LIFTING THE LOCKDOWN NOW

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IRR
South African Institute of Race Relations
The power of ideas

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The vital need to lift the lockdown

Estimates of what the current lockdown is costing the economy range from R13bn to R20bn a day.[1] But South Africa's economy – after decades of mismanagement, poor policy, and corruption – was on its knees even before the lockdown began. Hence, it simply cannot cope with this enormous further blow. Worse still, the lockdown cannot and does not work in teeming townships and informal settlements, where homes cluster closely together, many structures house families of four or more, and scarce communal taps and toilets are shared among hundreds of residents.

Available data now confirms, moreover, that the current hard lockdown has not stopped community transmission to date and therefore cannot be expected to do so in the future. This information comes from the Western Cape, where the provincial administration provides detailed Covid-19 data for different areas within the Cape Town metropole. This information shows, for instance, that confirmed cases in Khayelitsha grew from six to 44 in a single week in April, when the lockdown was already in force. That is an increase of some 700%. In Mitchell's Plain, confirmed cases in that same week rose from 10 to 40, an increase of 300%.[2]

As Professor Alex van den Heever, health economics expert at Wits University, has pointed out, 'if a lockdown doesn't stop infections in SA's high-density areas, it is largely ineffective' and 'equivalent to no intervention' at all for millions of people. It also means that the health benefits of the lockdown are not being achieved and cannot begin to outweigh its economic and other costs.

In addition, the number of anticipated deaths from the virus has recently been revised sharply down, providing yet more reason for a speedy and comprehensive lifting. A Covid-19 model, developed by the SA Centre for Epidemiological Modelling and Analysis (Sacema) at Stellenbosch University and South Africa's National Institute for Communicable Diseases (NICD), earlier suggested that Covid-19 deaths would rise to between 87 900 and 351 000.[3] This projection was instrumental in the government's decision to implement a lockdown.

But Sacema has since reduced these projections, while Professor Shabir Madhi of Wits University estimates that there will be some 43 000 Covid-19 deaths over the next two years. Some 25 000 of these fatalities will occur in 2020, he believes. This is significantly fewer than the 28 678 deaths from TB recorded in 2017.[4]

The longer the lockdown lasts – and the government is clearly contemplating a six- to eight-month timescale for doing so – the more hunger and hardship it will unleash. This could push TB deaths in 2020 far higher than the norm. Deaths from diabetes, heart disease, HIV, cancer, malnutrition, and other non-Covid causes could rise sharply too, significantly outstripping the death toll from the virus. This is why 19 doctors wrote to President Cyril Ramaphosa last week urging him to lift the lockdown with immediate effect – and warning that every day of its continuation would cause more harm.[5]

The key issue the country confronts is not the crude one of whether 'profits' can be put before 'lives', as the EFF and some others have stated. The real question is how best to balance lives v lives. Time is of the essence, and every week matters. The health and wellbeing of the population critically depend on the country going back to work with immediate effect. Anything else is 'unsustainable madness', as Mike Schussler, head of Economists SA, warned at an IRR media briefing last week.

The risk of many more 'non-Covid 19' deaths

The longer the lockdown remains in place, the more people will be pushed into poverty. Some commentators may assume that the government's additional stimulus package, announced with much fanfare last week, will protect the poor. This, however, is not so. Some of the relief that has been promised will be slow in reaching those in need, while some will be siphoned off by corrupt local councillors and public servants. In addition, the package is in fact worth far less than the R500bn pledged.

Some R130bn depends on budget reallocations which may not be achieved. In addition, the R95bn or so to be obtained from the International Monetary Fund (IMF) and other international finance institutions has yet to be secured. The promised R70bn in tax credits does not constitute 'new' money. Nor does the R200bn in guarantees the government has promised for bank loans to struggling businesses. Once the reprioritised, guarantee and monetary elements of the package are stripped out, its value amounts to some 2% of GDP, rather than the 10% the government has declared.[6]

If increased poverty from the lockdown is not in fact alleviated by the state, how many avoidable 'non-Covid' deaths might then result?

