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Excessive red tape is strangling biodiversity research in South Africa

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COMMENTARY

Preventing the over exploitation of natural resources is vital to ensure that biodiversity is protected and conserved^{1,2}. Legislation and regulations are therefore necessary to manage resource utilisation, but overly stringent legislation and regulations can have unintended negative consequences. For example, biodiversity research, much of which is state funded, is now subject to excessive red tape to the extent that overregulation is impeding progress. Researchers must navigate a myriad of laws, rules, permit requirements, ethics clearances and approvals, many of which require annual renewal, progress reporting, and submission of amendment applications for ongoing projects. Excessive red tape particularly hinders field-based research and in our experience, this is having a negative impact on research productivity in South Africa. If current levels of bureaucracy and managerialism persist, we believe that the impact on biodiversity research in the country will be debilitating. The South African Minister of Finance, Tito Mboweni, has acknowledged the negative impact of red tape on small business enterprise and economic growth in South Africa, and there are now attempts to reduce it³. So too, excessive red tape and overregulation of research should be rationalized to enhance knowledge generation and application.

Over the last decade, new legislation, new interpretations of established legislation and increasing administrative oversight have massively increased the administrative and compliance burden experienced by researchers in South Africa⁴. This particularly impacts field-based research, which typically requires various permits, permissions, and authorizations for (1) the collection of biological samples on public or private land, (2) performing certain procedures on animals, (3) transporting of biological materials and samples, especially when the transport is across provincial or international borders, as well as (4) the storage and usage of samples.

34 Most field-based research projects have a strong conservation theme, and their findings inform
35 conservation policies and management so that South Africa's biodiversity can be protected effectively
36 (e.g., as required by the National Environmental Management: Biodiversity (NEMBA) Act #10 of 2004)⁵.
37 Ironically, the legislation, managerialism and bureaucracy which are purported to be enacted for the
38 very purpose of protecting South Africa's remarkable biodiversity are collectively now having a negative
39 impact on conservation by hindering research. Overregulation of foundational biodiversity research has
40 other knock-on effects which are detrimental to the achievement of national strategic goals. For
41 example, undergraduate research training and skills development are enhanced through practical work
42 in the field, which is negatively impacted because overwhelmed academics avoid field-based teaching
43 due to the onerous regulatory framework that must be navigated and the unpredictable delays in
44 permit approval. The number of postgraduate students managed and supervised by academic
45 researchers is also curtailed by the administrative and compliance burden, slowing the development of
46 local capacity and transformation, and extending the time taken for students to complete their
47 postgraduate degrees. Slowed student throughput rates impact government subsidies to universities,
48 further retarding capacity building and making biodiversity research less attractive as a career path².

49 Red tape comes in many forms, and researchers must deal with it at many levels. In South Africa, more
50 than a dozen different National Acts and accompanying regulations, which are regularly revised, can
51 directly impact any field-based biological research project⁴, requiring permits that may take months to
52 be issued. Additionally, provincial regulations also require researchers to apply for permits for several
53 activities, and so research programmes may require several permits from any given province. Moreover,
54 broad scale projects conducted over more than one province require permits from each of the relevant
55 provinces, each with its own permitting system and set of rules⁶, some requiring other permits to be in
56 place before an application is considered. Thus, it is not uncommon for some field-based research
57 projects to require upwards of 20 different permits, clearances and approvals to be issued before work
58 can commence⁴.

59 Another layer of regulation comes with the requirements for animal ethics clearance. Ethics committees
60 are constituted in accordance with directives outlined in the South African National Standards document
61 (SANS 10386) and are generally administered by universities or research institutes that employ
62 researchers. As stipulated in SANS 10386, committees are composed of veterinarians, animal
63 researchers, representatives of welfare organizations and lay persons, and are now audited and
64 accredited by the National Health Research Ethics Council (NHREC). However, some organizations that

65 manage land where research is carried out (e.g., South African National Parks) have constituted their
66 own animal use committees and do not accept clearance certificates from other NHREC accredited
67 committees. Thus, some collaborative research projects may require clearance from several ethics
68 committees even when each is accredited by the NHREC. This has been further compounded by the
69 National Research Foundation which now requires ethics clearance to be in place prior to the release of
70 funds. In the case of student funding, ethical clearance must be in the student's name, leading to further
71 duplication of clearances needed. Because students must register for their degree prior to applying for
72 ethics clearance (which usually takes several months), they may be stranded without funding for an
73 extended time or may even lose their bursaries if they miss deadlines.

