening private enterprise are vital to achieving a socialist economy – and instinctively recognise that both the looming healthcare crisis and the massive damage from the lockdown can be used to help achieve these ends.

Using the pandemic to advance the NDR

Since stigmatisation is the first requirement for policy change, many commentators on the Left and in the broader ANC alliance have been using the pandemic to condemn both 'neo-liberalism' and capitalism itself. Imraan Buccus, senior research associate at the Auwal Socio-Economic Research Institute (ASRI) and research fellow in the School of Social Sciences at the University of KwaZulu-Natal, has helped lead the charge against 'neo-liberalism', writing:[91]

> Around the world the health crisis caused by the coronavirus is doing huge damage to economies and, as a result, governments are implementing extraordinary measures. These... include nationalisation, suspension of rents, loans and mortgages, cash transfers, huge subsidies for socially important enterprises, moratoriums on evictions and more...
>
> Now that governments in Europe and other parts of the West...are acting to put social interests before commercial interests, a once-in-a-lifetime window of opportunity has opened to finally break with the neoliberal economic consensus... made mainstream by Margaret Thatcher and Ronald Reagan, and imposed on the Global South via the World Bank, the International Monetary Fund, the US military and all the rest of the apparatus of contemporary imperialism...
>
> Now that the health crisis is forcing a rapid collapse of the neoliberal economic consensus in the heartlands of the West, governments elsewhere will be able to take measures that were impossible just a few months ago.

The EFF has weighed in strongly against capitalism, with EFF deputy president Floyd Shivambu writing at length in *City Press* to condemn the supposed role of the market economy in exacerbating the pandemic. Says Mr Shivambu:[92]

> The premature proclamation of the end of History and the dominance of the global capitalist order – since the collapse of the socialist Soviet Union in the early 1990s – [mean that] governments have limited or no resources to effectively respond to a global pandemic. This capitalist triumphalism has significantly reduced, undermined and sidelined the role of governments in favour of profiteering capitalist conglomerates... Covid-19 has demonstrated to all that capitalists and a capitalist system of resource allocation and distribution does not carry the capacity nor the will to insulate all the people. We should [thus] all work towards a establishing a global order that is premised on the principles of egalitarianism.

Xola Pakati, executive mayor of Buffalo City in East London, has chimed in with strong criticism of 'the cult of privatisation and the private sector', the 'disdain for the public sector' that is supposedly widespread, and 'the growing disparities of rich and poor'. The challenge now, he says, is to use 'the menacing impact of the virus' to 'fashion a post-Covid-19 global order' that is premised on 'the pursuit of human solidarity' and the idea that 'we are and should be one another's keepers'.[93]

Others have gone beyond general criticisms and broad calls for increased 'egalitarianism' and 'solidarity', and come up with concrete proposals for needed policy change. According to the SACP, the Covid-19 crisis has made it possible to press ahead with core NDR interventions by highlighting not only the massive inequality within the country but also the broad acceptance that increased state controls have won. Says the party (in the March issue of its *African Communist* journal):[94]

> We have been too timid in driving forward a comprehensive NHI. We have allowed our public health system to be hugely overstretched long before the arrival of Covid-19, allowing the bulk of health resources to be enjoyed by the 16% of South Africans with access to private healthcare... If we can close many of our land ports and shut down schools temporarily,...then why have been so timid about introducing prescribed assets on a financial sector awash with billions of rands?... And why have we been so timid with urban land reform, perpetuating apartheid spatial patterns that will now expose millions of South Africans to crowded and potentially highly infectious minibus commutes?

The NHI cannot be introduced without new legislation and the lockdown has suspended the normal parliamentary process. In the interim, however, there are various steps that can be taken towards the NHI goal. SACP general secretary Blade Nzimande has thus urged the government to 'assert decisive public control over private hospitals and other private health care facilities' in fighting the pandemic. In similar vein, Numsa has said that 'all private hospitals must be taken over by the state and testing must be free'. These steps, it claims, are vital to 'stop those vultures who want to profiteer out of private health care system at the expense of the working class and the poor'.[95]

The pressure for prescribed assets is growing too. Cosatu has called on the Reserve Bank to 'impose quantitative controls on commercial banks to ensure that a significant portion of their loans go to priority sectors' (no doubt as identified by NDR ideology). In the wake of the Moody's downgrade, Cosatu has also stated that 'the private sector, through the banks, investment and pension funds, needs to urgently release funds to cushion and grow the economy'.[96]