Economist Dawie Roodt has attempted to answer this by reference to the economic decline evident in Greece over the last ten years. The country's economic problems resulted in a fall of 20% in its Gross National Product (GNP) per person. This in turn resulted in greater poverty, which led to an increase in the country's death rate of some 1 person per 1 000 of population. If a similar economic decline happens in South Africa – which a prolonged lockdown could easily

trigger – then South Africa's GNP could decrease by (a conservative) 10% per person over the next ten years. On this basis, 0.5 more people per 1 000 of population could die because of the poorer economy and greater poverty. This would be 300 000 people over the next ten years. Mr Roodt concedes that this is a rough estimate, but the risk is clear. A poorer economy in Greece has resulted in many more people dying, and the same could happen in South Africa.[7]

In addition, data from various European countries hard hit by Covid-19 has shown some 70 000 'excess' deaths in March and April 2020, compared to historical baseline data. However, not all these additional deaths have been attributed to the virus. Some could indeed be Covid-19 deaths which slipped beneath the radar because they took place in institutions for the care of the elderly or in people's homes. But at least some of the excess deaths have occurred because non-Covid illnesses are not being attended to in the same way as before. Sometimes, moreover, the percentage of 'excess' deaths known to have been caused by the virus is relatively small: 44% in the Netherlands, 48% in Lombardy in Italy, and 50% in Belgium. This data is incomplete, but again the risk of additional non-Covid deaths is clear.[8]

In the United Kingdom (UK), adds Dr Waqar Rashid, a consultant neurologist in London, the number of people being referred by their doctors for urgent hospital appointments in relation to possible cancers has fallen by some 2 300 people a week since the lockdown began. Many cancers are thus going undetected, which could in time make some of them inoperable because they were left until too late. There has also been an apparent rise in cardiac-arrest fatalities at home. In addition, there are some 15 million people in England with chronic diseases, such as diabetes, heart disease, or hypertension, who could be badly affected by the lockdown. The government, he urges, must consider whether 'the consequences on health and mortality of remaining in lockdown outweigh the benefit of the possible suppression of Covid-19'.[9]

Chris Whitty, chief medical officer in the UK, estimates that there may be 150 000 'avoidable' non-Covid deaths resulting from the lockdown. This is far greater than the roughly 20 000 Covid deaths now anticipated. Reports *The Spectator*: 'The cause of deaths will be a mixture: downgrading National Health Service (NHS) services (less cancer care, mental health treatment cut) and people avoiding the NHS (visits to accident and emergency services were down by a third in March). Whitty is also concerned about parents not vaccinating kids, which could threaten herd immunity for other diseases. The 150 000 figure is produced by a model, and like all models, its findings are the creation of its inputs. But there has never been any modelling about the side effects of lockdown: the effects on domestic abuse, deprivation of education – and, perhaps biggest of all, the effects on our ability to fund healthcare if the economy is permanently poorer. 'This is a balancing act,' says one cabinet member, '[and] we need a clearer view of what's on the other side of the ledger.' [10]

The UK, the US and various European countries are at least debating how lockdowns will affect the likely balance between Covid fatalities and avoidable non-Covid deaths. In South Africa, the issue has yet to be considered. Nor has adequate thought been given to how severely public healthcare will be undermined as revenue dries up and unemployment and poverty grow. Instead, the government is planning to extend the lockdown to October or December 2020, albeit in a progressively less restrictive form.[11]

The government's proposals to extend the lockdown

In a televised address to the nation on 23rd April, Mr Ramaphosa proposed a phased 'risk-adjusted' approach, in which the country will gradually move through five levels. These range from a high-risk level 5, requiring a hard lockdown, as now, to a low-risk level 1 – where few restrictions would remain.

Movement from higher to lower levels will depend entirely on health criteria. Economic considerations will play no part and two key health tests will rule. These, in essence, will be whether Covid-19 infections are still spreading, and whether health systems are sufficiently ready. (In Dr Dlamini-Zuma's words, the key issues will be the rate of testing, the number of positive cases, and the proportion of available and used beds.) But the increased testing now being rolled out is sure to pick up more SARS-Cov-2 infections – and especially so in the cold winter months that lie ahead, when flu always becomes more common.[12]

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 – though even that is by no means clear – it may take until December 2020 to attain the 'low virus spread' the government seeks.[13] 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.