74 In our experience, unjustified delays in the issue of one or two permits may hold up a research project
75 to the extent that other permits, which are usually valid for one year, lapse before work can even begin.
76 Such delays jeopardize research funding because many funding bodies maintain tight funding regimes
77 and monies must be returned if not spent within a funding cycle. Over the last decade, administrative
78 oversight at the various levels of legislation has ballooned to the extent that researchers now spend a
79 significant portion of their research time on legislative compliance. These complicated procedures,
80 inefficiencies, and delays in the issuing of permits often foil research progress.

81 As field researchers, we acknowledge the need for regulations relating to the use of South Africa's
82 natural resources for research and other purposes: legislation is necessary to prevent unethical
83 practices, ensure animal welfare, halt the unsustainable harvest of natural resources, check the spread
84 of notifiable diseases, and curb the illicit wildlife trade. But the implementation of the legislation in
85 terms of legitimate research has become problematic because it is applied with a broad brushstroke
86 approach. In essence, hunters, wildlife poachers and *bona fide* researchers are viewed through the same
87 legislative lens. This inclusive approach supposedly reduces risks to natural resources, but also stops or
88 retards many genuine research activities that are intended to benefit conservation. Moreover, a broad
89 brushstroke approach is not always effective: to circumvent regulations, the illegal wildlife trade has
90 simply moved underground, while *bona fide* researchers suffer the consequences of these restrictions.
91 Researchers are easily audited because their work is published in the scientific literature, and permit and
92 certificate numbers must be declared as standard practice. The result is that research is impeded, while
93 illegal wildlife traders seek to evade the regulations.

94 The explosion of red tape hindering research is not limited to South Africa^{7,8} and new global agreements
95 such as the Nagoya Protocol regulate commercial research and development internationally. In the case
96 of the Nagoya Protocol, exchange of biological samples is prohibited unless an Access and Benefit
97 Sharing Agreement (ABS) exists between participating countries^{9,10}. Although the stated intention is
98 admirable and aimed at providing indigenous biological resources with much-needed protection from
99 commercial exploitation, the broad brushstroke approach means that *bona fide* research material,
100 which is not intended for commercialization, is included in the restrictions, greatly hindering
101 international research collaborations. Commercialization of biodiscovery has, in any event, been shown
102 to be limited and usually involves widespread organisms which occur across several countries⁸. More
103 than anything else, the Nagoya Protocol is likely to stifle both research and the sustainable commercial
104 use of natural resources through red tape inertia.

105 Parties to the Convention on Biological Diversity, the umbrella agreement for the Nagoya Protocol, are
106 currently negotiating approaches to enable benefit sharing from the use of the collection of “Digital
107 Sequence Information (DSI) on genetic resources” (i.e., DNA sequences). Some of the options currently
108 being considered would result in restrictions to the use of DSI, even for basic non-commercial research
109 unless an ABS was in place^{11,12}. This would make phylogenetic analyses of taxa that occur across several
110 countries practically impossible. Such phylogenetic studies form the basis of modern-day taxonomy,
111 systematics and the assessment of biodiversity, which in turn, provide the foundational data on which
112 conservation biology rests. Without the necessary field work, tissue sampling and sequencing, cryptic
113 species go undetected reducing the effectiveness of conservation.