With the lockdown costing millions of jobs and adding to poverty and hunger, the EFF is now stepping up the EWC demand. According to EFF MP Sam Matiase, 'The solution can come only from abolishing the dysfunctional and barbaric system of capitalism; dismantling the patterns of private land ownership and property through the expropriation and restoration of land to the people; and empowering them to work the land, feed themselves, their families and their fellow humans in the spirit of brother and sisterhood.'[97]

Other policy shifts long wanted by the Left are being promoted as well. In the macroeconomic sphere, many in the broader ANC/SACP alliance have been demanding that the Reserve Bank substantially reduce interest rates and start printing money to help meet public needs. In the past, the Bank resisted these demands, saying the benefits of such stimulus measures would soon be lost in a surge of hyperinflation. However, the damage from the lockdown has now compelled the Bank to change its stance, at least to some extent.

As earlier noted, the Bank has reduced the repo rate by a cumulative and unusual 200 basis points. It has also started to buy up bonds in the secondary market, thereby embarking on a form of the 'quantitative easing' the Left has long desired. But these interventions are now being dismissed as too small and inconsequential. The pressure on the Bank is thus growing to disregard already high levels of public debt and start pumping hundreds of billions of rands into the economy.

Duma Gqubule, founding director of the Centre for Economic Development and Transformation, has derided South Africa's Covid-19 stimulus package as amounting to less than 1% of GDP when other governments are contributing 12% or more. (The UK's stimulus package amounts to 19% of GDP, he says, while Singapore's adds up to 12% and Malaysia's to 16% of GDP.) Having downplayed the extent of public debt – putting this at 57% of GDP rather than the projected 91% that Moody's has flagged – he states that the government must simply 'replace' the GDP that is now being lost. Says Mr Gqubule: 'The government must announce an emergency budget with a temporary stimulus that is worth at least R600bn or 12% of GDP. The Reserve Bank, which had reserves of R800bn at the end of November, should slash interest rates to zero and provide monetary financing.'[98]

To buttress this demand, Mr Gqubule provides a sombre estimate of the economic damage the lockdown is likely to cause. The initial 21-day lockdown is 'expected to affect around 80% of SA employees' and generate an unprecedented humanitarian catastrophe. The economy is likely to 'take a direct hit of up to R600bn in terms of lost GDP' and 'possibly up to R900bn...taking secondary impacts...into account'. GDP is thus 'expected to drop by 5-10 percentage points during 2020'. This is very different from the 1.5% contraction experienced in the aftermath of the global financial crisis, which cost 1 million jobs between December 2008 and March 2010. 'This time the collapse in GDP would be at least three times larger, and South Africa could lose 3 million jobs.'[99]

If this assessment is correct, an economic disaster of unprecedented magnitude looms. Moreover, the longer the lockdown lasts, the worse the contraction and job losses will become. This desperate situation will make it far easier to portray the NHI, EWC, and prescribed assets as 'obvious' solutions to pressing public needs. But even if all three are introduced, the additional resources so secured will not be enough to make up for the lockdown losses.

'What is to be done?' asks the EFF, in a deliberate echo of Lenin's 'burning' question from 1902. How the EFF responds is politically important, for the party is an offshoot (probably a temporary one) from the ANC and is steeped in the same NDR ideology. The EFF also helps pave the way for long-desired NDR interventions – EWC being the clearest example – by pushing so strongly for these measures that the ANC/SACP alliance is then supposedly compelled to follow in its wake.

What, then, does the EFF say in reply to Lenin's question? Mr Shivambu's lengthy article in *City Press* in late March spells it out, saying:[100]

> The virus outbreak calls for a discontinuation of the capitalist logic of resource distribution and allocation.... The most important step...is the super-logical proposition that governments should build independent wealth and capacity to take care of all their people during crises... There are various options through which our government and all other governments can build independent wealth. Instead of a total reliance on taxes, which are recurrently interrupted by...global crises, governments should permanently have capacity to generate non-tax revenues. The combination of how this happens should include state strategic ownership and control of key sectors of the economy. State ownership should include strategic equity partnerships in areas where the state does not need total ownership and control.