As an integral part of its risk-adjusted approach, the government plans to assign different sectors of the economy to their supposedly appropriate risk levels. These levels, as noted, range from high-risk level 5 down to low-risk level 1. Bureaucrats will decide where different sectors 'fit', based on four criteria. The first three are 'the risk of transmission' within the sector (including the number of people who must travel to work), the 'expected impact' on it of a continued lockdown, and its 'value to the economy', as determined by its contributions to GDP, employment, and export earnings, along with its 'multiplier effects'.[14]

The fourth criterion is the extent to which the relevant sector contributes to 'community wellbeing' According to trade and industry minister Ebrahim Patel, this is partly to be assessed in terms of 'the numbers or the quantitative data'. But it also involves 'the making of a

judgement call in deciding who goes back to work'.[15] This assessment, in particular, will be inherently subjective.

Mr Patel's refusal to allow unfettered on-line shopping in South Africa shows just how irrational such decisions might be. On-line shopping poses few health risks and has been allowed in most countries under lockdown, including China, because it offers a way of containing the spread of the virus while supporting economic activity. But Mr Patel will not permit it in South Africa because it would constitute 'unfair competition' for spaza shops and informal traders.[16]

Applying a single classification to an entire industry – and not the many and varied businesses within it – is also far too blunt an instrument.[17] In addition, officials are poorly qualified to make the assessments envisaged. Bureaucrats have far less knowledge of transmission risks and lockdown impacts within different sectors than do the businesses working within them. In addition, officials have no knowledge of the working conditions inside particular firms and cannot tell how successful those firms might be in reducing transmission risks. The essentially arbitrary decisions made by bureaucrats may thus be unnecessarily strict. There is also a significant risk that officials will relish their powers of control and be reluctant to give them up, even as the Covid-19 risk recedes.

The government's approach, writes Katherine Child in the *Financial Mail*, will make for a 'bureaucratic nightmare and create huge centralised control over the economy'. It will also require a host of detailed regulations to govern every aspect of the strategy. The bureaucratic exercise involved in crafting, monitoring, and revising these many hundreds of rules will be massive in itself.

Major delays in assessment and decision-making are sure to develop. Many inconsistencies and uncertainties regarding what the regulations say or mean will also arise. Often restrictions which might seem reasonable to officials in the abstract may be difficult to apply in practice. Take, for example, the requirement that manufacturing businesses (outside the specified sub-sectors for level 4) may 'scale up to 20% employment', but not more. What if a particular manufacturing business needs 25% or more of its staff at work to function effectively? Should the business then be barred from opening up because a bureaucrat in a distant government office considers 20% the 'correct' proportion?[18]

In addition, no one yet knows for sure whether the entire country will shift to level 4 on 1st May, or whether some provinces, districts, or metropolitan areas will remain under hard lockdown under level 5. According to the government, the lifting of the lockdown must be nuanced enough to take account of how fast the virus is spreading in different areas.[19] But detected infections are, not surprisingly, running highest in the country's biggest and most densely populated metropolitan municipalities – including Johannesburg, Cape Town, and eThekwini – where testing for the virus is the furthest advanced.

These three cities might thus remain in hard lockdown at level 5, even as the rest of the country shifts to level 4.[20] But these major metropoles also make by far the biggest contributions to economic growth. Barring most of their businesses from returning to work would thus be particularly damaging. It would also be inherently illogical when these metropoles are also home to dozens of crowded townships and informal settlements where social isolation – as in Khayelitsha and Mitchell's Plain – simply cannot be maintained, irrespective of how many businesses are barred from resuming operation.

Even if level 4 is in fact introduced throughout the country on 1st May, this will not be nearly enough. Some sectors will be allowed a partial resumption of operations, while some 1.5 million people will return to work. These individuals, together with some 5 million essential workers, make up 40% of the workforce, the government says.[21] But at least 60% of the workforce will still be unable to earn.

Catastrophic consequences will continue to loom for the millions of South Africans still locked out of work. Many could yet lose their jobs and homes, exhaust their savings, and go bankrupt under mountains of debt. With the formal economy still operating at a fraction of its normal capacity, tens of thousands of small and micro businesses could also collapse before long. Many would have little or no prospect of ever coming back.

