



Ethicolegal issues relating to the South African government's response to COVID-19

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Africa, and sub-Saharan Africa in particular, is one of the last continents to have recorded COVID-19 cases, and is expected to be severely impacted by the virus. The lack of intensive care capacity and under-resourced public healthcare settings in many African countries, coupled with high levels of poverty and poor access to healthcare services, applies to some extent to South Africa (SA). The SA government's swift and decisive response to address COVID-19 in March 2020, although praised by many, is increasingly being criticised for its disproportionate, contradictory and harsh consequences, not to mention a range of legal challenges that have followed since the introduction of lockdown measures in terms of the Disaster Management Act. This article examines some of the ethical and legal issues relating to the government's approach to COVID-19.

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Following the announcement of the first case of COVID-19, a novel type of coronavirus, in China in December 2019, the virus continued to spread with devastating effect across the globe. On 14 May 2020, the number of global cases totalled 4 456 261, with the total number of deaths at 299 418. South Africa (SA) reported its first case on 5 March 2020. On 14 May 2020, the Africa Centres for Disease Control reported the number of COVID-19 cases on the continent as standing at 72 336, with the number of confirmed deaths at 2 475, after 40 3018 tests were carried out.^[1] In one of the last continents to record COVID-19 cases, experts are particularly concerned that the impact in sub-Saharan Africa will be extremely severe, considering that it is still not clear how HIV/AIDS or tuberculosis (TB), both prevalent diseases in the region, will affect COVID-19 infection rates or outcomes, not to mention other pre-existing conditions, such as hypertension and diabetes, not well addressed in many African healthcare settings.^[2] Moreover, the lack of intensive care capabilities and under-resourced public healthcare settings mean that morbidity and mortality rates for the virus in sub-Saharan Africa will be particularly catastrophic, in addition to the socioeconomic impact of the virus. It is for this reason that it has been argued that sub-Saharan Africa requires a unique response to the virus.^[3]

By May 2020, SA unfortunately has come to carry the brunt of the virus, with the highest number of cases on the continent. On 14 May 2020, the total number of cases had surged to 12 074, with 219 confirmed deaths.^[4] It is therefore not surprising that the SA government decided on drastic measures aimed at curbing the spread of COVID-19, regarded by many as a 'hard lockdown' and the most stringent in the world.

The purpose of this article is to briefly describe the course of action of the SA government in responding to COVID-19, followed by an overview of some ethicolegal challenges relating to some of the measures that were introduced. The limited scope of the article does not permit a conceptual analysis of the issues raised, nor does

it attempt to suggest solutions to the evolving dilemmas, whose outcomes are still unknown.

The SA government's response

Following the declaration by the World Health Organization (WHO) on 11 March 2020 of COVID-19 as a pandemic, the SA government responded swiftly by declaring a national state of disaster, on 15 March 2020, which included a number of regulations aimed at reducing the spread of the virus. Unlike a state of emergency, which is declared under section 37 of the Constitution of the Republic of SA, the declaration of a national state of disaster is governed by the Disaster Management Act No. 57 of 2002, which specifically includes a natural or human occurrence that causes or threatens to cause 'death, injury or disease' within its definition of disaster, as clearly applies to COVID-19.^[5] As a temporary measure during a state of disaster, certain rights may be limited, and the disaster may be declared invalid if the requirements for a declaration in section 27(1) of the Constitution are not met. A state of emergency is not normally the first step in addressing a health emergency, but should civil unrest develop as a result of a pandemic, requiring that peace and order be restored, such a declaration may be justified and necessary.

A series of regulations restricting, among other things, the movement of persons were promulgated after the declaration of the state of disaster, including regulations prohibiting foreign nationals from high-risk countries (as defined by the WHO) from entering SA from 18 March 2020, and restricting gatherings to 100 individuals. A 3-week 'lockdown' on the movement of all citizens was announced on 23 March, to apply from 26 March.^[6] Persons suspected of having COVID-19, or who have been in contact with others who have tested positive for COVID-19, may not refuse testing. If confirmed positive, they may not refuse immediate treatment, isolation or quarantine. Similar regulations were promulgated in terms of the National Health Act No. 61 of 2003. The regulations relating to the surveillance and

control of notifiable medical conditions, gazetted in June 2017, provide that if a person refuses to consent to the testing, treatment, isolation or quarantine of a notifiable medical condition, the head of a provincial department can apply to the High Court to require the mandatory testing, treatment, isolation or quarantining of that individual. Failure to comply may result in a term of imprisonment not exceeding 12 years, a fine, or both.^[7]