114 There are also clear examples in South Africa where ‘old’ legislation has been reinterpreted with
115 disastrous consequences for research. In some cases, researchers in South Africa are now effectively
116 held hostage by bizarre interpretations of legislation. Here, we highlight two examples: Section 20 of the
117 Animal Diseases Act No. 35 of 1984 (Textbox 1) and the Veterinary and Para-Veterinary Professions Act
118 19, 1982 (Textbox 2). In our opinion, these Acts are no longer being interpreted or enforced in the spirit
119 with which they were intended, with dire consequences for biological research. We thus appeal to those
120 who oversee, interpret, and implement the laws and legislation in South Africa to moderate their risk
121 averse approach to facilitate and promote biological research. We advocate a return to a more
122 reasonable and fair interpretation of existing legislation so that scientific endeavour is facilitated and
123 promoted, rather than impeded and blocked. Here, we provide recommendations which we believe

124 would facilitate research without reducing the effectiveness of the legislation in the protection of South
125 Africa's natural resources and biodiversity:

126 • Legislation should be assessed by an independent expert panel with input from researchers and
127 legislators to facilitate rational and fair interpretation that reflects the intended spirit of the
128 legislation. Where appropriate, permitting regulations should include well-defined exemptions
129 for *bona fide* research conducted by researchers of good standing and affiliated with accredited
130 research institutions.

131 • Provincial and national permitting bodies should provide blanket research permits to accredited
132 research institutions. Permission for individual research projects should then be devolved to
133 each institution's ethics committee, which rigorously evaluates all research applications (with
134 input from committee members who have a great deal of experience and knowledge in science,
135 animal-based research and veterinary practice). In addition to reducing delays for permitting of
136 research projects, permission issued in this way would also serve to alleviate pressure on
137 provincial permitting authorities, allowing for faster permit application processing by provinces.
138 Threatened or Protected species could be excluded from this process allowing provincial
139 authorities to regulate these species more directly.

140 • Where permits are required for individual research projects, they should be issued for the
141 expected duration of the project – not on an annual basis as is the current norm. Not only will a
142 longer validity reduce administrative burden on researchers and provincial administrators, but it
143 can also be argued that it is unethical and untenable to embark on a research project where
144 there is no guarantee that there will be provincial permission to complete the research.

145 • Issuing authorities should apply provisions made in NEMBA (Section 92), which states that the
146 relevant authorities should exercise their powers collectively and issue a single integrated
147 permit inclusive of all aspects of the relevant research in a research proposal where appropriate
148 (e.g., including collection, transport, storage, and transfer internationally), instead of multiple
149 separate permits and authorisations. This provision could dramatically streamline the issuing of
150 research permits, but to our knowledge, it has never been applied by permitting authorities.

151 • Research permits should routinely include provision for the collection of serendipitously
152 discovered biological samples which are important for documenting occurrence of cryptic or

153 rare animals. For example, records of rare reptiles may be discovered as roadkill. Currently,
154 these specimens may not be collected unless specific permits are already in place.

155 • Permitting procedures should be streamlined. In our experience, turnaround times are far
156 longer than those promised and appear to be due to unwieldy systems and procedures. We are,
157 however, pleased to note that some provinces have addressed this, and in some instances, the
158 permitting process is reasonably efficient and timely.

159 • Clearance from an NHREC accredited ethics committee in South Africa should be valid nationally
160 – there should never be a need for multiple ethics clearances for a single research project.

161 • Universities and national research institutes should support researchers more directly, for
162 example, with the provision of compliance officers familiar with the pertinent legislation to
163 assist with compliance issues. They should also ensure that research and ethics committees are
164 well-equipped, functional and provide streamlined procedures to facilitate ethical research.

165 • The Department of Agriculture, Land Reform and Rural Development (DALRRD) should compile a
166 list of 'Section 20' exempt taxa, sample types and study types (see Textbox 1).

167 • The South African Veterinary Council (SAVC) should streamline the process of authorisation for
168 procedures, identify a list of exempt procedures in consultation with other relevant professional
169 bodies and their constituents, and reassess the requirement of annual renewal of authorization
170 for researchers who are not registered with SAVC or HPCSA (see Textbox 2). If the intent of the
171 process of authorization is to ensure that only competent practitioners perform procedures, the
172 requirement for annual renewal makes little sense.