Riots and looting are already breaking out in areas where people are hungry and desperate. The entire army has been mobilised to help hold back the anarchy and chaos that could yet sweep the land. Already people have been beaten, humiliated, and sometimes killed by the police and army. Some ministers have seemingly delighted in imposing harsh and irrational rules that serve no healthcare purpose and further fuel public anger. (That some form of exercise will be permitted under level 4 – but people will still not be permitted solitary walks or jogs outside their homes – is simply an abuse of political power.)[22] All these major problems will get much worse unless the lockdown is lifted forthwith.

The real need is to scrap the lockdown

South Africa needs to scrap the lockdown with immediate effect. In doing so, it should follow three basic principles:

Basic principles:

First, all businesses must immediately be allowed to return to work, but must also shoulder the burden of safeguarding their staff, customers, and suppliers against the virus as far as is reasonably practicable.

Second, the country must for many months maintain social distancing – and, if necessary, self-isolation or quarantining – for the people most vulnerable to the virus.

Third, children must be kept out of school until September, as allowing their earlier return risks undoing whatever gains the lockdown has brought.

All businesses should return to work

All businesses, whether large or small, formal or informal, contribute to the complex web of the country's economy. All businesses should therefore be allowed an immediate return to work. All, however, must also shoulder the burden of protecting their staff, customers, and suppliers against the virus, as far as is reasonably practicable.

Businesses know far more than bureaucrats about the factors in their premises and/or operations that increase the risk of virus transmission. Businesses are thus far better placed than officials to devise the best means to counter these risks (though guidance from the government and private sector organisations can always be sought). In their efforts to reduce the risks, businesses are also likely to come up with far more innovative solutions that bureaucrats could ever devise.

The key need, of course, is to reduce the transmission risk in the most effective ways. Firms should thus screen all those who enter their premises – whether staff, customers, or suppliers – for fever (anything else is too invasive) and instruct people who feel ill to stay away. They must regularly clean their premises and equipment, encourage regular hand-washing, and keep sanitisers readily available. Where necessary, they should also promote social distancing by putting up Perspex or other screens, spacing desks or work stations further apart, limiting face-to-face meetings and informal social gatherings (over lunch, for instance), and insisting on the use of face masks wherever people are in close proximity to one another.

Staff who can work effectively from home should continue doing so. Those who cannot work remotely should perhaps be divided into morning and afternoon shifts to split up the workforce and have fewer people at work at any one time. Employees might also take turns working at home so as to allow for de-densification. At the very least, starting and ending times should be staggered to reduce the number of commuters needing transport at much the same time.

Trains, buses, and taxis should operate at all hours to facilitate this. Trains and buses are already subsidised by the state, but taxis now also need help of this kind to compensate for lower passenger volumes. The R16.5bn bailout for SAA (as proposed in the February 2020 budget) could instead be used to subsidise the taxi industry and make it easier for taxis to operate affordably with fewer passengers. Such a subsidy would complement the R3.5bn fund that the country's largest taxi organisation (the South African National Taxi Council or Santaco) has already launched, with the help of many businesses, to cushion the lockdown blow to the industry.[23]

Restaurants should remain under stricter restrictions until the start of spring, when warmer weather is likely to reduce transmissions. However, they should immediately be allowed to start providing takeaways meals, for both delivery and pickup. They should also be allowed to serve meals inside their premises, provided they limit numbers to maintain social distancing and maintain strict hygiene protocols. This would also help them survive and retain many of their staff. 'Pay-it-forward' vouchers from regular customers – who would redeem them by dining at the restaurants in question after the pandemic has passed – would also help keep them alive.

The most vulnerable people must be protected

The people most vulnerable to the virus – the elderly and those with underlying health conditions – should maintain strict social distancing until the pandemic has receded. All those who can do so should work remotely. Those who can safely go to work (say, because they have their own offices, or their jobs involve little contact with others) should be allowed to do so.

Vulnerable people who cannot earn must be supported in other ways. Many already receive state old-age pensions or disability grants, or are registered as caregivers for children on the child support grant. Plummeting revenue and high public debt make it difficult to increase these monthly cash grants, but the need to increase the amount provided by the state will diminish once most people are back at work and can resume their help to those in need.

