



South Africa's Response to COVID-19 :

The Multilevel Government Dynamic



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1. SOUTH AFRICA'S MULTILEVEL GOVERNMENT SYSTEM

South Africa has a national government, nine provinces and 257 municipalities. The provincial and local spheres are constitutionally entrenched. Similar to Nepal, they have powers listed in the Constitution. Provinces and municipalities have their own, locally elected, provincial legislatures and municipal councils and are headed by indirectly elected Premiers and Mayors respectively.

Municipalities are responsible for the delivery of basic services, such as water, sanitation, waste management, streets and electricity. They are also responsible for environmental health services (e.g. food safety inspections), town planning and the regulation of street trading. Provinces are responsible for big social functions such as public health, housing, primary and secondary education and, importantly, disaster management. They share these functions with the national government, which is also responsible for all residual functions, such as policing, the judiciary, land, mining etc. The national government collects the vast majority of taxes, such as income, corporate and value-added tax and distributes this annually across the three levels of government.

Provinces largely confine themselves to implementing national legislation and are almost entirely reliant on transfers from the national government. They receive those in the form of an annual, formula-based unconditional grant, complemented by conditional grants. Municipalities are expected to raise much of their own revenue through property taxation and fees for services but also receive intergovernmental funding. Cities and urban municipalities generally raise significant revenue, but rural municipalities are for the most part grant-dependent.

Together with a number of other design features, this makes South Africa a 'quasi-federal' state, encompassing a strong national government, relatively 'weak' provinces and a mix of strong cities and weak rural municipalities in local government.



2. SOUTH AFRICA, COVID-19 AND THE MEASURES TAKEN

South Africa recorded its first Coronavirus infection on 5 March 2020. Since then, the number of infections has steadily increased, albeit not (yet) exponentially. Less than two months later, on 3 May April 2020, the number of infections stood at 6336 and the number of fatalities at 123.

In response to the outbreak, the national government declared a national state of disaster on 15 March 2020. This was followed by a national lockdown on 27 March 2020, which continues to the time of writing this article. South Africa imposed one of the harshest lockdown regimes globally. This was informed by concerns about high levels of co-morbidity, poverty and inequality, South Africa's many informal and densely populated settlements and its fragile public health system. The lockdown regime included a strict stay-at-home order, a ban on all gatherings, closure of all external borders and ports, a ban on travel across provincial and municipal boundaries, a closure of the entire economy barring the trade in essential goods and services and even a ban on the sale of alcohol and cigarettes. The South African Police Services, municipal law enforcement officers and even the South African National Defence Force were deployed to enforce the lockdown rules. This was accompanied by a raft of national regulations, determining detailed regimes per sector such as health, education, transport, trade, home affairs etc.

The national government also issued a specific set of directions to provincial and local governments. Both municipalities and provinces were instructed to develop COVID-19 Response Plans and establish special disaster management structures (see also below). Municipalities were also instructed to provide emergency water services, identify infection hotspots and quarantine sites, sanitise public places, monitor social gatherings and funerals, ensure community awareness etc.

After five weeks of the 'hard lockdown', the national government announced a 'risk adjusted strategy' to be implemented from 1 May 2020. This strategy introduced differentiation in two important ways, namely –

- different 'alert levels', ranging from the most severe 'level five' to the most relaxed 'level one'; and
- a place-based approach, with possible variations in the severity of the restrictions between provinces and districts. This enables the national government to determine a different alert level for each province and each district.

South Africa's response to the outbreak was quick, robust and comprehensive. At first, the restrictions enjoyed broad-based support, in large part due to the re-assuring, but realistic and science-based communication of the President and the National Minister of Health. However, the shutdown has a devastating impact on food security, the livelihoods of the marginalised and excluded, and of course the economy as a whole. The economy was already in distress before the outbreak, South Africa has frighteningly high unemployment numbers and millions of people depend on the informal economy.



The role of South Africa's provinces and municipalities in managing the public health crisis, the lockdown and its legitimacy, and the devastating impact on the economy has become increasingly important and will be set out in broad strokes below.