The COVID-19 regulations are more stringent, and provide that while an application to a magistrate's court for mandatory testing, treatment, isolation or quarantine is made, that person can be placed in isolation or quarantine for 48 hours.^[7] Furthermore, the power to make this application is vested in the hands of an 'enforcement officer', defined to include a member of the SA Police Service (SAPS) or the SA National Defence Force (SANDF), and a peace officer.^[7] This is not the only additional power that has been vested in the SANDF. Under the Disaster Management Act, financial, human and other resources may be released and directed towards the resolution of the disaster.^[7]

The National Coronavirus Command Council (NCCC), established by the President on 17 March to lead the nation's emergency response plan to oversee the management of co-ordinated efforts to curb the spread of the virus, consists of a selected group of ministers, including the Ministers of Health, International Relations and Co-operation, Defence and Military Veterans, State Security, Home Affairs, Finance, Basic Education, Higher Education, Science and Innovation, Human Settlements, Cooperative Governance and Traditional Affairs, Police, and Justice and Correctional Services. The legality of the NCCC came under legal scrutiny in April, as discussed in more detail below.

During his address to the nation on 23 March, President Ramaphosa announced that the SANDF would be deployed to support the SAPS. In enforcing the lockdown, the presence of the military has become a familiar scene in many streets across SA, and there have been allegations of heavy-handedness, murder, the use of rubber bullets and abuse.^[7,8] On 9 April 2020, the President announced the extension of the 3-week lockdown, originally due to end on 17 April, by another 2 weeks, until 1 May.

During the extended lockdown period, on 21 April, President Ramaphosa announced measures aimed at lifting the restrictions in accordance with a phased approach, as well as implementing measures directed at providing economic relief, to commence on 1 May 2020. With the relaxing of restrictions to occur according to the country's position on one of five different risk-based levels, and the lockdown level lowered from level 5 to 4, many businesses resumed limited operations, including mines, factories and agricultural businesses. The restriction on the freedom of movement of South Africans was also eased, to include exercise between 6 am and 9 am, and restaurants reopened for deliveries only, while a night curfew was applied from 8 pm to 5 am. Public transport resumed with limited passenger numbers, while domestic and international travel restrictions remained in place.^[9] The highly criticised ban of cigarette sales remained in place, following a reversal of the president's earlier statement on 21 April that cigarette sales would be permitted under level 4 by the Minister of Cooperative Governance and Traditional Affairs, Minister Dlamini-Zuma.^[10] This decision was met with strong resistance from certain tobacco companies, who instituted an application for an order declaring tobacco products and cigarettes 'essential goods' in

terms of the Disaster Management Act, as discussed in more detail below.

On 13 May, amid growing dissatisfaction with some of the regulations, President Ramaphosa announced that level 3 restrictions would apply to most areas of the country from 1 June, apart from certain 'hotspots' that might remain at level 4.

Ethicolegal issues

Some key ethical issues that arise regarding responses to a pandemic include those relating to equitable access to healthcare services, the ethics of public health actions taken by governments responding to a pandemic, and the role and responsibilities of healthcare workers during a pandemic.

Capacity and quality of healthcare services

SA's healthcare sector has come under the spotlight with COVID-19. With 13.8 million South Africans living on less than ZAR19 a day,^[11] and the majority of the population reliant on an already under-resourced public healthcare sector, COVID-19 introduces a range of legal and ethical challenges.

Firstly, COVID-19 has exposed some serious deficiencies in the healthcare sector in high-income countries, one of which relates to the ability of public hospitals to deal with COVID patients. In SA, the Office of Health Standards Compliance reported in its 2016 - 2017 annual inspection report, conducted in 851 public-sector health establishments, that 62% of these were non-compliant with norms and standards for healthcare quality.^[12] Several areas of deficiency were identified, some of which include poor or absent leadership and management, including operational management, with many staff lacking a required level of supervision, and lack of knowledge, competencies and support from senior staff. In light of this and despite assurances by the Minister of Health, Dr Zweli Mkhize, that the National Department of Health is ready to deal with COVID-19,^[13] concerns have arisen regarding the capacity of SA hospitals to deal with cases during the peak of the infection, estimated to take place around September 2020.^[14] The lockdown measures are not aimed at only curbing the spread of the virus, but also avoiding an unmanageable burden on the healthcare system when the virus peaks. The peak of a virus normally happens during stage 6 of the response to an outbreak, which follows stage 5 that deals with the monitoring and surveillance of COVID-19 hotspots. SA has already seen stages 1 - 4, which began with the import of the virus and low numbers of infections (stage 1), moving to local transmission of the virus in stage 2, followed by stage 3 of outbreak, when community transmission progressed, and then stage 4, when the virus was pronounced a pandemic.

