Imali Yesizwe

An alternative Human Rights Budget

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EXECUTIVE SUMMARY

The budget and budget processes are critical the advancement and protection of human rights. Civil society has noted with increasing concern the continued steps by National Treasury and the South African government to cut back on the social spending that is needed to fulfil socio-economic rights which are enshrined by the South African constitution and international law. For the past five years and more, National Treasury have cut much needed resources to health, education, social development, local government and housing but all the while prioritizing expensive extractive infrastructure projects, predatory private public partnerships as well as the prioritisation of debt repayments. COVID-19 has accelerated these trends and made the country more dependent on external multilateral financing institutions like the International Monetary fund. These moves, the Budget Justice Coalition (BJC) believes, are regressive and represent the entrenchment of austerity budgeting in South Africa.

Austerity budgeting was already a concern before the impact of the COVID-19 pandemic as South Africa was experiencing systemic underinvestment in key social and economic sectors, with the poorest citizens shouldering the cost of budget cuts. The pandemic has also shed light on why using gross domestic product (GDP) as an indicator of the well-being of South Africa's economy and people is flawed. Austerity often results in declining investment in the real economy as a percentage of GDP, it places a greater burden of unpaid care work on womxn which is excluded from GDP even though such unpaid services have considerable value. And while Treasury may present its budget outlook as necessary, natural or inevitable, we show that there are robust alternatives that do not jeopardize human rights or risk regression on progress made to realise them.

This document - *Imali Yesizwe* - represents the culmination of efforts made by progressive civil society organisations working in the budget and human rights sectors to develop a viable alternative budget for South Africa. *Imali Yesizwe* is the product of a far-reaching partnership, research and collaboration between the BJC and other progressive organisations. Ours is a budget that puts the fulfilment of human rights first and replaces austerity with a long-term plan for socio-economic development that will ensure the economy and its people recover sustainably from COVID-19. This details our vision and recommendations for an alternative budget that is progressive, gender-sensitive, environmentally sustainable and categorical in its prioritisation of the realisation of human rights.

Section 1 outlines what a human-rights budget is, including the laws, policies and international agreements which relate to budget processes and their role in the fulfilment of human rights.

Section 2 explains what we mean by austerity, demonstrates how it is being implemented in South Africa by National Treasury and how COVID-19 has accelerated these trends. This section illustrates the varied material impacts that austerity has on access to and fulfilment of human rights, the weakening of state capacity, and how – even by its own logic – austerity budgeting does not resolve the problems it seeks to address.

Section 3 moves onto our vision for an alternative budget by examining expenditure trends in social spend, focusing on spending on the right to access healthcare, the rights to basic education, social security, food and nutrition, water and sanitation, a healthy environment as well as spending on transforming gender relations. Here we outline what needs to change in terms of expenditure to ensure that these rights are met and enjoyed by all.

Section 4 looks to sources of revenue, both new and old. Here we outline recommendations for progressive tax reform, focusing on corporate and wealth-tax, and also speak to the configuration of international borrowing agreements for South Africa. We examine revenue structures at the municipal level and other sources of income including pension funds and the Public Investment Corporation.

Finally, **Section 5** speaks to broader questions of budget reform and the need for meaningful oversight, accountability and participation processes. Key to this section is the need for fiscal transparency and strong institutions.

Key demands include, but are not limited to:

- The abandonment of austerity budgeting. This means moving away from an oversimplified and dangerously narrow focus on debt reduction through billions of Rand in spending cuts and tax increases, which are damaging for the economy and peoples rights.
- The budget must focus instead on improving the composition of expenditure so that sufficient funds are allocated to socio-economic priorities such as health care, basic education, housing, social development, gender based violence and the battle against corruption.
    - For example, the NPA must receive the budgetary support it needs to close the net on state capture and corruption
- At the same time, more resources must be mobilised from high net wealth and income individuals and businesses.
- In particular, SARS must be capacitated to combat tax evasion and avoidance and implement new tax instruments on wealth and the digital economy

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1. WHAT IS A HUMAN RIGHTS BUDGET?

A human rights budget is a budget and budget process that is underpinned by the universal human rights to equality, freedom and dignity

The Constitution and Bill of Rights are the cornerstones of democracy in South Africa. Importantly, they do not apply only to political governance; they also provide the framework for our economic governance. The budget process is central to this, encapsulating economic policy, fiscal policy, monetary policy, revenue, trade and tax policy, budget allocations, execution by departments and state agencies, and oversight by Parliament.

Yet, the importance of systematically assessing the impact of the budget process on the enjoyment of the rights enshrined in the Constitution has not taken place. A read of key budget documents produced annually by the National Treasury, which is responsible for the budget process, such as the Budget Review, reveals that they rarely talk about people's rights

Indeed, they rarely talk about inequality, unemployment, unpaid work, poverty or extreme wealth - which directly violate rights. Instead, economic growth, "macroeconomic stability" and "debt sustainability" are positioned time and time again as the central goals of the budget, without an explanation of how these goals will respect, protect, promote and fulfil the rights of the majority of South Africans. **This needs to change.**

Moreover, economic growth is often assumed by the Treasury to be directly correlated to general improvements in the standard of living. For example, in his Forward to the 2020 Budget Review, Treasury Director General Dondo Mogajane writes that: "Rapid and sustained economic growth is the central requirement to build a prosperous and equitable South Africa. This remains our core policy objective."[1]

However, in such an unequal society and unequal global economic system, the benefits of the economy will continue to accrue largely to those best placed to benefit from rising investment and spending. This will reinforce extreme wealth and thus widen inequality even further, unless policies for redistribution and effective market regulation are implemented. We saw, in the first two decades of South Africa's democracy, significant economic growth without increases in wealth or employment for the majority of South Africans. It is clear that there is nothing "natural" about economic growth improving the lives of all. Moreover, economic growth can be based on the exploitation of workers and of the environment, directly violating the right to fair labour practices and to a healthy environment.

COVID-19 has made it more urgent than ever to lay the foundations of a **new economy**: one which has the wellbeing of individuals, communities and the environment at its centre, an economy which **values care**, both paid and unpaid, as the activity that sustains us all, an

[1] National Treasury 2020 Budget Review at vii. Available at. www.treasury.gov.za/documents/national%20budget/2020/default.aspx.

economy which ensures that **no-one faces discrimination, violence or poverty.** This new economy must be informed by a rights-based economic and fiscal framework.

Towards a human rights focused economic and fiscal policy

A human rights budget and budget process does not focus on economic growth, inflation targeting, or debt management alone. The "rights based approach" focuses instead on ensuring that principles of universal human rights, elaborated both in our democratic Constitution and international human rights law which we as a country have ratified, are used as the basis for all decisions relating to economic policy, monetary policy, fiscal policy, tax, spending and other budget policies. Every decision taken in a human rights budget is designed to ensure the maximum impact on equitably advancing people's rights.

The Budget Justice Coalition (BJC)'s decision-making approach in drafting *Imali Yesizwe* has been informed by a public participation campaign. Through an email and social media drive, BJC reached out to partners and constituent organisations for their input on this document. Key to a human-rights budget, in our view, is the direct inclusion of a broad range of people in its drafting. Due to time and resource constraints, a fully representative survey of people's needs with respect to the budget and human rights was not possible, and so the responses that we received cannot be broadly generalised. Nonetheless, the voices we have captured provide important insights into what people want to see in the budget for the fulfillment of their human rights. Quotations from respondents are included where relevant, demonstrating the material needs that the budget - in the words of ordinary citizens and residents of South Africa - must satisfy.

In a **human rights framework**, environmentally sustainable and inclusive economic growth is seen as instrumental towards achieving rights - but is not an end in itself. The budget must be evaluated not only according to narrow (and often poorly understood and conceived) economic targets, but rather on what it has done to promote, protect, fulfil and respect rights, in particular, socio-economic rights. Before we look at the principles which underpin a human rights budget process, it's important to consider what the key rights are that everyone in South Africa is entitled to.

Children's rights

The constitution places the utmost importance on children. It requires the state, without qualification, to ensure that every child enjoys a quality basic education, basic nutrition, shelter, basic health care services, and social services. It also requires the state to ensure that every decision it makes that does or could affect children, promotes children's best interests. In times of crisis, children's basic socio-economic needs such as nutrition, health care services, shelter, education and family care should be prioritised.

Everyone's rights

The state must implement measures to progressively realise socio-economic rights for everyone within its available resources. This includes the rights to higher education, to health care services, to adequate housing, to social security, to sufficient food and water, to adequate sanitation, a healthy environment, and on an equitable basis, to land.[2] The Constitution further requires government to ensure that the rights to life, dignity and substantive equality are protected and fulfilled.[3] Together, these provisions establish a framework to "Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights."[4]

This constitutional framework must be read together with the international legal agreements that SA has ratified. These include the International Covenant on Economic, Social and Cultural Rights (ICESCR) - which is overseen and interpreted by the UN Committee on Economic, Social and Cultural Rights (UN CESCR) - as well as the UN Convention on the Rights of the Child (UNCRC), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), and the Convention on the Elimination of all Forms of Racial Discrimination (CERD), and the Convention on the Rights of Persons with Disabilities, among others. Together, these set clear guidelines and boundaries agreed to by the vast majority of nation states which our government must adhere to in planning and budgeting processes.

Maximising resources for the progressive realisation of socio-economic rights

The budget process (which encapsulates national, provincial and local government budget processes) is one of the most powerful tools for shaping the answer to one of the most fundamental questions facing society: how to allocate scarce resources. The human rights framework recognises that resources are limited, but human rights law developed in SA and elsewhere also recognises that <u>a simple claim that resources are limited is no excuse for a lack of action to respect, protect, promote and fulfil socio-economic rights.</u>

Human rights law is therefore cognisant that it may not be possible, due to resource or other constraints, for socio-economic rights to be fully realised for all people immediately. Instead, it requires the government to ensure that progress is made <u>as quickly as possible</u> towards this ultimate aim, and that <u>regression in access to rights, or the quality of that access, is avoided.</u>

The UN CESCR has provided an explanation of the meaning of the important concept of **progressive realisation** which is found in our Constitution and the International Covenant on Economic, Social and Cultural Rights, via a "General Comment" on the Covenant that was subsequently endorsed by the SA Constitutional Court in the famous *Grootboom case*:

> [Progressive realisation] … is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of

[2] Sections 25 - 27.
[3] Sections 9 - 11.
[4] Preamble.

> economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d'être* of the Covenant which is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.[5]

The obligation of progressive realisation can thus be divided into two parts:

1. Constantly move forward! Equitable enjoyment of all rights must be continuously expanded through proactive policies and plans. Government must be able to demonstrate evidence of this at all times.

2. Avoid moving backwards! The government must not take steps which have a negative impact on the realisation of rights, except in the most exceptional circumstances. In times of crisis, the government must ensure that burdens are shared equitably and that people are protected from being pushed further into poverty.

Progressive realisation of rights is dependent not just on the development of appropriate policies, but also on the utilisation of the **maximisation of available resources.** This obligation, known for short as MAR, has three components:

1. *Generating resources;*
2. *Allocating resources;*
3. *Utilising resources*

1. Generating resources

The government must do everything within its power to generate (or "mobilise") **sufficient resources** to fund the progressive realisation of socio-economic rights. There are many ways to mobilise resources, but the bulk will come from a mix of revenue raising measures, such as taxes, and borrowing via the issuance of government bonds. Revenue raising measures such as taxes on income, wealth, consumption and corporate profits must be equitable, so that those with the greatest means of paying them carry the largest burden. Borrowing must be done in line with a long-term plan for sustainable debt management.

2. Allocating resources

Resources must be allocated **equitably** and prioritise programmes that protect and realise rights, such as social security, healthcare, water and sanitation, early childhood development and education.

[5] Committee on Economic, Social and Cultural Rights *General Comment No. 3: The Nature of States Parties' Obligations* (1990) E/1991/23 at para 9.

3. Utilising resources

Allocated resources should be fully spent on their intended targets, and not diverted elsewhere. Spending must be **effective** and **efficient** at achieving intended aims. This involves implementing policies that curb corruption, and ensuring transparent processes which hold government departments, agencies and state owned enterprises **accountable**.