3. PROVINCES

South Africa's nine provincial governments are playing a key role in fighting the pandemic. However, this role is limited to assisting national government with the implementation of the national strategy. Provincial governments do not announce, let alone legislate COVID-19 strategies and/or rules that deviate from the essence of the national approach. This is true to the centralised nature of South Africa's semi-federal system.

The division of responsibilities with regard to the competency 'disaster management', at the heart of the management of the pandemic, is a case in point. The Constitution provides that it is a shared power, which means that both national and provincial governments may legislate on it. Conflicts are ultimately resolved by the Constitutional Court. So far, only the national government has adopted a national Disaster Management Act (the basis for the current state of disaster and the lockdown regime). Provinces implement this Act and none have adopted their own.

A key factor is that eight of the nine provinces are controlled by the same African National Congress that controls the national government. Furthermore, as mentioned earlier, provinces rely on national funding. All in all, the legal, political and financial reality is that the national government manages the disaster, assisted by provinces.

This does not mean that provinces are insignificant. The greatest provincial effort to combat COVID-19 is located in the provincial health system. Provincial health departments provide primary and secondary health care. They have been monitoring infection rates, rolling out testing and screening, conducting contact tracing, raising awareness, equipping provincial hospitals and treating those who are hospitalised etc. Secondly, provincial governments are instrumental in overseeing the implementation of the national strategy to close and re-open public schools. Provinces have also been critical in monitoring and supporting municipalities, mainly by working through provincial and district disaster management structures (see below). Unlike in Nepal, provinces hardly play any role in funding local governments: intergovernmental funding for municipalities is budgeted and transferred by the national government.

An important question is whether the multilevel nature of South Africa's system of government aids the fight against the pandemic or whether it is hampering it.

First, the relevance of provinces (and local governments) is coming to the fore in government's new 'risk adjusted strategy'. This strategy enables differentiation across provinces, depending on the infection rate. Indeed, the infection rates differ vastly between provinces. Rural provinces such as the Northern Cape (23 cases as at 3 May), Mpumalanga (40) and Limpopo (36) have very low infection rates in comparison with the more urbanised provinces, namely the Western Cape (2700), Gauteng (1598) and KwaZulu-Natal (1051). While the strategy to combat the virus is a national strategy, the



'risk adjusted' strategy now enables the national government to take advantage of the multilevel government system and differentiate between provinces and districts.

Provinces have also been able to innovate and distinguish themselves within the national framework. The Western Cape government, for example, adopted a strategy to actively 'chase' infections by aggressively testing in hotspots, a strategy that yields higher statistics but will hopefully assist in managing the pandemic. On the other hand, some of the national government's efforts to contain the spread of the virus are stumbling over weaknesses in provincial administration. For example, the Eastern Cape government is notorious for its weak provincial administration and debilitating political infighting. Its infection rate is high for a rural province and there is palpable tension between the national government and the Eastern Cape provincial government over the provincial government's inability to contain the virus.

Provinces have generally been loyal partners of the national government in managing the national state disaster. Certainly during the first five weeks, provincial governments – even the opposition-controlled Western Cape, cooperated, did their lobbying behind the scenes and avoided overt intergovernmental disputes. For example, while the Western Cape province initially signalled a plan to deviate from the national cigarette ban, it swallowed its opposition, probably after a political intervention by the national government. However, as the economic death spiral and the devastating impact on livelihoods of the lockdown becomes more and more evident, cracks are appearing in the united national-provincial front. As usual, the opposition-controlled Western Cape government is where most of the push back comes from. For example, the Western Cape re-introduced school feeding schemes, a critical lifeline for vulnerable children that national government had cancelled. It is also openly criticising lockdown rules and is 'petitioning' the national government for a relaxation to protect its key industries.