State ownership and control is, of course, the hallmark of a socialist economy – and attaining it has long been the core aim of the NDR. As the SACP stated in its 1989 programme, *The Path to Power*, 'public ownership of the means of production, means of distribution, and means of exchange is the foundation of the socialist economy'. But South Africa has long had a predominantly capitalist economy, backed by extensive private ownership of business, residential, and other assets. A fundamental NDR goal is thus to 'eliminate' existing property relations, as the ANC resolved at its Stellenbosch national conference in 2002, and expand 'state power and ownership of and control over the national wealth', as the SACP puts it.[101]

The negotiated settlement in 1994 precluded any outright seizure of property and meant that the shift from private to public ownership had to be done by incremental steps and in keeping with what the surrounding circumstances ('the balance of forces', in NDR speak) would allow. Now, however, the Covid-19 pandemic – and the enormous economic damage from the lockdown – have given the EFF and the wider SACP/ANC alliance the opportunity to ramp up the pace of change.

The ANC/SACP alliance has been quick to echo the EFF call. In a statement issued in early April – which was partially aimed at deflecting any risk of Mr Mboweni seeking an IMF loan subject to IMF conditions for reform – the general secretaries of the ANC (Ace Magashule), the SACP (Solly Mapaila) and Cosatu (Bheki Ntshalintshali) effectively endorsed Dr Shivambu's idea, albeit in more measured terms. Said the Revolutionary Alliance (as it now calls itself):[102]

> In the context of the structural economic and Covid-19 induced crisis, government should consider increasing publicly-held stakes in strategic sectors of the economy. The history of the Great Depression shows that strategic state intervention, including well-managed SOEs, have a crucial role to play in achieving economic turnarounds.

South Africa's SOEs – think Eskom, SAA, SA Express, Transnet, Prasa, and Denel – are anything but 'well-managed'. Instead, all of them have long been riven by gross inefficiency and pervasive corruption. The notion that increased state control will speed up economic recovery and ensure its success should therefore be laughed out of court. But the opposite is likely to occur.

The voices speaking out in defence of the capitalist system – which has in fact helped lift billions out of poverty all around the globe – are likely to be limited. For more media coverage is sure to be given to the Left's demands for ever more state ownership and control. Increasingly, this will become the only accepted (and acceptable) narrative. In addition, the public's largely mute acquiescence in the lockdown will encourage the Revolutionary Alliance to believe that EWC, the NHI, prescribed assets, the unrestricted printing of money, and accelerating state ownership will be accepted in the same passive way. All that will be needed to secure the adoption of these highly damaging measures will be to keep depicting them as vital to the recovery and 'reconstruction' of the ravaged economy.

The real formula for a resurgence in growth and a rebound in employment could not be more different. The country is deep in debt, and its domestic savings are far too small to finance any major expansion in infrastructure or other spending. An upsurge in direct foreign investment will thus be urgently required. That means that the confidence of foreign investors will have to be rebuilt.

If this is to be done, the ANC and its allies will have to abandon the NDR, end their ideological hostility to capitalism, and start acknowledging the vital contributions to jobs, income, and social welfare that business has long made. Instead of further weakening the economy – as NDR interventions over two decades have already done – the government should be intent on strengthening property rights, removing harmful regulation, reducing barriers to employment, equipping the disadvantaged for upward mobility, and promoting inclusive growth.

Market-based prosperity, not socialist stagnation

The IRR's ***National Growth Strategy*** outlines the steps that need to be taken. Most can be introduced immediately, though some need careful preparation prior to implementation.

First, *property rights* must be strengthened by jettisoning the EWC constitutional amendment bill and reversing all the current laws and proposed policies that undermine and threaten private ownership. Without this essential step, foreign direct investment on the scale required will continue to pass the country by. Land reform will still be an imperative, but this can be achieved in far more effective ways – as the IRR has earlier proposed in its *Ipulazi* (farm) and *Indlu* (home) proposals.

Second, a *business-friendly environment* must be put in place. SOEs, including those on the brink of bankruptcy, should be sold off on terms that guard against the creation of new private monopolies (by limiting the number of entities any one business can buy) and protect against corruption (by preventing sales to political cronies). Until such time as suitable sales have been concluded, effective public/private partnerships should be used to expand essential infrastructure, maintain what already exists, and ensure efficient daily operation. Red tape must also be slashed, especially for small businesses.

The inefficient public service must be trimmed and professionalised. In particular, the government must put an end to cadre deployment, hold wrongdoers to account, and stand fast in refusing any further unaffordable public service wage increases. As Colin Coleman, a senior fellow at the Jackson Institute for Global Affairs at Yale university and a former CEO of Goldman Sachs Sub-Saharan Africa, has recently commented (in the context of the Covid-19 crisis): 'The government will have to examine state spending and get bang for its buck or cut back. Corruption and wasted expenditure will have to be rooted out. Wage freezes will have to be negotiated until the economy normalises. Expensive experiments to save failing SOEs will have to end.'[103]

Third, *labour laws* must be substantially reformed. The government itself acknowledges that entry-level wages are generally already so high they that they lock the unskilled and inexperienced out of jobs. Rules which push up labour costs – including the extension of bargaining council agreements to struggling small businesses and the national minimum wage – should be scrapped. Instead, private employers must be allowed to take a leaf out of the government's book and pay the unskilled, as the state does, a stipend of some R90 a day.