A noticeable component of the human rights based budget process is the consistent focus on the right to **substantive equality**. This right is guaranteed in Section 9 of the Constitution and is defined as "the full and equal enjoyment of all rights and freedoms."

Another cross-cutting element is that the process for deciding how to generate, allocate and utilise public funds must be **transparent** and the public must have **meaningful opportunities to participate** in the budget process.

Equitably raising and allocating resources is even more important during an economic crisis

This is because economic shocks invariably hit poorer, underserved and vulnerable groups the hardest. Redistribution thus takes on an even more important role, Thus, implementing and facilitating redistribution becomes a critical role of government and the private sector, as those who retain the ability to contribute to the recovery must be required to do so.

After the onset of COVID-19, the UN CESCR issued guidelines[6] to State Parties to the Covenant on how they can effectively protect gains made in socio-economic rights during the pandemic. The Committee underlines that:

> COVID-19 has highlighted the critical role of adequate investments in public health systems, comprehensive social protection programmes, decent work, housing, food, water and sanitations systems, and institutions to advance gender equality. Such investments are crucial in responding effectively to global health pandemics, and in counteracting multiple, intersecting forms of inequality, including deep inequalities of income and wealth both within and between countries.

The UN CESCR has also clarified the human rights standards[7] that countries experiencing an economic crisis must meet to justify budget cuts, which is that they must be:

- temporary, remaining in place only insofar as they are necessary;
- legitimate, with the ultimate aim of protecting the totality of human rights;

[6] Available at: www.gi-escr.org/latest-news/new-statement-by-the-committee-on-economic-social-and-cultural-rights-on-covid-19-and-esc-rights.
[7] Committee on Economic, Social and Cultural Rights, 2016. "Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights," Statement by the Committee.

- reasonable, with the means chosen being the most capable of achieving the legitimate aim;
- necessary, with all alternative financing measures comprehensively exhausted;
- proportionate, in that their human rights benefits outweigh their costs;
- not directly nor indirectly discriminatory, according priority attention to disadvantaged groups;
- protective of the minimum core content of rights;
- based on transparency and genuine participation of affected groups and subject to meaningful review and accountability procedures.

As will be shown in detail, the current budget being implemented by the Nationall Treasury fails to meet these criteria. In particular, it fails to show that budget cus are unavoidable nor that it’s austerity programme is temporary, will not result in greater levels of inequality as well as the further marginalisation of vulnerable groups.

BJC believes that the current budget which the government seeks to implement **will result in the widespread violation of many socio-economic rights,** and fails to uphold governments obligations in the Constitution and international human rights treaties it has ratified.

Examples of notable violations of the above criteria include:

- Irrationally limiting the increase to the Child Support Grant to each caregiver rather than each child, thereby ensuring that 2 million (almost entirely black) children would face avoidable hunger[8] and the long-term impact of this on their growth and development
- Excluding millions of people from accessing the small COVID-19 grant of R350 per month, through irrational and poorly executed administrative measures, and completely excluding immigrants residing in SA and unable to return home from the grant
- Ending the school nutrition programme which provides about 9 million learners with essential nutrition on school days, *without providing any alternative access to this nutrition*, and not starting the programme again as soon as schools were reopened, condemning these children and their families to increased hunger and malnutrition.

[8] According to the research team advising the government.

2. WHAT IS AUSTERITY AND HOW IS IT BEING IMPLEMENTED IN SA?

In its submission to Parliament on the June 2020 Supplementary Budget,[9] BJC called for "the immediate abandonment of austerity budgeting". In response, the National Treasury stated that "SA's fiscal stance has been expansionary for more than a decade … and the supplementary budget presents the most expansionary budget in many years."[10] So which is it?

Unpacking austerity

The term "austerity" (also known as fiscal consolidation) is a highly politicised one. This is unsurprising, given that it refers to policies that aim to reduce government debt by implementing spending cuts, tax increases, or a combination of both. Focusing too much on debt reduction can draw much needed resources away from socio-economic rights such as healthcare, early childhood development, education, housing and employment, which can be damaging for people and the economy in the short and the long-run.

Government's which willingly[11] implement austerity do so because they believe one or more of the following:

- the total stock of public debt is too high
- the annual budget deficit (the gap between revenue and spending) is too large
- the ratio of debt to GDP, revenue or another variable is too high and/or is increasing at too fast a rate.

Whether they are focused on reducing total debt, narrowing the deficit or shrinking debt as a ratio to GDP, proponents of austerity believe that reducing debt must be an apex priority in the budget. This means that all or the majority of government's goals and obligations must be reconsidered in light of this overarching objective. In the words of the National Treasury in it's 2021 Medium Term Expenditure Framework Guidelines for National and Provincial Departments: "There are no holy cows."[12]

The basic method for implementing austerity is to place an extreme focus during the budget process on achieving a "balanced budget" or, in extreme cases, a **primary budget surplus**. A so-called balanced budget is one in which total government expenditure *equals* total

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[9] Available at: https://budgetjusticesa.org/advocacy.

[10] National Treasury Response to Public Submissions 03 July 2020 at 5. Available at: www.treasury.gov.za/documents/national%20budget/2020S/Response%20to%20Public%20Submissions%20-%2003%20July%202020.pdf.

[11] In many cases, the IMF and World Bank have forced developing countries to implement austerity measures in return for loans to deal with a balance of payments or debt crisis. See: Gallagher 'The IMF's return to austerity?' *International Politics and Society* 13 October 2020. Available at: www.ips-journal.eu/topics/democracy/the-imf-held-hostage-4710/.

[12] At 2. Available at: www.treasury.gov.za/publications/guidelines/2021%20MTEF%20guidelines.pdf.

government revenue. A primary budget surplus is attained when total expenditure *is less than* total revenue. Theoretically, a primary budget surplus would allow the government to pay down it's debts using the surplus funds, thus lowering it's total stock of debt.

Important assumptions (or hopes?) are made by advocates of austerity regarding the impact this will have on the economy, such as on the overall size of the economy measured by GDP, on employment levels, on consumption and investment, on wages and incomes, on business profits, on levels of poverty and inequality and so on.

The optimistic advocate of austerity believes that the reduction in government expenditure and/or tax increases will have a net positive impact on GDP and other economic variables. This is despite the fact that government expenditure in SA (and elsewhere) accounts for about a third of GDP, and tax increases may also lead to reduced household and business consumption and investment. The optimistic advocate of austerity places her hopes however on a happy combination of rising consumer and business confidence in response to the reduction of government debt leading to more spending and investment, in combination with a shift in private capital away from purchasing government bonds and towards investments in the private economy. In this optimistic scenario, economic growth and employment may even increase as a result of the austerity measures, and the benefits of these will gradually "trickle down" into the economy.

Optimistic advocates of austerity tend to have a more positive view of the role of the private sector compared to the public sector in achieving economic development. They therefore see austerity as a means of tilting the balance of economic power towards the private sector and are prepared to accept some short-term costs to the general public in doing so because of a belief that the long-run impact will be positive.

The cautious advocate of austerity is arguably also more realistic. She recognises that the economy is extremely complex and accepts that austerity may have negative impacts in the short, medium and long-run that are hard to predict. She however still argues for austerity / fiscal consolidation because she believes that the current debt levels or debt to GDP trajectory is harmful to economic growth and development, or some other variable. Therefore, removing this harm, even if it causes some harm in other areas (such as reduced availability or quality of government services) is justifiable.

The National Treasury view: expanding or contracting?

National Treasury's statements on fiscal consolidation and austerity have become increasingly contradictory in recent years, showing both caution and optimism about the role of fiscal consolidation in its economic and fiscal strategy, as well as denial that it is actually implementing consolidation. For example, public comments in Parliament by the Director General Mr. Dondo Mogajane and the Acting Head of the Budget Office, Mr. Edgar Shishi, have directly contradicted the Treasury's analysis in its key budget publication, the Budget Review, as well as the available data. This confusion may be symptomatic of the political nature of the debate about austerity, or it may reveal internal contradictions in the Treasury's position.

For example, the February 2020 Budget Review explains that:

> In 2012, government introduced the main budget expenditure ceiling, with the goal of controlling spending growth and stabilising debt. Between 2013/14 and 2018/19, in response to lower economic and revenue growth, government repeatedly reduced the expenditure ceiling. Most of the reductions were applied to goods and services and capital budgets, while leaving the wage bill relatively unchanged.[13]

In his Forward to the 2020 Budget Review, Mr. Mogajane explains further that:

> The 2020 Budget proposals mark an important step on the road to fiscal consolidation. In comparison with the 2019 Budget, government proposes to reduce its expenditure by R156.1 billion – primarily through a decrease in its compensation bill … Other reductions are being applied, wherever possible, to poorly performing or underspending programmes.[14]

In the fiscal policy chapter of the 2020 Budget Review it is acknowledged that: "Further across-the-board spending cuts that affect core government programmes would severely harm service delivery."[15]

Yet the June 2020 Supplementary Budget Review, which articulates Treasury's fiscal response to the impact of the coronavirus, makes clear that:

> The central fiscal priority over the medium term is debt stabilisation, which will require large spending and revenue adjustments. The manner in which this is done will affect growth.[16]

These statements reveal the death spiral of austerity with great clarity. They show that the Treasury has been implementing fiscal consolidation since 2012 with the goal of reducing public debt (which was accumulated because of the positive fiscal response to the global financial crisis of 2007/08), even though it knows that will have a negative impact on service delivery (and therefore, on rights). It continues to pursue cuts even though economic growth has stalled (there were two recessions before COVID-19 and a steady decline in per capita GDP) and revenue collections have consistently fallen short of expectations. In response, Treasury proposes more spending cuts to key social and economic sectors and even in the face of the greatest exogenous shock to the global and our local economy in a century, caused by COVID-19, is determined to implement more spending cuts and revenue adjustments in the medium-term, even if these have further negative consequences for growth.

However, in response to public submissions on the June 2020 Supplementary Budget, Mr. Mogajane and Mr. Shishi led a Treasury delegation to Parliament which vociferously argued

[13] At 26.
[14] Ibid at vii.
[15] National Treasury 2020 Budget Review at 24.
[16] At 6. Available at:

that the Treasury had not been implementing austerity and that the budget has actually been expansionary (growing in real terms) since 2008, including the Supplementary Budget.[17]

Unfortunately, these statements in Parliament are not backed up by Treasury's own budget data (and analysis in the budget review) and should therefore be seen more as political posturing than as a robust defence of its policies and their impact.

BJC's view: austerity is being implemented at the expense of people's rights

The Treasury's statements in Parliament imply that fiscal policy has been expansionary because government expenditure including debt service costs has increased above CPI inflation, while GDP and revenue have stalled. This has translated into a higher budget deficit[18] and debt to GDP ratio.

This reasoning is problematic because it is illogical to define a fiscal policy as expansionary on these terms. For a fiscal policy to be defined as expansionary, the focus must be on non-interest expenditure (i.e. total government expenditure minus debt service costs). This is because debt service costs are a direct charge against the fiscus, meaning that they are not a budget allocation. They are non-discretionary: whatever is due each year, must be settled in some way. Moreover, just as it would not make sense to lump debt servicing (which is essentially loan repayments) together with expenditure in the real economy on government services, for the purposes of defining a "stimulus", so it does not make sense to lump them together for the purposes of defining a budget as "expansionary".

According to these terms, a fiscal policy could be described as expansionary, even if everything in the budget was cut but the increase in debt service costs outweighed all of the cuts so that total spending increased overall. Clearly, this would not be an accurate description of that situation.

BJC adopts the common sense definition of an expansionary fiscal policy as one which: increases non-interest government expenditure above CPI inflation and population growth.[19] A fiscal policy that meets this criteria would be allocating more resources annually in real terms, per head of population, to government programmes. All other variables being equal (such as no major changes to the composition of spending, on which more below), such a fiscal policy would allow for an expansion and improvement of government services.

Judged by this criteria, South Africa has not had an expansionary fiscal policy in recent years.

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[17] National Treasury Response to Public Submissions 03 July 2020 at 5. Available at: www.treasury.gov.za/documents/national%20budget/2020S/Response%20to%20Public%20Submissions%20-%2003%20July%202020.pdf.
[18] The difference between revenue and spending.
[19] Non-interest expenditure refers to all government expenditure minus debt service costs. CPI refers to the Consumer Price Index.