During stage 6, attention is primarily directed to the surveillance of caseload and healthcare capacity, managing healthcare workers' exposure to the infection, building field hospitals for triage and increasing the number of ICU beds, quantities of personal protective equipment (PPE) and numbers of ventilators. An expected large caseload also requires increased capacity and effectiveness in hospital transportation services. A presentation by acting Director-General of the Department of Health, Dr Anban Pillay, to the Parliamentary Portfolio Committee on Health on 10 April 2020 revealed that SA at that time had only half the number of ventilators required to deal with the virus during the peak period, namely a total of 3 216 in

both the public and private sector, rather than the minimum 7 000 required. The number of critical care beds nationally stood at 3 318, of which 2 140 were in the private sector. SA had then a total of 119 416 hospital beds available. It is estimated that during the peak period, the intensive care unit (ICU) beds required may exceed 14 700 in the worst-case scenario, and 4 100 in the best scenario.^[15] Although the President stated in his address to the nation on 13 May 2020 that capacity (number of healthcare workers and ICU beds and amount of equipment) had improved during the lockdown in preparing for an increased number of cases, an update of the full scope of the increased capacity is not publicly known. There is no doubt that should the spread of the virus not be contained as planned, the healthcare system will be put under overwhelming pressure.

Comorbidities and increased susceptibility to COVID-19

Approximately 500 000 South Africans are currently living with TB, which makes SA the country with the highest number of TB cases in the world.^[16] It is estimated that ~60 per cent of TB patients are also HIV-positive, and around 7 700 000 South Africans are HIV-positive.^[17] It is estimated that of these, there are ~3 million people living with HIV in SA who are not receiving treatment,^[18] constituting 38% per cent of those living with HIV.^[19] While there are no available data yet on how COVID-19 impacts people co-infected with HIV and TB, the lung damage that may result from TB, as well as the threat to lung health and immunity posed by HIV, may place these patients at particular risk for a more severe response to the virus. Other conditions that may increase susceptibility to COVID-19 infection include heart disease, diabetes, lung disease, hypertension, diabetes, chronic obstructive pulmonary disease, chronic kidney disease and mental health conditions such as depression and anxiety.^[20] Immune-compromised patients, such as those receiving treatment with immunosuppressive drugs, bone-marrow or solid-organ transplant recipients, poorly managed HIV conditions and those with inherited immunodeficiency, are also more susceptible to COVID-19. It is therefore critical that antiretroviral treatment and TB medication be prioritised, particularly considering that access to health facilities may be limited owing to the lockdown measures. Provisions should be made to supply patients with at least 6 months' worth of medication in advance. Finally, with the winter influenza season around the corner in SA, the risk of co-infection with COVID-19 is not excluded, and influenza may mask COVID-19 infection.

The conditions referred to in this section require special precautionary preventive measures, not only with regard to a higher level of alertness around those with these conditions, owing to their increased risk of succumbing to the virus, but also to better management of the burden on emergency care services, especially in hospitals where difficult triage decisions will need to be made when resources such as ventilators are scarce.

Access to healthcare services

SA has considerable inequalities in the distribution of ill health and disability, with the burden of communicable diseases such as TB, HIV and diarrhoeal diseases particularly high among poorer groups. The implication of this distribution is that the need for health services to diagnose and treat these illnesses is greater among lower socioeconomic groups.^[21] These inequalities in illness burden

correlate strongly with a range of social and economic factors, such as inequitable access to housing, sanitation, potable water, educational attainment and employment, and regular income.^[21]

The general scarcity of healthcare resources in the public sector creates serious obstacles in the context of decisions regarding access to ICU beds and ventilators, specifically with regard to already vulnerable groups such as persons living with HIV.^[22] However swiftly a government may respond to the pandemic, these critical shortages exacerbate already entrenched social injustice in SA.