This daily wage is far below the entry-level salaries generally paid by business. However, the government provides work opportunities at these low levels because it recognises that some earnings are better than none, and hopes the training it provides will pave the way to better jobs. Often, however, it does not. By contrast, if people were allowed to work for the same low wages in the private sector, they would generally receive better training, notch up more relevant experience, and have greater prospects of moving into higher paying jobs over time.

Increased flexibility in the hiring and firing process is also essential, as business needs to be able to insist on good performance and adjust to peaks and valleys in demand. Employers will hire more readily only if they can dismiss more easily. The presumption that dismissals are unfair unless the employer can prove otherwise should be removed. Instead, employers should be free to dismiss employees in keeping with the termination clauses and notice periods set out in their employment contracts with their staff.

Fourth, South Africa's ineffective and damaging *BEE policies* require fundamental reform. BEE is by far the most ambitious and far-reaching affirmative action programme in the world. Partly for this reason, misperceptions have grown up around its effects. Some people criticise it for harming the economic prospects of whites, but there is relatively little evidence of this.

The real harm that BEE does is rather to the great majority of poor black people. Most commentators assume that BEE is effective in helping the disadvantaged and enjoys broad public support. These assumptions are flawed. BEE helps only about 15% of black people, while its benefits go primarily to a small and often politically connected elite. This is not surprising, for the great mass of the unskilled and unemployed have little prospect of ever benefiting from BEE ownership deals, management posts, or preferential tenders.

As Professor William Gumede of Wits University wrote in December 2019, 'close to R1 trillion has been transferred in BEE deals', but these have gone to 'a handful of politically connected politicians, trade unionists, and public servants' who have done little to expand industry or the economy. Instead, ‘they have crowded out genuine black entrepreneurs and killed the development of a mass entrepreneurial spirit in black society because all you need to secure a BEE deal...is the right political connections’.

BEE procurement has been even more damaging. In 2009 Pravin Gordhan, then finance minister, told Parliament that one of the biggest problems confronting government was that it paid more for everything, from pencils to building materials, than a private business would: ‘R40 million for a school that should have cost R15 million, R26 for a loaf of bread that should have cost R7’. In 2012 ANC secretary general Gwede Mantashe urged BEE companies to ‘stop using the state as their cash cow by providing poor quality goods at inflated prices’.

The cumulative costs have been enormous. In October 2016 Kenneth Brown, then chief of procurement at the National Treasury, warned that between 30% and 40% of the government’s procurement budget (worth R600bn at that time and R800bn now) was tainted by ‘inflated pricing and fraud’. This wastage and corruption hugely erodes the tax revenues needed for effective service delivery.

BEE has many other harmful consequences too. It requires racial classification, promotes racial polarisation, and undermines black achievement. It also stifles investment, limits growth, reduces job creation, and undermines state efficiency in providing the goods and services on which many of the poor depend.

BEE is also the key reason for rising inequality since 1994, as the government is well aware. This is largely because the gap between the small political elite that benefits from BEE – and the 9.3 million black people who are unemployed – is growing ever wider.

BEE should therefore be scrapped and replaced by a far more effective policy aimed at increasing upward mobility for the poorest and most marginalised. This should be built around the IRR’s alternative policy of ‘EED’ or ‘Economic Empowerment for the Disadvantaged’.

EED selects its beneficiaries on a socio-economic basis, as does the social grants system. It puts its emphasis, not on meeting racial quotas, but rather on the inputs needed to empower the poor. It thus rewards business for expanding opportunities by making direct investments, creating jobs, contributing to tax revenues, adding to export earnings, appointing staff on a ‘wide’ definition of merit (which takes account of disadvantage), and entering into effective public-private partnerships to improve education, housing, and health care.

What EED proposes is a paradigm shift to a system which no longer bypasses the poor but rather takes effective steps to empower the disadvantaged. It also uses carrots (rather than sticks) to encourage and incentivise the key contributions made by business to investment, employment, and upward mobility. EED would make for effective empowerment in short, while BEE will never be more than a limited system of crony capitalism.