A key problem, however, is that many of the vulnerable live in the teeming informal settlements and overcrowded townships where social distancing and regular hand-washing are impossible in practice. Many are also grandparents who look after children whose parents are away at work or might perhaps have died. Yet the government's plan to thin out 29 informal settlements by moving unspecified percentages of people to temporary accommodation in modified shipping containers on land nearby will not succeed – and certainly not in time to make a difference – as people are deeply suspicious of attempts at such removals.[24]

Instead, the government should provide tax-funded self-isolation vouchers to institutions – empty hotels, university residences, or game reserve camps – able to provide safe temporary accommodation to the vulnerable. Some of this accommodation could be set aside for quarantine purposes, while the rest would be used for those who have not tested positive for the virus but are likely to be badly harmed by it. The availability of these vouchers would encourage many vulnerable people to take advantage of this option – and especially so if caregivers could bring with them young children of up to, say, the age of eight.

Children must remain out of school until September

As IRR CEO Frans Cronje has pointed out, children readily fall ill to the virus but generally have few or no symptoms. The risk in opening schools is not that children will become badly ill, but rather that they will function as 'silent spreaders' as they move around without even knowing

they are infected. (Some studies have contested the 'silent spreaders' thesis, saying infected children do not necessarily pass the virus on to others, but the jury is still out on this key question.)

In Mr Cronje's words, 'schools daily concentrate 13 million children in close proximity to one another. Those pupils then travel, collectively, many millions of kilometres a day between their homes and their schools'. This makes the school system an unparalleled 'breeding ground and distribution network' for the virus.

In addition, many of those caring for schoolchildren are grandparents with a particular vulnerability to Covid-19. If schoolchildren take the virus back into their homes, many older people could become infected. This could trigger a sudden upsurge that overwhelms the health system, results in many more deaths, and generates all the negative consequences five weeks of hard lockdown have been intended to prevent.

This would leave the government with little choice but to re-impose another hard lockdown. But that would sound the death knell for many more businesses and result in millions more people losing their jobs and livelihoods. Non-Covid illnesses and deaths would also accelerate again.

Schools should thus stay closed throughout the winter months. But how then are children's schooling and care needs to be met, especially if the grandparents who normally look after them have moved (together with children under the age of eight) to empty hotels or university residences, as earlier outlined, until the worst of the virus is over? Some replacement for the school feeding scheme must also be found.

Schooling needs can be met via e-learning options (for those with access to broadband) and via SABC broadcasts (for those without). If parents are out working, relatives from broader family circles could be asked to help care for children and help them with these lessons. If necessary, local community-based organisations could also be asked to help with lessons and care, as could unemployed graduates and matriculants who have been suitably vetted. The child support grant could be increased by, say, another R100 (over and above the R500 a month increase announced last week) to compensate for the absence of school meals. All those drafted in to help with the needs of schoolchildren should receive tax-funded vouchers for doing so, with the amounts earned pegged to the amount of help provided.

Even if the return to school is delayed until September, the remainder of the school year can arguably still be salvaged via the home learning that will have been completed, through the extra afternoon and Saturday lessons that can then be provided, and by delaying most examinations until late in December. University and TVET entrance applications for 2021 could be sent in by October this year (in much the usual way), though great efforts would have to be made to speed up the marking of matric scripts in January. Thereafter, the processing of both

entrance and funding applications would have to be accelerated too, but this could be achieved with the necessary will. Schools and universities could start later than normal in 2021, with holidays and vacations for the rest of that year shortened to make up the difference.

Ramping up testing, tracing, and treating capacity with private sector help

Lifting the lockdown must be accompanied by increased efforts to slow down the spread of the virus. This critically depends on speedily identifying the infected so they can be isolated in their homes or, on a voluntary basis, accommodated in voucher-funded isolation or quarantine facilities, as earlier outlined. All individuals who have recently been in contact with those now known to be infected must also speedily be traced, tested, and isolated or quarantined.