173 Scientific research is one of the cornerstones of human progress, development and sustainability,
174 and should therefore be promoted and facilitated by legislation. Biodiversity research informs
175 foundational science, conservation and the management of biodiversity⁵. Although legislators and
176 rule-makers may not be trying to overtly restrict research, we believe that a narrow focus on
177 regulations in their area of influence means that the wider implications of the cumulative impact of
178 the excessive burden of all legislation on researchers is not evident to them. Researchers, on the
179 other hand, have to bear the brunt of increasing bureaucracy and managerialism across the board. If
180 research and, consequently, conservation of biodiversity are to be prioritized, we need the red tape

181 cut as a matter of urgency. Furthermore, conversations with academic colleagues in other
182 disciplines suggest that the negative impacts of bureaucracy and managerialism on are not limited
183 to biological sciences, or indeed only to science. Similar issues appear to impact several disciplines in
184 the humanities and health sciences.

185 **Textbox 1**

186 The Animal Diseases Act (No. 35 of 1984) aims to control the spread of animal disease and generally
187 promote animal health. In Section 20 of the Act, it is stated that a permit is required 'to perform any
188 research, investigation or experiment of any kind for any purpose with or on any animal or parasite or
189 pathogen or part thereof in any form'. Thus, this section, with its all-encompassing and vague definition
190 of biological material, is aimed at curtailing only activities conducted as part of research, while these
191 same activities can be carried out as long as they are not for research purposes. A 'Section 20 permit' for
192 research is granted only through a very detailed and exhaustive application process that has recently
193 become significantly more onerous, and every individual research project that involves an animal or
194 derivate now requires its own Section 20 permit. The wording in Section 20, taken in isolation, has
195 recently been interpreted by DALRRD to mean that all animal research requires a permit, even if the
196 potential for spreading disease is virtually nil (i.e., collection of tissue samples immediately placed in
197 ethanol or other preservatives for DNA sequencing). Because the intent of the Act relates to controlling
198 animal disease, logically, Section 20 should not apply to animals or samples that cannot carry diseases
199 that require control. Currently, the DALRRD interpretation of the Act as laid out in their Guidelines for
200 Application for a Permit under Section 20 of The Animal Diseases Act 1984 (Version 20/1) is a wholesale
201 broad brushstroke approach for all animal research work. As part of this process, research laboratories
202 are required to submit various types of additional documentation regarding laboratory operating
203 procedures and biocontainment even where these research laboratories do not investigate animals that
204 require disease control. This Act predates the advent of routine collection of small tissue samples for
205 DNA sequencing purposes, but the rationale has been applied even to this type of research. Thus, a
206 hunter transporting an entire carcass is not impacted by any Section 20 restriction even though the
207 potential for spread of disease is much greater than the collection of a tiny tissue sample sterilized in
208 ethanol. The current interpretation of the Act would even require a dog owner to apply for a Section 20
209 permit to take the dog for a walk if the owner was counting its steps as part of a research project.

210 **Textbox 2**

211 Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982) states that only persons
212 registered with the SAVC or the Health Professions Council of South Africa (HPCSA) may perform certain
213 procedures on an animal. SAVC has been slow in defining the list of restricted procedures but has
214 recently tabled an exhaustive list of procedures which may only be performed by registered persons
215 (SAVC or HPCSA). Unregistered researchers needing to perform a 'procedure' as part of their research
216 must apply to SAVC for authorization. This process must be repeated annually, is administratively
217 cumbersome, slow and costly. It has resulted in the need for veterinarians to be available onsite (at
218 significant expense to researchers) to perform even the simplest of procedures (such as injecting an
219 animal or inserting a passive integrated transponder (PIT) tag) unless the researcher has jumped through
220 the hoops of having their competency evaluated and being authorized by the SAVC to perform the
221 procedure. The requirement for authorization also means that many procedures can no longer be
222 taught to students in a field setting, impacting the quality and competences of the next generation of
223 researchers. The restrictions imposed by Veterinary and Para-Veterinary Professions Act are especially
224 onerous in a field situation where researchers cannot predict when they are going to need the services
225 of a veterinarian, and this can lead to significant delays and cost implications, or the work being
226 cancelled altogether.

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