Table 1: Growth of non-interest expenditure compared to CPI inflation and population growth[20]

	AUDITED OUTCOME				2020 budget estimate
	2016/17	2017/18	2018/19	2019/20	2020/21
Non-interest expenditure (R billions)	R1,288.6	R1,368.9	R1,450.6	R1,628.5	R1,715.0
Of which, bailouts to SOEs	*R8.5*	*R20.3*	*R15.7*	*R65.2*	*R73.6*
Nominal non-interest expenditure growth	4.9%	6.2%	6.0%	12.3%	5.3%
Population growth	1.6%	1.6%	1.6%	1.5%	1.5%
CPI	6.3%	4.7%	4.6%	4.2%	4.4%
Non-interest expenditure growth minus population and CPI growth	***-3.0%***	***-0.1%***	***-0.2%***	***6.5%***	***-0.6%***

Table 1 uses data from the pre-COVID-19 February 2020 Budget Review since the June 2020 Supplementary Budget did not provide updated consolidated expenditure data. It shows that government's fiscal policy in recent years fits the description of austerity, that is: cutting government expenditure and/or raising taxes in order to reduce government debt. This is so for two main reasons.

First, non-interest expenditure has failed to keep up with combined CPI inflation and population growth in four of the past five financial years. This means that **government expenditure per head of population decreased in each of those years**. Moreover, the growth rate of 6.5% in

[20] National Treasury, 2020 Budget Review. Available at: www.treasury.gov.za; and Statistics South Africa, Mid-Year Population Estimates.

2019/20 can be largely attributed to a record R65.2 billion provided in bailouts to state owned enterprises (SOEs), mostly Eskom and SAA. The same is true of the current 2020/21 financial year, in which a new record R73.6 billion was allocated in the original budget to the same captured, corrupted and poorly managed SOEs.

Second, extensive cuts have been made to spending on a number of socio-economic rights, as detailed below. This makes it all the more disingenuous to include the bail-outs to SOEs as non-interest expenditure, as they were used to finance (largely toxic) debt costs.

> ***"Corruption, bailing out state owned enterprises, and letting the stolen billions leave the country."***
>
> ***"State Owned Enterprises and civil servants' salaries."***
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> - *Respondents to our call for submissions to Imali Yesizwe, on the question: "Are there areas where you think the government is wasting money? What are these areas and what solutions or alternatives can we develop?" October 2020.*

On the **revenue** side, in 2018, the VAT rate was increased from 14% to 15%, despite widespread opposition due to the regressive nature of this tax.[21] Similarly regressive taxes including the fuel levy (which predominantly hits black commuters) and excise duties (which targets lower income groups who spend a higher proportion of that income on alcohol and tobacco) have also been increased well above inflation. The corporate income tax rate, which was lowered significantly in the late 1990s and 2000s, has remained unchanged in recent years. Marginal increases to taxes on high incomes and income from wealth have not been sufficient to counter the increasingly regressive tax mix.

Deepening of austerity in 2020 and post- COVID-19

The pre-COVID February 2020 original budget made cumulative reductions to (previously planned) spending on government programmes of R66 billion in 2020/21, R88 billion in 2021/22 and R107 billion in 2022/23.[22] Of the R261 billion of proposed spending cuts, R160 billion were targeted at the public sector wage bill. The remaining R101 billion of cuts would impact almost every area of the budget.

In June 2020, despite the massively increased need for government services and intervention in the economy due to the pandemic and lockdown – now and in the medium-term – the

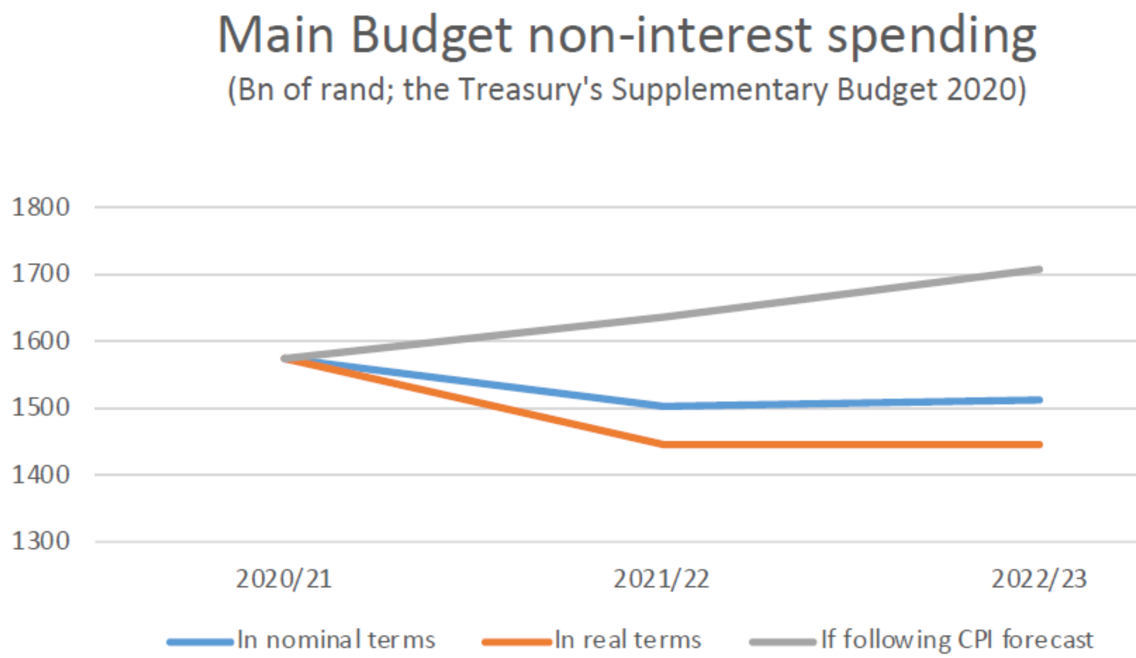
[21] VAT is widely considered a regressive tax because 1. everyone pays the same rate no matter their income; 2. VAT makes up a larger share of expenditure for lower income groups; and 3. VAT exemptions on certain food and other "essential" items do not sufficiently reduce this regressivity. See the BJC Submission to Parliament on the 2018 Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill at: https://budgetjusticesa.org/assets/downloads/Parliamentary-submission-in-response-to-Monetary-Bil-24-04-18.pdf.

[22] 2020 Budget Review.

Supplementary Budget only increased non-interest spending by R36 billion – an expansion of only 2% of non-interest expenditure (0.7% of GDP). At the same time, R101 billion was cut and reprioritised from existing government programmes to cover the cost of COVID-19 related measures. This austere fiscal approach resulted in:

- Net additional funding for the entire health sector of only R2.9 billion. To put this in context, planned health spending over the MTEF was cut by more than this – R4 billion – in the February 2020 budget
- Net additional expenditure on social grants of only R41 billion, despite the President's commitment that R50 billion would be spent
- Net reductions in spending (additional to what was cut in February) on:
    - basic education of -R2.1 billion, including a net reduction of funds intended for school infrastructure of -R1.7 billion
    - higher education and training of -R9.9 billion
    - human settlements of -R2.3 billion
    - agriculture of -R2.4 billion
    - land reform and rural development of -R2.9 billion

Figure 1: Main budget non-interest spending proposals in the Supplementary Budget in nominal and real terms[23]



Despite the National Treasury recognising in the 2020 Budget Review that "Further across-the-board spending cuts to core government programmes would severely harm service delivery"[24], the Supplementary Budget proposed a new "active scenario" of fiscal consolidation to **cut a further R250 billion from government spending** in the 2021/22 and 2022/23 financial years. This is in order to achieve a **primary budget surplus by 2023/24**.[25] This represents the most extreme form of austerity described above, in which total spending is reduced to a level below total revenue, with the resulting surplus used to pay down debt.

In a recorded conversation[26] in late-April with his former employer, global finance giant Goldman Sachs, Finance Minister Tito Mboweni was at pains to explain that he was "totally committed" to achieving a primary budget surplus. Neither the Finance Minister nor National Treasury has provided any analysis of the potential impact of these choices on peoples rights.

Spending cuts are destroying state capacity and reinforcing the unequal enjoyment of rights

A key "saving" Treasury is aiming for is R160 billion from the **public sector wage bill.** This will likely result in tens of thousands of public sector jobs being lost over the medium-term.[27] In 2018

[23] AIDC calculations based on the Supplementary Budget Review.
[24] At 24.
[25] National Treasury, 2020 Supplementary Budget Review at 30. Available at: www.treasury.gov.za/documents/National%20Budget/2020S.
[26] Available at: www.goldmansachs.com/insights/pages/call-with-tito-mboweni.html.
[27] Calculations by the Alternative Information and Democracy Center.

long before the outbreak of the pandemic, by governments own accounts, there were already 37 000 vacancies in the health sector alone[28] and countless other government departments and agencies already have high vacancy rates. Cutting employment in the public sector makes little sense when millions of jobs have been lost already this year and so few new jobs are being created in the private sector.

Unfilled posts, hiring freezes and a lack of wage progression and promotion opportunities will result in a gutting of capacity in the public sector and contribute to the inexorably rising unemployment rate across the country. In this way, **austerity compounds the ineffective use of resources by destroying what capacity remains in the state to successfully implement its mandate.**

Two particularly erksome examples of the **futility of austerity** is the cuts that are being made to the **National Prosecuting Authority**,[29] which directly undermine the fight against corruption and state capture and gender based violence, and the cuts to the budget of SARS, which undermine the effort to improve revenue collections.[30]

Capable and ethical government departments and agencies are a prerequisite for good quality public services. Cuts to the public sector which undermine its capacity also undermine our recovery from COVID-19 as well efforts to level the inequitable access to education, health care, housing, decent work and social protection which colonialism and apartheid systematically established along ethnic, gender and geographical lines.[31]

These socio-economic rights remain vital to achieving racial equity and for **empowering womxn and upending patriarchy.** Yet despite louder rhetoric from political leaders, the budget has remained almost entirely gender-blind. For example, the 38 page June 2020 Supplementary Budget Review does not even mention womxn.[32] BJC Steering Committee member Busi Sibeko notes in *The Cost of Austerity: Lessons for South Africa*[33] that "Women carry more of a burden in social provisioning and require more access to public services which austerity takes away."[34] This means that the continuous **cut backs in provisioning for social, health and education services impact womxn disproportionately.**

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[28] Report of the Presidential Health Summit 2018 at 28. Available at: www.gov.za/sites/default/files/gcis_document/201902/presidential-health-summit-report.pdf.

[29] Meren "NPA says budget cuts 'will seriously undermine' battle against state capture and GBV' *Daily Maverick* 07 October 2020. Available at: www.dailymaverick.co.za/article/2020-10-07-npa-says-budget-cuts-will-seriously-undermine-battle-against-state-capture-and-gbv/.

[30] Ensor "SARS is hobbled by underfunding, Edward Kieswetter says" *Business Day* 06 October 2020. Available at: www.businesslive.co.za/bd/national/2020-10-06-sars-is-hobbled-by-underfunding-edward-kieswetter-says.

[31] See Omerjee "Reducing public service headcount will compromise service delivery, MPs hear" *Fin24* 28 February 2019. Available at: www.news24.com/fin24/Budget/reducing-public-servant-headcount-will-compromise-service-delivery-mps-hear-20190228.

[32] Available at: www.treasury.gov.za.

[33] Institute for Economic Justice, 2019. Available at: https://iej.org.za/the-cost-of-austerity-lessons-for-south-africa.

[34] Himmelweit, S. (2016). 'Conclusion: Explaining Austerity and its Gender Impact', in H. Bargawi, G. Cozzi, and S. Himmelweit (eds.) Economics and Austerity in Europe. Gendered Impacts and Sustainable Alternatives. London: Routledge..

In May 2020, the President called violence against womxn a “second pandemic” which requires a similar level of mobilisation and prioritisation as the fight against COVID-19. Yet one month later, **the Supplementary Budget cut funding for prosecutorial services within the National Prosecuting Authority, and detective services within SAPS**, all of which could negatively affect the prosecution and conviction of crimes against womxn and children, and the provision of support services within Thuthuzela Centres.