The stigmatisation of and unfair discrimination against HIV-positive persons in SA in many contexts is well-documented, and acknowledged by the Constitutional Court of SA in the case of *Hoffmann v South African Airways*.^[23] It is reasonable to assume, following the findings of a recent study focusing on a hospital in KwaZulu-Natal Province that indicated that HIV positivity increased the chances of refusal of ICU access more than twofold, contrary to SA guidelines on ICU triage and rationing,^[24] that HIV positive patients' access to ICU beds may be compromised in the context of COVID-19.

The SA Constitution guarantees the right of 'access to healthcare services' in section 27. This right is not absolute, and may be limited in terms of section 36 of the Constitution. Section 27 furthermore provides that the state must take 'reasonable legislative and other measures, within its available resources, to achieve the progressive realisation' of this right. No limitation appears to apply to emergency medical care, as section 27(3) states that no-one 'may be refused emergency medical treatment'. If one considers the Constitutional Court judgment in *Soobramoney v Minister of Health (KwaZulu-Natal)*,^[25] which held that continuous dialysis treatment for chronic disease does not constitute emergency medical treatment, continued and extended ICU care for COVID-19 patients would arguably, by analogy, not be seen as emergency medical treatment. The Constitutional Court, in a judgment that dealt with a vulnerable group's right of access to housing, and whether the government's measures to address the progressive realisation of the right of access to housing were adequate, referred to the standard of 'reasonableness' in evaluating the relevant measures.^[26] Any measure that would significantly exclude a (vulnerable) segment of society 'whose needs are most urgent' and 'whose ability to enjoy all rights is therefore most in peril' would hence be viewed as unreasonable.^[27] This judgment also strongly supports the argument that critical care decisions should be sensitive to the potential discriminatory impact of guidelines that would reinforce existing stigmatisation of HIV-positive persons. It is imperative that clinicians are supported by crisis standard of care protocols, based on evidence-based information at the point of care, to optimise survival across the population for those whose long-term chances of recovery are significantly high.

Ethical research during public health emergencies: the search for a vaccine

There is an ethical imperative to conduct research during public health emergencies, and for this reason, many governments have approved various expedited programmes that may speed up the review of vaccines in the current COVID-19 context. With many existing research projects being suspended during the global pandemic, research conducted (and prioritised during a pandemic) must still meet the legal threshold requirements to demonstrate that a vaccine is safe and effective. In SA, where a state of disaster (rather

than a state of emergency) was declared, the lockdown has brought many existing research projects to a halt. Funds have since been redirected by the Department of Science and Innovation towards COVID-19 research specifically, in accordance with international co-operation instruments and with a focus on the WHO's 2017 R&D Blueprint for Action, the latter a global strategy and preparedness plan aimed at the swift activation of research and development activities during pandemics and epidemics. SA researchers will need to be guided by globally endorsed and recognised ethical standards when conducting collaborative research that involves clinical trials locally.

The WHO also issued a policy brief in January 2020 entitled 'Ethical standards for research during public health emergencies: Distilling existing guidance to support COVID-19 R&D'.^[27] This document lists a number of standards for research in support of COVID-19, which include, among others: that research should be grounded in both international and local priorities, and that international collaborative partnerships are critical; that research during an emergency requires fair and meaningful community engagement and inclusive decision-making; that it requires specific efforts to support and co-ordinate local capacities for independent ethics review; that research participants should be selected in such a way that minimises risk, protects (and not excludes) vulnerable populations, maximises social value and collaborative partnerships and does not jeopardise the scientific validity of the research; and that research activities do not proceed unless there is a reasonable scientific basis that the study intervention is likely to be safe and efficacious and that risks to participants have been minimised to the extent reasonably possible. The sharing of information is emphasised, before publication of the results in scientific journals.

Similarly, guidance may be sought from the Nuffield Council on Bioethics' 2020 ethical guidance document 'Research in global health emergencies: Ethical issues'.^[28] This document provides highly relevant recommendations for governments on ways to undertake research in an ethical manner during emergencies, in order to promote the contribution that ethically conducted research can make to improving current and future emergency preparedness and responses.