Private sector expertise is critically required to expand the country's still limited testing capacity. As of 28th April, some 185 497 tests had been done, while 4 996 infections had been identified. But public sector testing is still lagging. The National Health Service Laboratory was supposed to be conducting 36 000 tests a day by the end of April, but instead it is limping along at below 10 000 a day. By far the great majority of testing has thus been done in private sector laboratories.

A key factor holding back faster testing is a critical shortage of testing materials and personal protective equipment (PPE), including masks. Already, however, the private sector has moved mountains to help overcome these needs. Aspen Pharmacare executive Stavros Nicolaou, who heads the health workgroup within Business for SA (B4SA), said in mid-April that local companies with the ability to make industrial masks – which are more than adequate for all but front-line healthcare personnel – were expanding their capacity and would produce 6.5-million of these masks within a fortnight. With the help of other businesses and the Solidarity Fund, other essential stocks – including 200 000 three ply masks, 100 000 KN95 masks and sterile gloves and surgical masks for use by doctors, nurses and other healthcare workers – have also been secured. Local business has played a vital role in this procurement. Their innovative efforts have far exceeded those of public procurement officials, who (as Mr Nicolaou puts it) are often 'very rules-driven' and seem 'stuck in the same outdated mindset'.[25]

Another major challenge is that 90% of the medical equipment needs to be imported. Though global sourcing is 'getting harder all the time', Mr Nicolaou has nevertheless managed (with the help of donations from the Solidarity Fund, the Motsepe Foundation, Naspers, and FirstRand) to source 'sizeable' quantities that other local importers had earlier proved unable to secure. Some companies overseas, he explains, had 'ramped up their capacity and then [found that] their demand had de-escalated, so capacity was being freed up there'. As a result,

stock already procured includes some 13.5 million N95 respirator masks, more than 30 million surgical masks, 900 000 sterile gloves, and 200 ventilators'.[26]

The importance of ventilators in treating severely ill Covid-19 patients may be diminishing (few of the patients put on ventilators survive, and some physicians are concerned that these intrusive machines are being over-used),[27] but it nevertheless seems wise to step up the number available.

Prior to the pandemic, South Africa had some 4 000 ventilators in the private sector and about 2 000 in public hospitals. Local automotive companies have thus been switching to making ventilators and stepping up production. They plan to have 10 000 available by the end of June and will have the capacity to build up to 50 000 more if necessary.[28]

The private sector, in short, is already playing a vital role in meeting pressing PPE and other needs. Public-private partnerships should now also be used to strengthen public sector testing capacity and bring it up to the '36 000 tests a day' long promised but still to be achieved.

Public-private partnerships should also be entered into (through urgent but competitive tendering processes, shorn of damaging BEE requirements) to improve the management of public hospitals and clinics at this time of crisis. This would help to guard against the inefficiency, negligence, wasteful spending, and corruption that so often bedevil the public healthcare system.

The burden on the public system should also be reduced by increasing access to private healthcare for severely ill patients. This can be achieved via tax-funded emergency Covid-19 treatment vouchers, which should be made available to all private hospitals for the treatment of these individuals. Most medical schemes have also included Covid-19 within the 'prescribed medical benefits' they provide to all their members. This means that Covid-19 treatment costs will be paid 'in full' by medical schemes, with no co-payments from their members, which will further expand the private sector role in combating the disease.

The private sector should also help kickstart serological testing (for the antibodies developed in fighting the virus) as soon as sufficiently accurate tests are available. Such testing is vital to track the extent of herd immunity and make more accurate assessments of the death rate from the virus. It would also allow anyone who tests positive for the relevant antibodies to be given an 'immunity' certificate confirming their capacity to work and interact with others without putting people at risk. All clinics, mobile vans, and community health workers must be equipped, with private sector help, to conduct this vital serological testing as rapidly as possible.

Following the science

Governments across the world claim to have been 'following the science' in deciding to lock down their economies for prolonged periods. However, what the science in fact shows is that information about the virus is still sorely lacking. Among other things, there is still no accurate information on likely death rates, how the virus is transmitted, or how far herd immunity might already have grown. In addition, some of the early modelling on which lockdown decisions were based has since been substantially revised, with earlier projected death rates sharply reduced.