In addition to the tens of thousands of vacancies which now exist in the **public health sector,** only 5 out of 696 public health facilities meet standards set by the Office for Health Standards Compliance for NHI readiness, and claims for medical negligence against health departments have sky-rocketed.[35] Yet spending on health infrastructure has been reduced by billions on Rand in recent years.

Public education has also suffered under austerity: recently published research shows that government spending per learner on basic education decreased by an average of -2.3% between 2009 and 2018[36] while class sizes have increased because of a shortage of teachers and inadequate infrastructure.[37] The single largest cut in the 2020 Supplementary Budget was applied to the school infrastructure programme, despite government being four years behind on its legal duty to eradicate unimproved pit latrines and other elements of the learning environment that are unfit for purpose.[38]

Various studies show that **wealth and income inequality** in South Africa across racial and gendered lines has either been maintained or increased during this period.[39] The number of people living in poverty increased from 2011 - 2015, to 55% of the population living below the official upper bound poverty line.[40] Prior to the COVID-19 pandemic, 40% of the labour force was unable to find a job, using the expanded definition of unemployment, which includes those who want to work but had given up looking at the time of the survey.[41] Black womxn have the least access to formal income and work, are the least likely to be employed in top and senior

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[35] Alicestine October “What the Budget means for healthcare in South Africa” *Spotlight.* Available at: https://www.spotlightnsp.co.za/2020/03/03/in-depth-what-the-budget-means-for-healthcare-in-south-africa.

[36] When adjusted for the real cost drivers in education spending.

[37] Spaull, N., Lilienstein, A. & Carel, D.(2020), ‘*The Race between Teacher Wages and the Budget The case of South Africa 2008-2018’*, Available at: https://nicspaull.files.wordpress.com/2020/06/spaull-lilenstein-carel-2020-the-race-between-teacher-wages-and-inflation-19jun20-1.pdf.

[38] The Education Infrastructure Grant was cut by R2.2 billion. See Table 2.5 in the Supplementary Budget.

[39] See, for example: Chatterjee, Gethin and Czajka “Coronavirus: why South Africa needs a wealth tax now” *The Conversation* 28 April 2020. Available at: https://theconversation.com/coronavirus-why-south-africa-needs-a-wealth-tax-now-137283.

[40] Statistics South Africa “Poverty Trends in South Africa: An examination of absolute poverty between 2006 and 2015” 2017. Available at: www.statssa.gov.za/publications/Report-03-10-06/Report-03-10-062015.pdf.

[41] Statistics South Africa “Quarterly Labour Force Survey Quarter 1: 2020” June 2020 at 8. Available at: www.statssa.gov.za/publications/P0211/P02111stQuarter2020.pdf.

management positions within firms and government institutions, and are more likely to be responsible for unpaid care and house work.[42]

Sadly, evidence from the National Income Dynamics Coronavirus Rapid Mobile Survey's shows that the socio-economic impact of the COVID-19 pandemic is exacerbating all of these inequalities.[43]

The fact that the Treasury is not presenting an honest reflection of its fiscal policy to the public (see above) and engaging in hostile behaviour towards critics in Parliament[44] is extremely concerning, given the downward trajectory of almost every economic and fiscal indicator that Treasury is responsible for shaping through its economic, fiscal and other policies.

Even more worrying is that one of the key government institutions that has borne the brunt of Treasury enforced funding cuts is the national statistical agency, **Statistics South Africa (StatsSA)**. In an unprecedented intervention, the Chairperson of the StatsSA Council Professor David Everatt issued an official statement from the council in February 2020 which said that:

> in 2015 StatsSA had R160 million stripped from its budget and a freeze on all posts was imposed by government. Both have remained in place since that point. By early 2020, the situation has reached crisis point. The vacancy rate has climbed to almost 20% – that is, every 5th position is vacant, and many staff are thus taking on their own job and work that should be done by others; working a 6 or even 7 day week is common. The freeze on posts means that no promotions are possible, and no vacancies can be filled … Stats SA is being asset- stripped because it cannot offer any type of career prospects for any member of staff – because government refuses to change its approach to the budget and freeze on posts.[45]

Cutting the budget of the agency that is responsible for the production of critical economic and social statistics, including national accounting data will only make it harder to understand what has gone wrong with our economic and social policies. It presents another barrier to fixing them. Having an enfeebled national statistical agency can only suit those who prefer to engage in political posturing rather than robust, evidence-based debate.

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[42] Daniel McLaren "Indicators to Monitor the Progressive Realisation of the Right to Work in South Africa" *Studies in Poverty and Inequality Institute* 2017. Available at: https://spii.org.za/files/2017-SPII-Working-Paper-15-Indicators-to-Monitor-the-Right-to-Decent-Work.pdf.

[43] See the NIDS-CRAM Wave 1 Reports available at: https://cramsurvey.org/reports.

[44] The Co-Chair's of Parliament's Committees on Finance and Appropriations scolded the Treasury Director General Mr. Mogajane for his remarks to civil society organisations, including the BJC, and MPs in on 03 July 2020. The DG callously dismissed criticism of the budget as missleading and not based on evidence. This merely demonstrated that the DG did not want to engage with the substance of the submissions. See the Chair's remarks to the DG in the minutes at: https://pmg.org.za/committee-meeting/30571/.

[45] Statement from the South African Statistics Council on StatsSA funding, February 2020. Available at: www.statssa.gov.za/?p=12992#:~:text=In%202021%2C%20Stats%20SA%20will%20be%20expected%20to%20run%20Census%202021.&text=However%2C%20in%202015%20StatsSA%20had,situation%20has%20reached%20crisis%20point.

These concerns are also part of the motivation for the BJC's resolution to develop *Imali Yesizwe*, to provide a robust alternative to the increasingly untenable fiscal and budget policy and analysis put forward by the Treasury.

Austerity is the wrong medicine for SA and must be abandoned

BJC is opposed to austerity because it impacts on rights and does unnecessary harm to the economy.

Prior to any spending cuts, poverty and inequality in SA were unsustainably high. Between 2011 and 2015, an additional 2.9 million people were pushed into poverty as the economy stalled and fiscal consolidation began in earnest. In 2015, over half (55.5%) of the population — 30.4 million people — lived below the official upper bound poverty line of R992 per person per month (2015 prices).[46] The poverty rate was higher for female-headed households than male-headed households (49.9% versus 33.0%). A quarter — 13.8 million people — lived in 'extreme poverty', unable to afford enough food to meet their basic physical needs.[47]

Teenage girls living in rural parts of the Eastern Cape and Limpopo were recorded as the most vulnerable to poverty. Since 2015, these trends have almost certainly continued as the economy has dipped in and out of recession, unemployment has continued to rise, food prices spiked due to the drought, and the cost of living has faced VAT, fuel levy and excise hikes. While unemployment is a driving factor of poverty, in 2015 54% of full-time workers earned below the 'working poverty line' of R4 125 (the amount needed to bring them and their dependents above the poverty line). This indicates that wage levels for those lucky enough to find employment in the economy are themselves below acceptable levels.[48] Still, one-third of wage inequality is attributable to households where there are no employed adults.[49] Research has also shown that "almost half of people who co-reside with a wage earner live in households that are below the poverty line. Therefore, having access to wages does not guarantee household income per capita will rise above the poverty line".[50]

It is well known that South Africa has a world-leading level of economic inequality, with a Gini coefficient for income distribution of 0.7.[51] Wealth is even more unequally distributed with a Gini coefficient of 0.95. Estimates indicate that the wealthiest 1% of the population own half of all wealth, while the top decile owns at least 90–95%, leaving little for the vast majority of the population.[52]

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[46] Upper bound poverty line (UBPL). Statistics South Africa. 2017. Poverty Trends in South Africa. https://www.statssa.gov.za/publications/Report-03-10-06/Report-03-10-062015.pdf

[47] Statistics South Africa. 2017. Poverty Trends in South Africa. https://www.statssa.gov.za/publications/Report-03-10-06/Report-03-10-062015.pdf

[48] Finn, 2015. National Minimum Wage Research Initiative. Working Paper Series No. 1

[49] Leibbrandt, M., Woolard, I., Finn, A. & Argent, J. (2010). "Trends in South African income distribution and poverty since the fall of apartheid". OECD Social, Employment and Migration Working Papers, No. 101. Paris: OECD Publishing

[50] Finn, 2015. National Minimum Wage Research Initiative. Working Paper Series No. 1

[51] Feasibility of a Wealth Tax in South Africa, Davis Tax Committee Final Reports, March 2018

[52] REDI3x3, 2016. "Wealth inequality on South Africa: Evidence from survey and tax data."

It is important to note that widespread corruption and mismanagement of government departments, agencies and state-owned companies associated with “state capture” during the Jacob Zuma presidencies has resulted in significant wastage while limiting the effectiveness of expenditure which has been spared from budget cuts. The systematic looting and denuding of capacity in key institutions such as the revenue services (SARS), the prosecution services (NPA), as well as energy production and supply (Eskom), and key service delivery departments including health, water and sanitation and housing, is a parallel contributing factor to the failure to realise socio-economic rights, and has been used to partly justify the reduction in government spending.[53]

Austerity is bad for the economy too

In SA, as in other countries, fiscal consolidation has gone hand in hand with a worsening of key fiscal indicators, especially the debt-to-GDP ratio. This is partly because the reduction of government expenditure has played a role in reducing the economic growth rate, which has been close to or below 0% and well below population growth for the past six years. The result of a shrinking economy is that the debt-to-GDP ratio continues to rise. This is the key basis on which many economists challenge the logic of austerity as a vicious cycle: the goal of reducing public debt is hampered by the fact that taking government spending out of the economy, especially when demand is weak, is likely to further reduce GDP, and hence revenue (from jobs and business activity), with the result that debt as a ratio to GDP increases and more borrowing is needed to plug the revenue shortfall.

South Africa’s growth has trended downwards since 2010/11, averaging just 1.7% between 2011 and 2018.[54] Prior to COVID-19, in 2019, growth reached a decade low of 0.2%. The South African economy shrank by 0.8% in the third quarter (Q3), and 1.4% in the fourth quarter (Q4), of 2019, plunging the country into its third recession since 1994.[55]

Sadly, this consequence of austerity is accepted by the Treasury DG, who wrote in the 2020 Budget Review that “[Spending] [r]eductions of this magnitude will inevitably have negative consequences for the economy and social services. But these short-term costs are necessary to put the country onto a more sustainable footing.”

However, unlike the rosy picture painted by advocates of austerity, government spending can further weaken consumer and business confidence when its impact is to place or keep the economy in recession. Moreover, it is now widely understood, including by the President’s Economic Advisory Council, that well executed public investment crowds in private investment

[53] Treasury frequently cites the revenue shortfalls at SARS and governance failures at public institutions as reasons for reducing expenditure. For example, at page 5 of the Supplementary Budget Review, available at: www.treasury.gov.za: “Failure to substantially reduce costs, address longstanding governance failures, prosecute state-capture participants and undertake profound operational reforms has contributed to already unsustainable financial positions in many public-sector institutions.”

[54] National Treasury. (2019). 2019 Budget Graphs and Tables. Own calculations.

[55] The first recession since 1994 took place from Q4: 2008 to Q2: 2009. The second took place over Q1 and Q2 of 2018

rather than the opposite.[56] So when public investment declines, private investment often does too. Evidence of this happening in SA is provided by the Reserve Bank's April 2019 Monetary Policy Review, which shows that the reduction in gross fixed capital formation by general government and public corporations as a result of cuts to infrastructure spending since 2016 (as described above) correlate very closely with declining private sector investment over the same period.[57]

The same is true of **employment**. In 2015/16, before the first major dose of austerity was implemented the following year, the expanded unemployment rate[58] was 34.9% - an already unsustainable number. However, in the first quarter of 2020, before the coronavirus had made any impact on the SA economy, it has increased to 39.7%.[59] In the second quarter of 2020, the impact of the lockdown caused 2.2 million jobs to be lost, causing the unemployment rate to jump further to 42.3%. More than 14 million people are now unemployed in SA, representing a vast untapped resource for socio-economic development. When this data is disaggregated it highlights deep inequalities in terms of race and gender, as well across provinces. Unemployment is consistently higher for women than it is for men. In Q2 of 2020: 45,7% of women 38,9% of men were unemployed. The rate for black/Africans was 46.3% compared to 14.3% for whites.