Locking horns on the lockdown regulations

SA has drawn on the experiences of the responses in China and Europe that focused on social distancing, the wearing of face masks, regular handwashing, isolation, quarantine, testing and lockdown. However, despite the efficacy of these measures in limiting the spread of the virus, socioeconomic realities in SA seriously hamper their effectiveness. Public health strategies such as regular handwashing and social distancing pose a challenge for many South Africans, with 13% of all households located in informal settlements that are poorly structured, cramped and with limited access to running water.^[29] On 26 April, the Minister of Human Settlements, Lindiwe Sisulu, revealed a plan to relocate the residents of five high-density informal settlements to other temporary residential units in an attempt to contain the spread of the virus. Despite being directed at protecting those most vulnerable, the idea of relocation is still highly evocative in the memories of District Six residents, who were forcibly removed from their homes during the 1970s by the apartheid regime in SA. The sad reality in SA is that the existence of townships, a legacy from

apartheid, now places millions of vulnerable South Africans at increased risk of contracting the virus.

The regulations promulgated under the state of disaster, which include the criminalisation of those not adhering to these regulations, have been criticised for being disproportionate and more akin to those promulgated under a state of emergency. By 1 June, more than 230 000 people had been arrested for violating lockdown regulations, while 11 people (all black) had died at the hands of the police enforcing the lockdown.^[30,31]

One of the lockdown controversies includes the decision of Minister of Small Business Development and Tourism Mmamoloko Kubayi-Ngubane to prioritise black-owned businesses (and hence use race as the criterion, instead of distress) to qualify for relief from a fund designed to help stricken tourism operations, which was challenged by the union Solidarity on 25 March in the North Gauteng High Court. This comes after the court ruled that the minister's decision to use race as the criterion for granting relief from the Tourism Relief Fund was not unlawful, as the criterion of race was not held to perpetuate an unfair advantage for some over others. This development led to the union indicating its intention to file a criminal complaint and one of perjury against the minister early in May.

The prohibition of the sale of tobacco, the most contested of the regulations,^[32] resulted in the Fair-Trade Independent Tobacco Association (FITA)'s approaching the court regarding the NCCC's decision to extend the ban on cigarette and tobacco products' sales beyond level 5 into level 4 (and recently level 3, the latter level commencing on 1 June). Seeking an order to declare the sale of cigarettes lawful and to declare tobacco products and cigarettes 'essential goods' in terms of annexure B (regulation 11B) of the regulations, FITA has expressed concern regarding: the serious effects on the health and welfare of 11 million smokers who may experience nicotine withdrawal symptoms; the commercial impact on the tobacco sector; increased illicit trade, and tax revenue losses; and ultimately the government's failure to fairly balance the interests of persons entitled to purchase tobacco products with the measures taken responsibly and legitimately to combat the virus.^[33]

These issues are by no means the only problematical provisions. On 12 May, trade and industry minister Ebrahim Patel published directions regarding the sale of clothing, footwear and bedding during level 4 of the lockdown in Government Notice R523 in Government Gazette 43307, which contain lists of items to be sold that are completely irrational and unaligned with the objectives of the Disaster Management Act in curbing the spread of the virus. For example, the directions only permit the sale of closed-toe shoes and short-sleeved shirts where promoted and displayed to be worn as undergarments for warmth, thereby effectively excluding the sale of summer clothes.

The examples mentioned in this section point to often misguided, irrelevant and conflicting measures, which, coupled with inconsistent and arbitrary implementation of the regulations, rightfully raise questions regarding their impact on the rule of law in SA.

It came as no surprise when on 2 June 2020, the Gauteng Division of the High Court struck down the lockdown regulations on levels 3 and 4 as unconstitutional.^[34] Judge Norman Davis, criticising the 'overreaction' of the government as being unsustainable, remarks that the state of disaster 'places the power to promulgate and direct substantial [...] aspects of everyday life of the people of SA in the

hands of a single Minister [Dlamini-Zuma] with little or none of the customary parliamentary, provincial or other oversight functions provided for in the Constitution in place.^[35] Although the court found some of the regulations to be rational and justifiable under the Constitution, others were found to be glaringly irrational, such as those limiting exercise, those relating to funerals or the operation of minibus taxis and those prohibiting hairdressers and informal traders from working. In the court's view, this smacks of a paternalistic approach, rather than a constitutionally justified one.^[36]

Barely hours later, the North Gauteng High Court issued an order prohibiting government from forcing those who test positive for COVID-19 into state quarantine facilities if they are able to self-isolate. Regulations 6 and 7 of the regulations issued in terms of section 27(2) of the Disaster Management Act, published on 29 April, permitted government to force a COVID-19 positive person into a state quarantine facility.^[9] The High Court held that a person is 'only required to be quarantined or isolated at a state facility, or other designated quarantine site, when that person is unable to self-isolate, or refuses to do so, or violates the self-quarantine or self-isolation rules.'^[37]

The legal challenges outlined above paint a generally troublesome picture relating to the rationality of the lockdown regulations and their unjustified curtailment of rights entrenched in the Bill of Rights.

