

# Federalism and the COVID-19 crisis: Perspectives for Brazil



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Many countries around the world are currently grappling with the governance and public health challenges brought on by the rapid spread of the COVID-19 pandemic, and Brazil is no exception. The challenge in Brazil is compounded by the size of the country and the inaccessibility of its interior. The outbreak of the virus is also testing the existing federal structure in which there are three constitutionally recognized orders of government, including a strong municipal level.

The COVID-19 pandemic was confirmed to have spread to Brazil on 25 February 2020. The outbreak predictably triggered a variety of responses from federal, state, and local governments affecting a range of aspects of everyday life, from politics to the economy. Since health is shared competence between all three levels, state governments and mayors in the most affected states were the first to establish distancing measures to limit infections by closing schools and restricting non-essential services.

The Federal government, concerned about the fragile state of Brazil's economic recovery, took time to evaluate the national threat from COVID and minimize economic damage. The Federal government has followed global trends in establishing financial assistance packages now valued at more than 5% of the country's GDP to support business and job security. Furthermore, the Congress voted to provide the most vulnerable population with vouchers for BRL 1,200 (USD 230) per month over the next three months.

It is expected up to 25 million Brazilians will benefit from this financial assistance.

Since states and municipalities regulate the majority of businesses in Brazil, these levels of government have been locking down their jurisdictions. Recent polls suggest that social distancing is supported by 76% of the population. Consequently, most states and large cities have extended lockdown and quarantines until early May.

Meanwhile, the federal Ministry of Health has been active in moving to coordinate the procurement of the medical equipment and drugs needed to combat the pandemic. This is a particularly important intervention due to the varied fiscal capacity across the states. Continued concern about the health of the economy has also led the federal Ministry of Health to issue new guidelines suggesting that lockdowns may not be required in areas in which there are no active infections. Not surprisingly, this led to push back from the states because these measures, which are related





to healthcare delivery and public health, had been taken by states and municipalities. They have argued that it is up to them to impose public health and sanitation measures related to the prevention of COVID-19. This position was upheld by the Supreme Court, which ruled on 8 April 2020 that subnational entities may establish several grades of lockdown in accordance with their competences.

In a highly institutionalized country like Brazil, with three constitutionally recognized orders of government, the absence of a permanent intergovernmental platform is a significant hindrance during this unprecedented crisis. Unlike COAG in Australia, or the Interstate Council in India, there is no intergovernmental body in Brazil that convenes President and Governors, or even federal and municipal representatives, on a regular basis. This contributed to the initially uncoordinated responses taken across various jurisdictions and created unnecessary friction. However, since the nationwide lockdown took effect there has been much improved operational coordination across jurisdictions facilitated through the Undersecretariat of Federative Affairs.

Both the ongoing pandemic and the subsequent recovery is likely to test the Constitution like never before. For more than a decade, successive Federal administrations have tried to establish forums for federal dialogue. Close coordination between the various jurisdictions will be needed to rebuild the

economy after the pandemic is brought under control. Crises also present opportunities. In 2019, facing an unprecedented fiscal crisis, the government and Congress were able to come together to pass major pension reforms, almost 25 years after they were first proposed. Perhaps the current crisis will focus the minds of all stakeholders in Brazil on the need to finally create durable forums for intergovernmental relations and coordination. More importantly, the public at large now have a better understanding of competences and responsibilities of the different orders of government.