Importantly, section 5 of *Imali Yesizwe* shows that **the government is failing to mobilise resources** sufficiently from the wealth and high incomes and savings which could be utilised for productive spending in the budget.

Last word to the IMF

In recent years, even the world's foremost proponent and enforcer of austerity programmes in debt-saddled countries, the International Monetary Fund (IMF), has started to shift, at least rhetorically and in it's research work, towards a more cautious stance on austerity. This move away from a previously very optimistic and - given its enormous power over countries - callous stance is typified in a seminal article published in 2016 by a team of senior IMF economists, which concluded that:

> Austerity policies not only generate substantial welfare costs due to supply-side channels, they also hurt demand—and thus worsen employment and unemployment. The notion that fiscal consolidations can be expansionary (that is, raise output and employment), in part by raising private sector confidence and investment, has been championed by, among others, Harvard economist Alberto Alesina in the academic world and by former European Central Bank President

[56] The President's Economic Advisory Council Reports are currently unavailable online. However, the same conclusion is confirmed in a report by Swilling and Moleko "New wine into new wine skins: An alternative economic strategy for South Africa's economic reconstruction" October 2020. Available at: www.usb.ac.za/usb_reports/new-wine-into-new-wine-skins-an-alternative-economic-strategy-for-south-africas-economic-reconstruction/.

[57] At 25. Available at: www.resbank.co.za/Lists/News%20and%20Publications/Attachments/9206/Monetary%20Policy%20Review%20%E2%80%93%20April%202019.pdf.

[58] Which is the most realistic rate since it includes everyone who wants to work but is unable to find a job.

[59] Statistics South Africa 2020 Q1 Quarterly Labour Force Survey, QLFS Trends 2008-2020Q1. Available at: www.statssa.gov.za/?page_id=1854&PPN=P0211&SCH=7889.

> Jean-Claude Trichet in the policy arena. However, in practice, episodes of fiscal consolidation have been followed, on average, by drops rather than by expansions in output. On average, a consolidation of 1 percent of GDP increases the long-term unemployment rate by 0.6 percentage point and raises by 1.5 percent within five years the Gini measure of income inequality (Ball and others, 2013).-[60]

Clearly, the idea of austerity has had it's day. SA needs to embrace a positive fiscal policy based on repurposing the budget for the maximum enjoyment of human rights.

[60] Ostry, Loungani and Furceri 'Neoliberalism: Oversold?' *IMF Finance and Development Series*, June 2016. Available at: www.imf.org/external/pubs/ft/fandd/2016/06/ostry.htm. There is currently a growing concern that the IMF is "returning to austerity" in its loan agreements with countries that have sought IMF support following the COVID-19 crisis. For example, see: Gallagher 'The IMF's return to austerity?' *International Politics and Society* 13 October 2020. Available at: www.ips-journal.eu/topics/democracy/the-imf-held-hostage-4710/.

3. FROM AN AUSTERITY BUDGET TO A HUMAN RIGHTS BUDGET

As the global pandemic shines an ever brighter light on the failures of neo-liberal economic policies, which have failed to reduce multidimensional poverty and allowed inequality to increase and extreme wealth to flourish,[61] the South African government is far behind the curve by continuing to insist on austerity as a central fiscal policy idea.

COVID-19 ground the world's economy to a halt and South Africa like many other countries shut down to prevent the pandemic's spread. The inequities that were baked into South Africa's austerity budget could and can no longer be ignored. Future generations could have the opportunity to look back at 2020 and view it as a critical turning point, a year in which the South African government chose to move from an austerity budget to a human rights budget. Let's be clear:a pandemic was never a question of "if" but a question of "when." Activists, public health officials and economists around the world have been warning, year in and year out, that we can no longer depend on austerity, fiscal consolidation measures or the "free market" to resolve stagnant living standards, rising inequality, obscene levels of wealth, poverty, unemployment, gender-based violence and climate change.

BJC, member organisations and a variety of progressive economists believe it is time for the government to **close the chapter on the old normal**. The old normal of austerity or fiscal consolidation measures have been shown to be ineffective in increasing sustainable growth and increases inequality, which in turn leads to a breakdown of public infrastructure networks and critical social services, lower employment; increased risk of food insecurity; greater risks of gender-based violence; increased ill-health and mortality from diseases; and faster loss of social cohesion. For South Africa the old normal is hardwired into the country's legacy of colonialism that rendered the country to depend largely on a commodity export-driven economy that saw a protected market for European and US firms' regional branch-plan operations meaning little value, with the exception of the vehicle industry, was added to South African exports.[62]

We can do better by **reimagining the economy for the realisation of human rights** -- and we have seen glimpses of how the South African government can do better, and do more, when pushed to fulfil its Constitutional obligations. For example, the BJC, member organisations and a variety of progressive economists have been campaigning since 1994 for the implementation of income support for those who are 18 to 59 with no or little income. Within three months of the pandemic, the government had increased income support to South Africans via the introduction of the COVID-19 Social Relief of Distress and the Caregiver grants and topping up the child support grant. Again, the national government within a couple of weeks rolled out, under the Unemployment Insurance fund (UIF), a Temporary Employee Relief Scheme (TERS) providing relief for small businesses and individuals that may have had their operations affected by the

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[61] "The parlous state of poverty eradication: Report of the Special Rapporteur on extreme poverty and human rights" July 2020. Available at: https://chrgj.org/wp-content/uploads/2020/07/Alston-Poverty-Report-FINAL.pdf.
[62] https://mg.co.za/analysis/2020-02-20-cyrils-industrial-reboot-will-not-drive-economy-to-success/

pandemic. The government’s 500 billion support package and the speed at which it was implemented (while not without its challenges) was unprecedented and illustrates the power of the government and the competence of the public service when given the chance.

It also again helps to illustrate the **flaws in the South African economy,** not least the increasing precarity of work, the high levels of private debt and overly “financialized” local and international business sector that has been siphoning value out of the economy and rewarding CEOs and shareholders rather than investing in research and development, wages and paying their fair share in taxes. As a result, the government was faced with households that have long been depleted of the necessary financial cushions making it harder to afford a public health crisis like COVID-19.

More importantly, we emphasise that these “spending plans” illustrate that the economic policy that shapes the South African economy can be driven by a rights based approach. The BJC believes that a human rights budget will **invest resources both public and private towards those South Africans whose potential is being thwarted**, whose lives are being minimized and who are dying unnecessarily through femicide, violence, neglect and ecological devastation.

4. EXPENDITURE

Universal basic services

The states' provisioning of universal basic services is critical to the realisation of human rights. Budgeting using a human rights framework demands that any trade-offs in the allocation of additional resources between spending priorities be explicitly articulated. This articulation should demonstrate how the allocation of additional resources to one priority over another better serves the progressive realisation of basic rights and entitlements. So, the decision not to allocate more money to healthcare is only justifiable if the government can demonstrate that additional money available will result in more important gains in access to basic or core rights in other areas such as education, housing and social security. Any spending that does not demonstrably contribute to the realisation of basic rights and entitlements should automatically be of secondary concern.

While this may seem simple enough—especially in South Africa - which has an unambiguous set of core rights—there are inevitable trade-offs between core rights in a resource-constrained environment. Here, for instance, questions arise around what should receive more attention: health or economic development? The two are not necessarily mutually exclusive and the current health crisis provides an opportunity to frame **investments in health care as part of a broader social stimulus that supports economic growth.**

The funds for universal basic services are not just a matter of public expenditure, they are a vital investment of shared resources in the social and economic infrastructure that makes all our lives possible. Orthodox approaches to economics have dichotomised social and economic expenditure, however **it is critical that social expenditure be understood as economic expenditure with favourable fiscal multipliers**. For example, by spending on health or education human capabilities can be raised (expanding supply capacity) and demand is increased for necessary inputs. Similarly, investment in care (childcare, elder, education and health) can increase employment, enabling services that raise womxn's participation in employment, increasing supply capacity in the economy and improving equity.

Yet in the June Supplementary Budget, which was tabled primarily to provide and 're-purpose' state funding to respond to the COVID19 pandemic, the provinces were not allocated any additional funding despite bearing the primary burden for implementing basic education, health care, and social development services. **Because of the austerity mindset gripping the Treasury**, they were instead required to find money for the additional health care services, food relief and PPE for all provincial personnel by 're-purposing' 20% of the equitable share from other services. We do not yet know exactly where these cuts have been made because the provincial supplementary budgets are not yet available on any public platforms.Yet, evidence is starting to emerge that the budgets of some key socio-economic services have been cut.

For example, 8 provinces decided to cut, by 40%, the subsidy paid to NPOs that deliver early childhood programmes and centres. This has resulted in the closure of many ECD centres and the loss of many jobs for women. It has also resulted in the loss of a decade worth of progress in early childhood development goals due to the large number of children under 5 that are no longer in early childhood development programmes.

“Zero based budgeting” must become human rights based budgeting

The establishment of a “human rights baseline” for budget allocations based on comprehensive budget review, with inputs from communities, of what spending is urgently needed to implement Constitutionally mandated socio-economic rights. The National Treasury has indicated that they will be implementing Zero Based Budgeting (ZBB) in the 2021 Medium Term Expenditure Framework (MTEF). ZBB entails “rigorous analysis” (in the words of the Treasury) to decide which line items survive in the budget from year to year. ZBB thus puts everything up for potential cut backs and will be used to cut money from the budget, rather than ensure that socio-economic priorities are appropriately funded.

Wasteful expenditure and corruption must be dealt with by our political leaders, democratic oversight institutions and the National Treasury. ZBB is not a panacea to fiscal distress. Prudent budgeting should always include performance expenditure reviews, as government is undertaking, that aim to reduce, reformulate, or increase budgets based on need.

Examples of areas of expenditure that should be considered for such reviews include:

- Our highly expensive foreign missions, whose contribution does not match their cost
- Extravagant salaries, perks, head offices and other trimmings at our SOEs
- Medupi Power Station, including reviewing the World Bank loan with a view to cancelling this loan facility which is potentially “odious debt” and no longer necessary
- Review the approach to large infrastructure projects that has allowed corruption and mismanagement of these projects to thrive, especially in the water and sanitation sector

A human rights budget adequately engages with why the current system is not working. While ZBB appeals to the markets, it is unclear what problems it seeks to solve and how the budget is presented does not shed light on this. BJC supports making savings on corrupt and wasteful programmes but underperforming programmes, where they are serving an identified need, should not simply be cut out of the budget. **We also need to invest in the long-term capacity and accountability of the state to play its developmental role.**

The BJC has raised concern about the will and the capacity to implement ZBB in a manner that puts the progressive realisation of socio-economic rights at its centre. For ZBB to work in favour of the majority, to give meaning to redistribution and social justice, it (as with all budget decisions), must be undertaken with a commitment to transparency and *meaningful* participation of people who experience the greatest levels of marginalisation and exclusion. Without this commitment to practicing the principles of our constitutional democracy, the trends of the majority of South Africans bearing the cost of government failures are likely to continue.

"Curbing corruption, facilitating community driven oversight over local and municipal budgets, prosecuting and heavily fining anyone found guilty of corruption within government and the private sector."

"I think government should rather use the resources they have effectively and efficiently and close all leakages of public resources that are a result of corruption and maladministration."