The rule of law under threat?

The Constitutional Court, in the case of *van der Walt v Metcash Trading Ltd*,^[38] explains the rule of law, explicitly stated in section 1 of the Constitution, as 'a fundamental postulate of our constitutional structure' that has a number of fundamental tenets, some of which include the absence of arbitrary power (which includes the view that no one in authority enjoys wide unlimited discretionary or arbitrary powers), equality before the law and the protection of basic human rights.

Criticism of the 'hard' lockdown has been voiced by the National Peace Commission (NPC), who argue that the implementation of the lockdown was not only 'procedurally irregular and unconstitutional', but also contrary to the government's *Batho Pele* principles. The NCCC's powers are questioned, as well as its constitution outside of parliamentary processes. The NPC expresses concerns that the lockdown begins to appear as a political instead of a serious health act, which does not address the core problem (the virus), stating that the 'restriction of movement based on a virus has a class aspect of telling the poor to die in their small rooms.'^[39]

Also lamenting the government's management of the lockdown is constitutional law expert, Pierre de Vos, who describes the approach of some ministers and officials during the lockdown as a threat to the rule of law.^[40] Respect for the rule of law is critical to protect everyone from the arbitrary exercise of power and from abuses that may follow from this. Two critical and related issues during the current time under a pandemic is that the exercise of power must not only be authorised by law (in other words, authorised by the regulations promulgated in terms of the Disaster Management Act), but that such provisions authorising the exercise of public power must also be clear.^[40] De Vos maintains that the effect of the lockdown regulations that do not affect South Africans in equal measure, i.e. on the financially insecure and destitute compared with the slight inconvenience experienced by middle- and upper-middle class citizens, is particularly devastating.

This makes compliance extremely difficult for many South Africans, more so when the rules are arbitrarily enforced, leading to an erosion of support for and compliance with the regulations, and ultimately limiting the effectiveness of the regulations to combat the virus.^[40]

The legality of the NCCC has also come under scrutiny, particularly the basis of its decision-making authority.^[41] It is not clear whether the NCCC is an executive organ of state in terms of section 238 of the Constitution, or whether its authority derives from the Disaster Management Act. If it is to be found that the NCCC has not legally been properly constituted and authorised, any of its past or future decisions could be deemed unlawful. The government's response to the questions was that 'no rules exist to direct the Cabinet on how it organises its work to ensure the best possible co-ordination of its members and ideal means of fulfilling their functions.'^[41] At the time of writing, this matter remains unclear, and the government's answer to this clearly inadequate. The High Court judgment of 2 June, referred to above, makes no reference to the legality of the NCCC, and its status remains a challenge.

The implementation of the regulations has also been inconsistent across the country, often marked by corruption and a lack of clear co-ordination. Reports of police officers confiscating tobacco and liquor and reselling them have emerged,^[42] amid reports of ANC councillors found to have looted food relief destined for the those at risk of starvation.^[43] As these discrepancies continue to appear, members of the public have overtly begun to flaunt or circumvent the regulations, which furthermore may lead to the erosion of the rule of law.

Conclusion

The implementation and enforcement of the regulations, exacerbated by deep existing social inequities, has brought difficult legal and ethical issues to the fore. No country was adequately prepared for the advent of a global pandemic such as COVID-19. Recognising that sub-Saharan Africa requires a unique response to the virus, the SA government responded swiftly to the virus by declaring a national state of disaster, followed by the introduction of a strict lockdown regime. As time progresses, the legality and effectiveness of some of the lockdown measures are gradually being challenged, particularly against the backdrop of existing shortcomings in the public health sector. The very recent judgment declaring the lockdown regulations unconstitutional is undoubtedly a setback for the government, whose efforts to contain the virus require trust in the rule of law. SA is still firmly in the grip of the COVID-19, and only time will be able to judge the effectiveness of the country's responses. One important lesson that stands out is that governments across the globe should be better prepared and equipped if a new pandemic arrives.

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