This has happened in South Africa as well. As earlier noted, the SA Centre for Epidemiological Modelling and Analysis (Sacema) has substantially lowered its earlier projection that fatalities could rise as high as 351 000, while Professor Madhi estimates a total of some 25 000 Covid-19 deaths this year.[29]

A similar downward revision has happened in the UK, where the government's decision to implement a lockdown was largely based on the early predictions of Professor Neil Ferguson and his team at Imperial College (London), who warned that Covid-19 deaths could total some 250 000. Imperial College has since reduced its projections of likely deaths from the virus to around 20 000 – which is roughly the same as annual deaths from seasonal flu.[30]

In the US, moreover, recent research suggests that the virus has been spreading far more widely than expected and with few or minimal symptoms among those infected. Serological testing for the relevant antibodies is not yet available, but 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) analysed ILI data collected in 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.'[31]

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 23 million. This was 200 times the number of positive tests for Covid-19 in the same period.[32]

That number (23 million) could overstate the spread of Covid-19, as ILI has other causes. But it could understate it too, because Covid-infected people with minimal or zero symptoms would see no reason to seek out their doctors.[33] But if roughly 23 million Americans have already had Covid-19 without this being diagnosed, then the death rate from the virus is clearly far lower than was earlier feared.

The death rate from the virus may also have been exaggerated in many countries because of the unusual way in which Covid-19 deaths are being reported. As retired UK pathologist Dr John Lee points out, when people die of respiratory diseases in Britain, 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'.[34]

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'. 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.'[35]

Recent data from Italy further 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'. [36]

In simpler terms, 88% of these patients died 'with' the virus, but only 12% died 'from' it. That is a crucially important distinction in calculating the death rate. As the *Wall Street Journal* reports, moreover, subsequent research has shown that 'people under 65 without underlying conditions accounted for only 0.7% of coronavirus deaths in Italy' (and, incidentally, for 1.8% of such deaths in New York City).[37]

What the science shows, in short, is that our knowledge of Covid-19 is far too limited to justify lockdowns for long periods. Governments that earlier embarked on general lockdowns did so on the basis of the modelled data before them and in fear that fatalities might indeed prove massive. But the data that is now emerging is far more positive. It shows rising herd immunity and lower death rates – and provides good reason for lifting lockdowns before they do irreparable economic damage and generate many avoidable fatalities from non-Covid causes.

The case for ending the lockdown is even more compelling in South Africa, where even the hardest lockdown cannot secure effective social isolation or stop community transmission in

overcrowded townships and informal settlements. If the millions of people living in these areas cannot be protected by the lockdown, then it makes little sense to keep much of the economy on hold with all the further damage to health and welfare this will cause.

Instead, the key needs are to scrap the lockdown, protect the vulnerable, prevent schoolchildren from acting as 'silent spreaders' during the winter months – and use private sector efficiencies and skills to ramp up the country's faltering capacity to test, trace, and treat.

The unconstitutionality of persisting with the lockdown

The national state of disaster declared by the government in response to the Covid-19 pandemic has not suspended any of the fundamental rights guaranteed by the Constitution. These include the rights to human dignity, life, equality, access to court, and just administrative action. Also guaranteed are the rights to assemble and to demonstrate, along with freedom and security of the person, freedom of movement, freedom of association, and freedom of trade, occupation, and profession.[38]

The lockdown infringes all these rights in various ways. To name but one example, for people to be confined for five weeks and more to crowded shacks in informal settlements is an infringement of their right to human dignity.[39]

Derogations from guaranteed rights are permitted under Section 36 of the Constitution, but must satisfy all the criteria relevant to the proportionality test. These include the availability of 'less restrictive means to achieve the purpose'.[40]

For all the reasons earlier outlined, the continuation of a general lockdown – even if ameliorated to some extent by a shift to lower levels under the proposed risk-adjusted strategy – does not meet the proportionality test. The lockdown is not reasonably capable of achieving its intention of saving lives in many townships and informal settlements, where social distancing and regular hand-washing are impossible. Crucially, moreover, there are better and less restrictive means available to safeguard the health and welfare of all South Africans – not only from the Covid-19 threat – but also from all the other major risks a continued lockdown entails.

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