- *Respondents to our call for submissions to Imali Yesizwe, on the question: "How do you think the government could collect more revenue or money to fund the realisation of human rights?" October 2020.*

The right to health care services

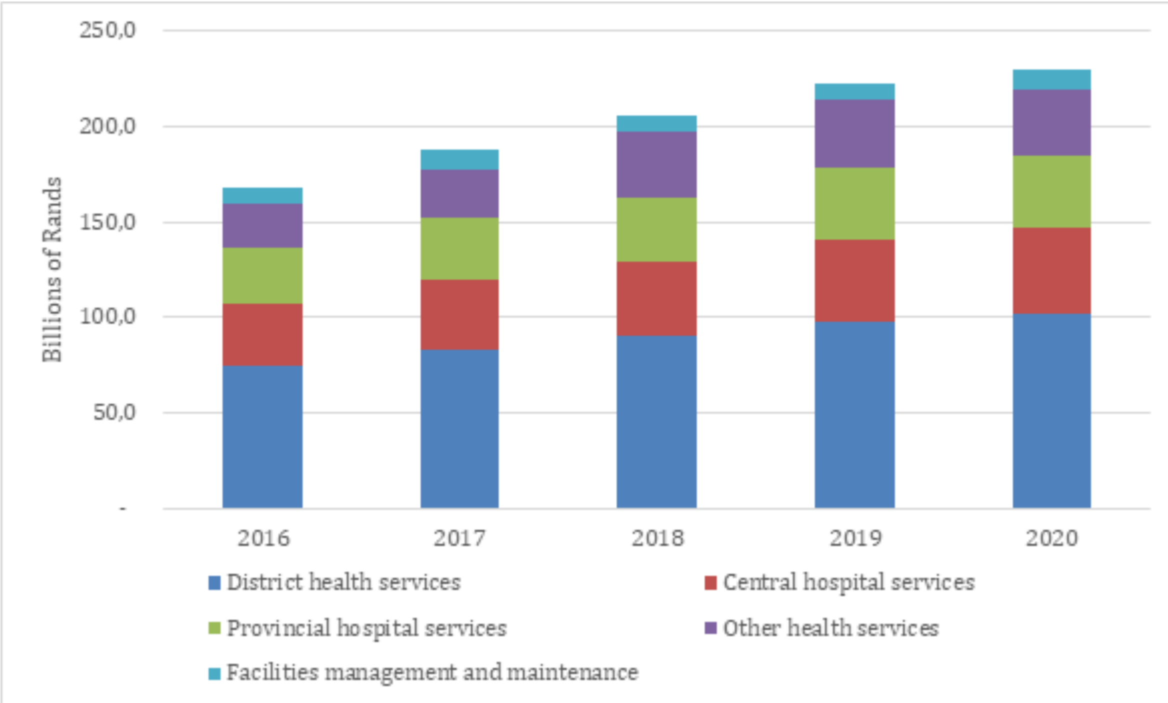
The Bill of Rights as outlined in the South African constitution enshrines into law the right to access healthcare services, including reproductive health care. Access to healthcare not only ensures well-being and happiness for people, but also contributes to the economy by providing a healthy workforce that lives longer[63] . Further, access to healthcare at the point of need ensures that diagnosis and treatment happens early, and lowers the cost resulting from delayed access. The WHO for instance notes that early treatment of cancer not only saves lives, but treatment at early stages of the disease is cheaper. In turn, people survive the disease and are therefore able to return to the labour force and provide for their family. In 2010, the cost of cancer through health spending and productivity loss was projected at US$1.2 trillion[64].

In nominal terms, South Africa's public spending on healthcare grew 36.5% between 2016 and 2020 (see Figure 1). In constant 2019 Rand however, spending only grew 16.1% over the same period. Roughly 80.2% of the total spending goes to hospital services. However, with a population almost at 60 million people, there are clear disparities in access to healthcare, particularly as the public health infrastructure is estimated to provide healthcare to about 84% of the country's population[65] . There is a clear need to increase health spending to address the disparities in access, which contribute to broader inequalities in the country.

Health spending has clear multiplier impacts in that it: a) provides for a healthy citizenry, a) provides jobs to health professionals as well as support staff, and c) creates indirect jobs for the communities in which healthcare facilities are located. This includes eateries, gift shops and waste disposal, for instance.

[63] World Health Organization. Available at https://www.who.int/hdp/en/#:~:text=Better%20health%20is%20central%20to,health%20services%20for%20its%20people
[64] World Health Organization. Available at https://www.who.int/news/item/03-02-2017-early-cancer-diagnosis-saves-lives-cuts-treatment-costs
[65] Mahlathi, P., & Dlamini, J (2015). South Africa's health system: a rapid analysis of stock and migration.

Figure 1: spending on healthcare in nominal terms based on pre-pandemic data



There are clear human rights obligations placed on the government concerning the allocation of additional resources to health. In terms of Section 27 of the Constitution, the South African government has an obligation to sufficiently resource healthcare towards the progressive realisation of the right to healthcare and to justify any limitations in allocating additional resources towards fulfilling this obligation. It is not sufficient for the government to simply say resources are limited and that it cannot allocate more resources to healthcare. It is also not enough to say that 'we cannot allocate additional resources to healthcare because doing so would compromise other areas of spending'.

WHO Model and Approach to Fiscal Sustainability

Our approach to fiscal sustainability in healthcare during times of austerity (and beyond) is based on the World Health Organization's (WHO) six health system building blocks (Figure 8).

Figure 8: Proposed modified system building blocks. Lazarus and France. A new era for the WHO health system building blocks?

1. **Service Delivery**: health systems should deliver effective, safe, quality personal and non-personal health interventions to those who need them, when and where needed, with minimum waste of resources. The WHO maintains that effective service delivery has the following characteristics:
    - Comprehensiveness: services provided should include curative, preventative, palliative, rehabilitative, preventive and promotive care.
    - Accessible: cost, geographic, language, cultural and other potential barriers to care should be minimised.
    - Coverage: all people should be covered regardless of risk or income.

- Continuity: there should be continuity for patients across different service types and all levels of care.
- Quality: services should be effective, safe, patient centred and delivered promptly.

2. **Health workforce**: well-performing health workforce is one which works in ways that are responsive, fair and efficient to achieve the best health outcomes possible, given available resources and circumstances i.e. there are sufficient numbers and mix of staff, fairly distributed; they are competent, responsive and productive.

3. **Essential medicines and health technology**: A well-functioning health system ensures equitable access to essential medical products, vaccines and technologies of assured quality, safety, efficacy and cost-effectiveness, and their scientifically sound and cost-effective use.

4. **Health information systems**: A well-functioning health information system is one that ensures the production, analysis, dissemination and use of reliable and timely information on health determinants, health systems performance and health status.

5. **Financing**: health system financing involves the mobilisation, accumulation and allocation of money to cover the health needs of the people, individually and collectively, in the health system. the purpose of health financing is to make funding available, as well as to set the right financial incentives to providers, to ensure that all individuals have access to effective public health and personal health care. This includes two related objectives: (i) to raise sufficient funds and (ii) to provide financial risk protection to the population. Achieving these objectives then involves the effective implementation of three functions: (i) revenue collection, (ii) fund pooling, and (iii) purchasing/provision of services.

6. **Leadership and governance**: Leadership and governance involve ensuring strategic policy frameworks exist and are combined with effective oversight, coalition-building, the provision of appropriate regulations and incentives, attention to system-design, and accountability.

The WHO framework provides a guide to understanding the structural factors necessary to improve fiscal sustainability during times of austerity. It offers a practical framework on how to implement policy and health system reforms to improve efficiency, reduce wastage, and ensure maximum benefit from available resources.

A Human Rights Perspective on Austerity and Healthcare Spending

Austerity measures can (and often do) compromise basic rights and entitlements of a country's population if due consideration is not given to a state's fundamental obligations regarding the progressive realisation of these rights (OHCHR, 2013). Austerity also threatens foundational rights of equity and social justice. It is therefore critical that austerity, and austerity in healthcare specifically, is approached through a human rights framework.

According to the ICESCR, governments have an obligation to protect existing access to healthcare and to continually expand access for the most vulnerable. Austerity measures that curtail access to basic healthcare without due consideration for these obligations are likely to be in contravention of human rights commitments (UNHROHC, 2013).

Section 27 (1)(a) of South Africa's Constitution deals with healthcare and states that "everyone has the right to healthcare services, including reproductive healthcare". The responsibility for the realisation of these rights is then clearly placed on government in Section 27 (2), which says: "The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of [this right]".

The government has developed legislation, such as The National Health Act (61 of 2003) (NHA), which details its responsibilities about the structure of our health system, how it is organised and the range of services available. The commitments and responsibilities regarding the Constitution and the NHA are then given substance in key policies such as the National Human Resources for Health Strategy, the Primary Healthcare Revitalisation Strategy, and most recently in the National Health Insurance (NHI) White Paper.

One would expect Constitutional obligations, combined with legislative and policy commitments, will provide ample guidance about protecting the right to access health care during times of austerity.

An Approach to Ethical Priority Setting and UHC

In it's report "Making fair choices on the path to universal health coverage", the WHO (2014) argues that access to healthcare is of fundamental importance for people's health and well-being and influences people's opportunities in life, such as their ability to learn and work. However, due to scarcity, priority setting is an inevitable feature of healthcare provision and trade-offs, i.e. creating "winners and losers", are unavoidable. For a society to be considered fair and just, the WHO argues that priority setting cannot be solely based on crude assessments of cost and efficiency. If priority setting does not have fairness and justice at its core, it is likely to exacerbate inequities in access to care and will deepen inequities in society more broadly.

While every country prioritises services, many only do so implicitly. It is critical to develop explicit criteria for categorising services by priority. The WHO draws attention to three fundamental practical criteria for ethical priority setting:

1) Categorise services into priority classes:.
The WHO recommends that countries generate lists of health services, and then rank these on the basis of cost-effectiveness. The concept of cost-effectiveness depends crucially on the idea of a benefit. In quantifying the notion of a healthcare benefit, the WHO appeals to the idea of "healthy lifeyears saved", which is an outcome measure that represents both gains in life years and quality of life. Here, it is important that the definition of 'quality' takes into account the rural healthcare context and adequately acknowledges the impact of relatively small interventions on vulnerable rural patients, such as access to cost-effective rehabilitation services which improve people's capabilities to participate in vital tasks and achieve reasonable lifegoals such as having an education, being able to work, and participate in community life.

2) Give priority to the worst off: In addition to cost-effectiveness over a lifetime, ethical prioritisation involves ensuring priority is given to those who are worst off in terms of health status and social determinants (e.g. income, deprivation and other associated factors such as a rural location). This leads directly to the next criteria.

3) Financial risk protection: In addition to deciding on priority services and populations, priority should be given to ensuring financial risk protection. This means removing cost barriers (out-of-pocket expenditure) associated with accessing care and the potentially catastrophic consequences of paying for access. This can be achieved through pre-payment for care and improved risk-pooling. Financial risk-protection is only ethical if it serves to protect the worse off though. So, a fundamental criterion of financial risk-protection is contribution based on ability to pay and access based on need.

The WHO outlines five trade-offs that are not acceptable in priority setting:

1. Expanding coverage for low- or medium-priority services before there is near universal coverage for high-priority services. This includes reducing out-of-pocket payments for low- or medium-priority services before eliminating out-of-pocket payments for high-priority services.
2. Prioritising very costly services whose coverage will provide substantial financial protection when the health benefits are very small compared to the alternative, less expensive services.
3. Expanding coverage for well-off groups before doing so for worse-off groups when the costs and benefits are not vastly different. This includes expanding coverage for those with already high coverage before groups with lower coverage.
4. First including only those with the ability to pay in the universal coverage scheme and not including informal workers and the poor, even if such an approach would be easier.
5. Shifting from out-of-pocket payment toward mandatory prepayment in a way that makes the financing system less progressive.

For decision-makers this may prove a long list of criteria without enough guidance for implementation. The underlying principle for distribution of healthcare resources should be that all people have adequate access to healthcare, starting off with high priority healthcare and expanding to lower priority healthcare. Principles to determine high priority healthcare need to be identified, along a hierarchy of health needs over a lifetime. Such principle would include priority for serious conditions that are life-threatening or impair functioning with priority for the young. What follows from this is the priority to prevent and treat serious conditions early over more expensive treatment at an advanced stage of illness. Such priority healthcare services should be available to all, regardless of personal circumstances such as place of living or ability to pay. For instance, the reality of rural infants and children not accessing basic healthcare for preventable and treatable conditions is under no circumstances justifiable. In addition, while we can't guarantee rural communities 'equal' ease of access to specialised healthcare services in comparison to their urban counterparts, what we can and must guarantee is timeous detection of need and a functional, affordable and dignified referral pathway to such services concentrated in urban settings.