4. LOCAL GOVERNMENT

South Africa's municipalities, already facing tremendous financial and governance challenges, suddenly saw their responsibilities increase and their funding eroded with onset of COVID-19. Some of their existing mandates suddenly intensified. For example, municipal law enforcement officers, ordinarily focused on traffic, by-laws and crime prevention, were enlisted to help enforce the national lockdown. Municipalities had to work on water relief measures to ensure hygiene and sanitise public places such as public transport facilities. When national government devised a scheme to exempt informal food traders from the general prohibition on street trading, municipalities were enlisted to issue temporary permits. As at 28 April, approximately 35000 permits had been issued. The above functions, generally fall within the remit of municipalities. However, the reality of the lockdown also placed new responsibilities on local government. For example, many municipalities had to organise basic shelter and food for the homeless in order to ensure their social distancing. On 28 April, an estimated 14000 homeless people were given shelter by municipalities. Furthermore, national government deployed approximately 19 000 water tanks to provide underserved areas with (free) water. Municipalities have to now ensure that the tanks remained filled. The lockdown is preventing millions from earning an income so food relief has become necessary. The national government manages the



social welfare system, including emergency food relief. However, municipalities have also become involved in emergency food relief by assisting with the identification of beneficiaries and sometimes by establishing their own food relief schemes.

For provinces, the financial impact of the crisis will be delayed. National revenue will decline and this will affect the upcoming allocations to provinces. Municipalities will be similarly affected. However, much the financial impact on them is immediate. They rely on households and businesses paying property taxes and fees for municipal services. An immediate reduction in payments is inevitable and likely to endure as the economic crisis reduces households' and businesses' ability to pay. Municipalities are also reluctant to use their main credit control mechanism (disconnecting of electricity) during these times. A few municipalities even responded to the economic hardship by announcing 'payment holidays', permitting those hardest hit by the crisis to defer the payment of municipal bills. Municipalities in any event already provide free basic services to the indigent. There is no doubt that municipalities must now budget more for free basic services as the lockdown will force many more people into poverty.

5. THE SOCIAL RELIEF PACKAGE

Three weeks into the national lockdown, a social relief and economic stimulus package of R 500 billion was announced. It totals 7.06 % of GDP, which is the largest percentage on the continent. It includes credit guarantees, support for small businesses, income support (mainly tax measures) and wage protection (through the employment insurance fund). Support will also be provided to vulnerable households in the form of top-ups to existing grants (such as the Child Support Grant) and emergency food relief. This provides much-needed relief for those hardest hit by the crisis. All of these measures are implemented by the national government.

The package also includes an additional R 20 billion for health, which will be channelled to provinces to augment provincial health budgets for treatment, testing, contact tracing and the procurement of PPE. R 20 billion is set aside for local government and is meant to assist them with the additional services as well as their loss of revenue. This is important relief for municipalities and a result of successful lobbying by organised local government. It is not clear yet what the distribution formula will be and whether it will be an unconditional grant or a conditional grant.

The social relief and economic stimulus package tells the story of South Africa's centralised response to the crisis. All in all, only R 40 billion of the R 500 billion will be channelled through subnational governments with the remainder administered by national government.



6. INTERGOVERNMENTAL STRUCTURES

The crisis has intensified the need for collaboration between national, provincial and local governments. At a national level, the President established a “National Coronavirus Command Council”. It comprises a selection of national Ministers, their top civil servants and representatives of the policy, army and intelligence community. A few weeks into the national state of disaster, it has become clear that, in effect, the NCCC now governs South Africa. The NCCC meets almost daily. All executive measures (including the regulations to govern the lockdown) pass through the NCCC before they are officially passed Cabinet and the relevant Ministries.

The NCCC is not used for national-provincial cooperation but the President’s Coordinating Council (PCC), South Africa’s apex intergovernmental coordination body is. This body is provided for in law and brings together the President, key Ministers, nine Premiers and a representative of organised local government. Ordinarily it meets a few times each year. However, it now meets weekly and coordinates the national-provincial response at a political level.

Intergovernmental coordinating platforms also exist at provincial and local level. Provincial governments convene provincial command councils, largely mirroring the national structure. Local government is sometimes invited to their meetings. At an administrative level there is close interaction between local and provincial governments, mainly through Joint Operating Centres (JOCs), established in terms of the Disaster Management Act at both provincial and district level. They meet almost daily and the general sentiment is that they are functioning reasonably well.