These four core reforms should be set in motion as quickly as possible to help position the country as one of the world’s most attractive investment destinations and so trigger an economic resurgence as soon as the pandemic recedes. At the same time, every effort must be made to reduce the economic and other damage from the lockdown by limiting its ambit as much and as quickly as possible.

Limiting the damage from the lockdown

As the IRR has warned, the country has little capacity to shield millions of South Africans from the lost jobs, incomes, and enterprises the lockdown is sure to cause. A prolonged general lockdown could thus trigger an apocalyptic economic contraction and a lengthy era of ever-deepening impoverishment.

To help the country weather the Covid-19 storm, the government must do away with the distinction between essential and other activities and allow all businesses to operate, provided they can do so while maintaining an adequate degree of safety for both staff and customers. Isolation policies should also become more nuanced, so that they target the people most at risk, while allowing those who are younger and fitter to start working and earning once again. This would reduce the economic damage while guarding against an upsurge in transmission.

More carefully crafted measures to help protect the vulnerable must also be developed. As earlier noted, the millions of people living in teeming informal settlements cannot achieve any meaningful degrees of social isolation. How then are elderly and immune-compromised individuals in these areas to be safeguarded? One solution is to introduce tax-funded self-isolation vouchers, which would give the vulnerable the means (and an incentive) to take up temporary accommodation in now empty university residences or game reserve camps until the danger from the virus has receded.

If South Africa fails to make pragmatic adjustments of this kind, it risks the worst of all worlds. If its lockdown remains as strict as at the start, millions will be robbed of their capacity to earn a living, both now and for many years into the future. This will worsen poverty, hunger, and the overall burden of disease, while the prospect of prolonged destitution could well spark despair and social disorder. At the same time, few compensating gains will be achieved in the fight against the virus. Instead, the inevitable failure of social isolation in shack settlements and other over-crowded areas will push up transmission and fatality rates and usher in the very health disaster the lockdown is supposed to prevent.

Crisis and opportunity

Perhaps the last word should go to Dr Yuri Maltsev, a Soviet defector who served as an economics adviser to Mikhail Gorbachev and is now a professor of economics at Carthage College in Wisconsin in the US. His experience has given him important insights into both the failures of socialism and the way in which crises can be manipulated to serve statist goals.

Said Dr Maltsev in a briefing to the Free Market Foundation in Johannesburg in 2013: 'The major lesson to be learnt is that socialism has never worked. It's been tried in 33 countries and it's always failed. All socialist regimes have also been murderous. Tens of millions died in Russia and also in China, for example... Socialism brings the worst kind of economy and society. The example of socialist countries should be a great warning to us not to repeat the mistakes and crimes of the past... Yet socialism is returning via the back door in many countries. Partly this is because the Soviet Union has disappeared and we're beginning to forget how bad it was. In addition, many academics are true believers in socialism. They simply cannot see its failures. Many in the mass media promote it too.'[105]

Dr Maltsev also warned that crises can be used to erode fundamental freedoms, saying: 'It's very important to remember that governments which want to take freedom from people need a crisis to justify their taking of liberty. The crisis can be real, or it can be imaginary, or it can be fabricated or produced. Often there are elements of all three.'

The Covid-19 pandemic spreading across the globe is clearly real, not imaginary. But to some extent the resulting crisis has also been 'produced' by the general lockdowns being implemented in many countries to contain it. In South Africa especially, such a strategy is both hugely costly and incapable of success. It is also based on extremely limited testing data and worst-case scenarios of what fatality rates might be. In addition, it is difficult to gauge how well the lockdown is working, while the government has every reason to keep proclaiming its success.

However, if crisis brings opportunity for far-reaching policy change, the process can work both ways. A small radical group at the head of the ANC/SACP alliance, supported by some in the media and civil society, want to use the Covid-19 crisis to curtail political rights and economic freedoms, build dependency on the government, and move yet closer to a state-owned and controlled socialist economy.

But most South Africans – the moderate majority – have long wanted business-friendly policies. As IRR opinion polls dating back to 2015 have repeatedly shown, most want the opportunity to get ahead, not through radical redistribution, but rather on the proven foundations of education, employment, enterprise, and a rapidly growing economy.

The outcome of the Covid-19 crisis is still far from certain. With the necessary awareness and will, it can be used to compel a shift away from the NDR and keep liberty alive. But this will only happen if the moderate majority can more clearly find its voice and stand up against the small elite that want to propel us all down a destructive socialist path.

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