Leveraging National Health Insurance Reforms for Fiscal Sustainability in South Africa

The NHI, now into its second decade of planning and piloting, is a set of reforms aimed at changing the way services are delivered and financed. Both have implications for fiscal sustainability in healthcare and funding will need to increase well beyond inflation each year over th The expansion of services will undoubtedly require significant reforms to healthcare funding in a unified health system.

The extent to which more money can be allocated to health is restricted by a multitude of factors, not least of which is slow economic growth and austerity. The impact of a constrained fiscal environment in South Africa will become even more apparent as resource demands increase with the implementation of the NHI.

Regardless of whether the NHI takes off or not, there is always a need for additional money to be added to health spending each year. At a minimum, extra resources are needed to account for the effects of inflation on prices in the health sector. Realistically though, more healthcare workers are always necessary to broaden access to services and to account for ever-increasing demand.

The implementation of the NHI provides the perfect opportunity to reform healthcare financing in such a way as to integrate fiscal sustainability into systems and processes. It is therefore critical that financing take centre stage over the next decade as NHI reforms are rolled out

Human rights obligations and ethical decision-making

The importance of leaders working within a defined ethical framework becomes most apparent during times of austerity. As resources become increasingly constrained, decision makers are expected to balance trade-offs within an increasingly constrained resource envelope. Without guidance on how to set priorities to best protect access to healthcare for the most vulnerable, priority setting can simply become a cost-cutting exercise.

The first step in entrenching ethical decision making in the health system is to build it into policy, strategic planning, and budgeting processes. The NHI provides the perfect opportunity to do this. In addition, if the basis for decision making is transparent, there is opportunity for public participation to provide the checks and balances needed to secure ethical decision making as an overarching framework.

The right to basic education

"The delay of the implementation of Norms and Standards has been one of the greatest concerns for schools in the Eastern Cape. Many schools are still underdeveloped and have no access to proper water and sanitation as a result of this. The government needs to prioritize the safety and well being of learners in our country. We cannot still have illegal structures such as pit latrine toilets in schools, how many learners need to drown before this is prioritized. If more funds were available I would definitely direct it towards building and renovating schools in the Eastern Cape to be more conducive for learning for all learners. Schools where learners feel safe and proud of."

"The Government can start building of new class rooms and improvement of water and sanitation"

- *Respondents to our call for submissions to Imali Yesizwe, on the question: "How could South Africa be spending or prioritising its money differently?" October 2020.*

The constitutional right to basic education requires the government to provide adequate and accessible basic education to all learners. South African courts, including the Constitutional Court, have elaborated on the right to basic education by stating that it consists of certain core components. These include, among others, safe and sufficient infrastructure[66], transport[67], and school equipment such as textbooks[68], desks and chairs.[69] Furthermore, the Constitution states that the right to basic education is an immediately realisable right. This means that, unlike many other socio-economic rights, the provision of basic education is not subject to progressive realisation or available state resources. This underscores the importance the Constitution places on basic education as a means of achieving the broader constitutional goals of equality, dignity and freedom. It is against this backdrop that the funding and expenditure of the basic education sector must be considered.

Table X: Budget cuts to the department of basic education

Rand in millions	2016/17	2017/18	2018/19	2019/20	2020/21
Nominal adjusted	22 413	22 993	23 669	24 504	25 328
Annual % change	5,3%	2,6%	2,9%	3,5%	4,5%
Real	26 702	26 163	25 748	25 582	25 328
Annual % change	-0,9%	-2,0%	-1,6%	-0,6%	-1,0%

Source: Adjusted Estimates of National Expenditure[70]

Over the last five years we have witnessed the de-prioritisation of basic education funding. At the national level, the Department of Basic Education's (DBE) budget has been shrinking since 2016, and this trend continued into the 2020/21 financial year, with a decrease of 1.0 percentage point in the February 2020/2021 budget, when inflation is taken into account. The consequences of this cut are felt across various education priorities and include cuts to school infrastructure grants, the National School Nutrition Programme (NSNP) and the DBE's Second Chance programme that supports learners to pass their matric exams.

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[66] Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure (GNR 920 of 29 November 2013, Government Gazette No 3708)
[67] Tripartite Steering Committee and Another v Minister of Basic Education and Others 2015 (5) SA 107 (ECG)
[68] Minister of Basic Education v Basic Education for All 2016 (4) SA 63 (SCA)
[69] Madzodzo and Others v Minister of Basic Education and Others 2014 (3) SA 441 (ECM)
[70] Adjusted Estimates of National Expenditure (2016-2019) and Estimates of National Expenditure (2020). Available at:
http://www.treasury.gov.za/documents/mtbps/2016/adjustments/Vote%2014%20Basic%20Education.pdf;
http://www.treasury.gov.za/documents/mtbps/2017/aene/Vote%2014%20Basic%20Education.pdf;
http://www.treasury.gov.za/documents/mtbps/2018/aene/Vote%2014%20Basic%20Education.pdf;
http://www.treasury.gov.za/documents/mtbps/2019/aene/Vote%2014%20Basic%20Education.pdf;
http://www.treasury.gov.za/documents/national%20budget/2020/review/FullBR.pdfhttp://www.treasury.gov.za/documents/national%20budget/2020/ene/Vote%2016%20Basic%20Education.pdf

The 2020/2021 February budget revealed for the first time in recent years, a decrease in the total basic education allocation (which includes monies allocated to provincial education and national departments) in real terms.

Furthermore, numerous challenges have confronted both the DBE and provincial education departments (PEDs), which have affected delivery and in some cases resulted in cuts to important programmes such as school infrastructure. These include a lack of capacity, under expenditure, and irregular or wasteful expenditure. These trends are particularly apparent in school infrastructure and have led the DBE to miss key legally binding deadlines for the School Infrastructure Minimum Norms and Standards.

The emergence of Covid-19 illuminated the stark inequalities in our education system - including infrastructure backlogs that mostly affect learners attending under resourced schools. The pandemic also precipitated further budget cuts from the education sector. At the tabling of the Supplementary Budget in June 2020:

- R2.1 billion was cut from the DBE's budget. Some funding that was previously allocated to longer-term projects such as support for maths, science and technology and for learners with profound intellectual disabilities, was also cut.
- A net total of R1.7 billion was cut from school infrastructure grants alone, and a further R4.4 billion has been reallocated from these grants to cover COVID-19 expenditure needs. It is astonishing that in a moment which has highlighted the painful consequences of government's failure to provide schools with adequate infrastructure and basic services such as clean water and safe toilets, school infrastructure funding has been further reduced.
- No new funding was allocated to the National School Nutrition Programme (NSNP). R50 million was reprioritised within the programme to fund emergency hygiene measures. This was a missed opportunity to boost a programme that reaches millions of learners and, by extension, their families, and could therefore be expanded to assist in meeting escalating food relief needs.

These reductions, in part, are due to basic education not being considered a "frontline department" during the COVID pandemic. Rather the sector has been identified as a "donor department" - cutting its overall budget to support other "frontline" departments.

The basic education sector did not receive any additional funding to help cover the cost burdens imposed by Covid-19. This has forced the DBE, PEDs, and schools themselves to reallocate their already overstretched budgets. A consequence of this is schools being unable to maintain and upgrade dilapidated or dangerous infrastructure, and being unable to purchase school furniture or other teaching and learning support materials.

Covid-19 has shown us that the government needs to appreciate the crucial and fundamental importance of schooling and the school space. The pandemic has illustrated that not only are schools sites of learning, but they are also safe spaces for children. Schools have the potential to serve as key points for nutrition, social relief and psycho-social support. Over and above this, schools could be leveraged more effectively during the Covid-19 pandemic to deliver public health messaging.

Recognition of the importance of education and schooling must correlate with increased funding towards the basic education sector.

A human rights orientated budget should:

- Ensure that basic education funding maintains positive growth and keeps in line with inflation specific to the sector, as per the Basic Education Price Index.
- Ensure that National Treasury increases the allocations towards school infrastructure..
- Ensure that the NSNP has the funding required to perform its functions comprehensively while schools are open and in cases where learners do not attend school every day.
- Ensure that PEDs have sufficient funding to meet the national minimum thresholds for per learner funding.
- Ensure effective oversight of education infrastructure spending. This can be done through a number of measures including clear procurement guidelines which foster efficiency and accountability as well as building capacity in PED's to implement and manage projects.
- Ensure that all schools comply with the norms and standards for school infrastructure and have safe, dignified and adequate sanitation, as well as access to water.

Early Childhood Development

ECD operators in South Africa are largely NPOs and micro-social enterprises – mostly owned and run by black women. They operate in a quasi-informal manner, providing a service that is needs-based in poor communities with limited cash flows, which places them way below the minimum wage.[71] They are funded by provincial government via partial subsidies and supplement their budgets with fees from parents and donations from the private sector and other donors.

ECD is critical for transforming gender relations of care and for realising children's rights. However, by mid-July to mid-August only 13% of children aged 0-6 were attending ECD programmes compared to 47% in 2018[72] and only 32% of ECD programmes had re-opened.[73]

These surveys were done at a time when ECD centres were legally allowed to be open, yet the majority were not operating. The main reason cited for not operating was financial:

- during lockdown manyparents were unable to pay fees and many were still unable to afford fees in August due to the impact of lockdown on their income;
- 8 of the provincial departments of social development withheld government subsidies from NPO run ECD centres during lockdown or paid only 60% of the full subsidy,

[71] BRIDGE, Ilifa Labantwana, National ECD Alliance, SmartStart, SA Congress for ECD. 2020. "Second Survey Assessing the Impact of COVID on ECD." August 2020.
[72] NIDS CRAM Wave 2
[73] BRIDGE, Ilifa Labantwana, National ECD Alliance, SmartStart, SA Congress for ECD. 2020. "Second Survey Assessing the Impact of COVID on ECD." August 2020.

- the sector has received no COVID relief from government,
- ECD centres were required by government to demonstrate that they could meet the COVID health and safety requirements which many could not afford to purchase.

The last time that ECD attendance rates were as low as this was in the early 2000s. ECD attendance rates are therefore currently the lowest they have been in 18 years.[74] At this point it is not yet clear what proportion of these declines are only temporary, or whether there will be a lasting impact on ECD enrolment in the country.

The reason given by provincial departments of social development for withholding 40% of the ECD centre's subsidies is that the budget needed to be re-purposed to fund COVID19 relief efforts such as food parcels. Provinces receive their funding for ECD subsidies from two sources, the first is the equitable share and the other is via a conditional grant. With regards to the conditional grant, provinces do not have the statutory right to re-purpose these funds. While it is arguable that they have the discretion to repurpose funds in the equitable share, this cannot be done if they had already signed service level agreements (SLAs) with the NPOs that contractually commit them to paying 100% of the subsidies. Furthermore, the National Minister publicly committed in the early stages of lockdown that ECD subsidies would continue to be paid during the lockdown and National Treasury supported and re-iterated this commitment. Despite this, 8 provinces decided to cut funding to ECD centres.

When the Minister announced that R1.3b would be allocated to the employment of ECD compliance monitors to ensure that all ECD programmes were complying with the re-opening safety protocol requirements, the ECD sector embarked on protest action calling for the R1,3bn to rather be allocated to save ECD jobs and programmes. After engagement with the sector, the Department of Social Development committed to working on an alternate proposal that would better support the ECD sector. Despite the initial commitment of a R1,3 bn relief package, the Department has only allocated R380m as direct COVID relief for the sector and is using the rest of the package for other purposes including compliance monitoring.[75]This clearly shows that the Department places far greater emphasis on compliance monitoring during a time of severe crisis rather than supporting a very vulnerable segment of the population.

A human rights budget would:

- Increase the share of national income to provinces to prevent provinces having to cut basic services like ECD.
- ensure all provinces adhered to the provisions of the ECD conditional grant which does not allow for re-purposing of the ECD subsidy.
- reverse decisions by the provinces to cut ECD subsidies and provide full backpay to all ECD centres affected by the cuts.
- allocate and distribute the additional R1,3bn promised COVID relief to the ECD sector to restore jobs and enable programmes serving the poorest children to re-open.