During the early phase of the state of disaster, there was close collaboration between the national government and the nine provincial Premiers. However, six weeks into the lockdown, some provinces are starting to resent the highly centralised management of the disaster. The development of the latest lockdown regulations is a case in point. They were developed by the national government with provinces given the same rights as citizens, namely to send in their comments on drafts. Concerns with respect to the power of the NCCC are mounting. Legally, it is a somewhat elusive body with no specific legal basis. It thus also escapes all regularised forms of accountability. There is no provincial or local government representation on the NCCC with government rather relying on the PCC for the high-level consultation with provinces. This is despite the fact that the Disaster Management Act actually calls for a dedicated intergovernmental committee of national, provincial and local representatives to coordinate disaster management among the spheres of government.



7. GOVERNANCE

What has the role of parliamentarians and councillors at all three levels been? While national and provincial executives have been highly visible during the crisis, most members of legislatures are not. The national Parliament was inactive for the first few weeks of the lockdown but oversight activity slowly returned with virtual committee meetings being organised. Provincial legislatures have not played a major role in holding provincial executives to account.

At municipal level, the national government directed all municipal councils to hand over all executive powers with regard to COVID-19 to their mayors who must report back after the crisis. Furthermore, all councils were prohibited from meeting. In effect, mayors were thus given free reign but have to report on their decisions after the lockdown ends.

8. BUDGETS

When the crisis hit, the national and provincial governments were one month into their financial year. The financial year for municipalities starts 1 July so budget preparations had started in earnest. So far these budget cycles have largely remained intact. The first additional cash injection (R 466 million) to provinces was released by national government, using disaster funds. The abovementioned additional R 20 billion for increased provincial health spending will be appropriated in its annual adjustment budget, due to be tabled in October.

The disaster management regulations instructed municipalities to prioritise COVID-19 related spending in their upcoming budgets. They were also given a once-off power to pass an additional adjustments budget, thereby changing priorities of the current financial year. Not many municipalities have made use of this, given the fact that the lockdown period coincided with preparations for their regular budget anyway.

The question arises what role South Africa's Financial and Fiscal Commission (FFC) has played. The FFC is a constitutional body, comprising representatives of all three spheres of government. It advises government on intergovernmental fiscal relations mainly focused on the annual division of revenue. So far, the FFC has not played a major role in the crisis. It does not feature in any of the major intergovernmental forums and has also not been dominant in the public debate on the financial consequences of the pandemic. In fairness, this may be a function of its research-based advisory role, which forces it into longer timelines. In addition, the focal point of the FFC's perspectives is the annual budget cycle and not the adjustments budget, which is the location of the current, immediate fiscal response. The true test for the FFC's relevance in championing provincial and municipal interests in the crisis, will be how it influences the upcoming (2021-2022) budget cycle.



9. CONCLUSION

So far, the response to the pandemic has been decidedly centralised, with no provincial variation on key issues such as the lockdown rules and the key tenets of the public health response. Provinces play a crucial role in implementing, but not in designing, the response to the disaster. The recently announced 'risk adjusted strategy' is likely to result in provincial and even district level variation. However, the variation will be decided by the national government. Given that national government collects all major revenue, the immediate fiscal response is also designed, and paid for by the national government. Provinces have had little or no input into this. In dealing with the medium to long term effects in upcoming budgets, this may be different. Local government has been confronted with additional mandates and the prospect of drastically reduced revenue with national government promising some relief.

From a governance point of view, the response has been executive-driven and legislative oversight has taken a back seat at all three levels of government. Intergovernmental relations have worked reasonably well to address implementation challenges, but not as a mechanism to co-design policy or regulation.

All in all, South Africa's response to COVID-19 underscores that it is a 'quasi-federal' state or, if you like, a unitary state with federal features. Its constitutional, financial and political reality makes it prone to centralising reflexes, even more so in times of crisis.

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