Achieving "bang for the buck" is obviously an important consideration, what is known as the "Marginal Value for Public Funds (MVPFs)". This needs to take account the effectiveness and impact of government expenditure to date and should be country specific. In the United States for example, an analysis of 133 historical policies over the last century, finds that expenditures

[74] NIDS CRAM Wave 2
[75] Department of Social Development (October 2020) 'Restoring the provision of ECD services'

on children from early education to child health insurance to college expenditures yielded the best results.

The right to social security

> ***"My community would benefit from a basic income grant and better infrastructure"***
> *- Respondent to our call for submissions to Imali Yesizwe, on the question: "How could South Africa be spending or prioritising its money differently?" October 2020.*

The South African government is under a constitutional and an international obligation[76] to provide social assistance to those unable to support themselves or their dependents, particularly the 6 million children living below the food poverty line and adults between the ages of 18 to 59 with no or little income who are not provided for by SA's social assistance programme. In terms of SA Constitutional law - the state has a priority obligation to provide social assistance aimed at reducing child malnutrition and hunger and gender inequality. The COVID-19 pandemic induced both humanitarian and an economic crisis which have exacerbated unemployment, inequality and poverty. The government introduced limited relief measures to buffer the immediate negative consequences of the pandemic.

In late April 2020, the President and the Finance Minister announced a R50 billion social relief package to deal with the impact of COVID-19 pandemic. However, this budget was reduced to R41 billion and it would appear that the budget for the COVID-19 Social Relief of Distress grant was slashed by 50%. The reduction of the budget by National Treasury was explained as "low up-take", but this was contested as SASSA took a while to design the COVID-19 Social Relief of Distress grant automated system, publish the Regulations and roll out the implementation.

Applicants continue to experience challenges and rejections, attributable to the design and requirements of the automated system and the Regulations, which include the following:

- the verification of "income" against outdated databases particularly the UIF, NSFAS and SARS databases;
- the qualifying income threshold of 'zero' implies the state expects people to survive on R350 a month despite this amount being below the food poverty line of R585/month;
- the controversial pilot which involved verifying of "zero" income through the additional mechanism of analysing personal bank accounts which resulted in a cutback of almost 2 million grantees in September/ October, while this is not applicable to those receiving cash.

Presentations made to the Social Development Portfolio Committee dated 14 October 2020 indicates that SASSA received approximately 9 million applications for the COVID-19 SRD grant for the period May to August 2020 but paid on average only 4,6 million people per month over

[76] The UN Committee on the International Covenant on Economic, Social and Cultural Rights (ICESCR) compels the South Africa government to report by 31 October 2020 on the measures it has put in place to ensure that those aged 18 to 59 with no or little income benefit from social assistance (Para 83]. The Committee also recommended that the state increase the very small Child Support Grant at least to the level of the food poverty line (Para57).

the 4 month period. The total budget spent in these 4 months was R6,5 billion. In addition, approximately 7.1 million received the Caregivers grant of R500 per month to the value of R11 billion from June to August.

On 15 October the President announced that only the COVID-19 SRD R350 grant would be extended for a further 3 months (November 2020 to January 2021), despite the call from civil society that both the SRD grant and the Caregiver grants be extended for 5 months and increased to R585/month to match the food poverty line.

This miserly decision means the R500 caregiver grant which reached the poorest women and children in South Africa has ended. A mother and child will be expected to both survive on only R450/month from 1 November onwards.

A human rights budget would:

1) Extend both the COVID-19 Social Relief of Distress (R350) and the Caregivers (R500) grants and equalize the value to that of the food poverty line of R585 per month from 1 November 2020 to 31 March 2021. Paying these grants for a period of five months will amount to R37bn.
2) Increase the Child Support Grant amount of R450 to R585 per month to ensure that the more than 6 million children living below the food poverty line can be protected against hunger, malnutrition and stunting.
3) Remove the “zero” income criteria on the COVID-19 SRD grant and introduce a means test threshold equivalent to the Child Support Grant income threshold.
4) The appeals process as outlined in the DSD Regulations must be adjusted: a) The timeframe to make appeals for the COVID-19 SRD grant must be extended from 15 days to one calendar month, b) provision must be made to submit additional documentation by unsuccessful applicants, and c) and where the appeal is successful the grant must be paid retrospectively from date of submission of the application.
5) SASSA must ensure that grantees receive all the monthly payments due to them post the ending date of the SRD grant programme.

Why social grants are so critical for economic sustainability?[77]

Increasing social transfers is shown to be effective on a number of levels. First, it targets a population group which is likely to spend immediately. Lower income deciles, the recipients of social grants, have a higher propensity to spend. A study on the child grant estimates the marginal propensity to consume to be 0.7. This means that households that receive child grants spend 70% of the money on consumption - mainly food, transport and household products. The authors also note that this value is probably higher with families not diverting funds to saving. Funds spent on income transfers therefore flow back into the economy and stimulate growth. Second, such spending improves the lives of the most vulnerable. Social grants comprise the largest share of income for the 40% of individuals with the lowest incomes.

[77] Abstracted from: Sibeko, B. & Isaacs, G. (2020). A fiscal stimulus for South Africa. Institute for Economic Justice Working Paper Series, No 3.

Third, social grant spending can advance supply capacity and structural transformation in two ways – through human capital development and local expenditure. On human capital development, social grants are an important way to allow the poorest to invest in health and education, "supporting and strengthening livelihood strategies and productive activity, including informal sector activity, domestic labour, child, ill, disabled and elderly care". Further, they "allow for flexibility in which the income can be used to support economic activity and mitigate against shocks". An assessment of the child support grant concluded that grants are "consumption expenditure that enhances intergenerational equity and also promotes productive efficiency and human capital". On structural transformation, analysis undertaken using the Living Conditions Survey 2014/2015 and Quantec's Republic of South Africa's Standardised Industry Data Trend Tables 2017 shows that individuals' consumption spending has a lower propensity to lead to imports than the spending in the economy as whole. Further, poorer decile spending has an even lower import propensity and greater forward and backward linkages in the economy. For example, the poor mostly spend on food items which are produced locally. Higher-income deciles spend on things like insurance, fuel, cars, telecommunication, accommodation and catering.

Undoing austerity therefore requires real increases to social grants and the extension of those covered. Between 2014/15 and 2018/19 there were "limited increases or declines in the real value of social grants, on which the lowest-income households rely". During this period old age pension and child support grants rose below CPI inflation twice each, and below food price inflation on all but one occasion for the old age pension and two occasions for the child support grant. Real rises in fuel levy outstripped the increases to social grants by large margins in all but one instance (the same is true for excise taxes). It is also worthwhile to note that the value of the grants, as a share of different poverty lines, has fallen. In 2011/12, the child support grant would have covered 79% of the cost of basic foodstuffs necessary to avoid hunger. By 2018/19 it only covered 71% of the cost of these goods. Similarly, the value of the old age pension grant had been declining relative to the upper-bound poverty line between 2014 and 2019.

Towards a universal basic income grant (UBIG) for all

The UBIG is consistent with section 27 of the South African Constitution which underscores peoples rights to social security and essential public goods.

The design of such a benefit has to have the following features:

- Universal – apply to all adults and children;
- Basic – a resource transfer that would make a difference in people's living conditions;
- Income – a cash benefit;
- Grant – from government to all;

South Africa already has 18 million beneficiaries in receipt of a social grant and an innovative new SRD grant for unemployed adults. These systems provide the required foundation for phasing in basic income support for all with a focus on the most vulnerable first. For example -

immediately increasing the three lowest grants, namely the SRD, Caregiver and CSG grants all to the food poverty line of R585/month, could be a first step towards a UBIG for all. In the long run a UBIG should be at a living wage level.

The right to food

"Our community right now they [are experiencing] hunger many of them, because of Covid 19, and again most companies retrench works even mines, no councillors supposed to give Community food parcels they stole them and give their families and friends."

- *Respondent to our call for submissions to the Human Rights Budget, on the question "How could South Africa be spending or prioritising its money differently?" October 2020.*

Government's Economic Recovery Plan will not work if we do not deal decisively with the food and imminent hunger crisis. The household affordability crisis which families have borne for several years has deepened dramatically and rapidly over the past several months. Households have no buffers/no savings to absorb shocks. Women are struggling to feed their families and keep families safe from Covid19.

Stats Sa's latest job statistics for Q2 show that the expanded unemployment rate for Black South Africans is 46,3%. On average a Black South African worker supports 4,6 persons on her wage. The NMW, which is R3 650 at its maximum in October, when dispersed in a family is a poverty wage. Our social grants (so critically important) are also so obviously inadequate.

Most South African households living on low incomes cannot get through the month on the level of income that comes into the home and cannot afford even the very basic goods and services they need. Over the past few months transport fares have increased by around **7%** and electricity by around **8%.** Together transport and electricity can take as much as 50% of the low wage. After these a myriad of others essential expenses competes in the purse with food. Household food baskets for low-income households have increased by **9,1%** since March 2020.

PMBEJD's October Household Affordability Index, which now tracks food price data from 44 supermarkets and 30 butcheries in Johannesburg, Durban, Cape Town, Springbok and Pietermaritzburg shows that:

*The average cost of the Household Food Basket is **R3 916,72 in October 2020.** The Household Food Basket increased by **R60,39 (1,6%)** between September 2020 and October 2020. We are registering increases across baskets month-on-month in all areas, except for Springbok.*

The cost of the *Pietermaritzburg* Household Food Basket was **R3 709,92**.
The cost of the *Durban* Household Food Basket was **R3 907,62.**
The cost of the *Cape Town* Household Food Basket was **R3 920,86**.
The cost of the *Joburg* Household Food Basket was **R3 969,41.**
The cost of the *Springbok* Household Food Basket was **R4 034,53**.

The upward trend in the cost of The Household Food Basket for Joburg, Durban and Cape Town is consistent with the trends we have seen in the original Pietermaritzburg basket which provides a much longer set of data and covers the lockdown and Covid19 period.

- Over the past month the original PMB basket increased by **R60,75 (1,8%).**
- From pre-lockdown March to October 2020 (over the past seven months) the PMB basket increased by **R293,38 (9,1%). The main foods driving higher increases in the basket are** maize meal which increased by 10%, Rice by 28%, Cake Flour by 17%, Sugar beans by 43%,Cooking oil by 14%, Potatoes by 67%, and Brown bread by 15%. These foods are prioritised and bought first. These are significant increases on the core staple foods in a low-income food basket.
- The year-on-year increase on the PMB Basket is **R329,74 (10,4%).**

Our projections (based on past data trends, and current data) is that the cost of household food baskets purchased by low income families will continue to rise through the festive season and into the New Year.

If we contextualise the price of the Food Basket within a household affordability framework by using the maximum NMW for a General Worker in October 2020, the wage is **R3 653,76.** The average cost of the Household Food Basket is **R3 916,72. Even if the entire wage is spent on food (and we know it is not) families will still come up short.** The cost of the Food Basket is well beyond the affordability thresholds of families living on low incomes..

What this means is that:

1. Women will continue to be forced to prioritise the most important foods (core starches) and continue to cut back or drop nutritionally rich foods out of the trolley which are essential for health, well-being and strong immune systems.
2. Families will continue to underspend on food and food will continue to run short before the end of the month.
3. Women will continue to sacrifice their bodies for their children as an attempt to try and prolong the period of relatively better off nutrition for their children. Women will continue to get sick.
4. Children under 5 will be at increased risk of stunting with long term irreversible impacts for these children and the country as a whole.
5. Families will continue getting deeper and deeper into debt as women try and make up the income shortfall by borrowing money at exorbitant interest rates.
6. The health and well-being of millions of families and specifically women's and children's' will continue to deteriorate, worker productivity will decline, more people will get sick and recovery will be longer, our health, education, economic and social outcomes will continue to unravel.
7. Everything rests on our bodies. The connexion between what we eat and how our bodies function is direct.

The new COVID Relief SRD and Caregiver Grants, and the top-ups to the existing social grants have helped but they have not been enough. They have just been enough to absorb the increases in food prices but are not enough to cover the extra food needed with workers at home and children still not all back at school or ECD full-time.

In October 2020, the average cost to feed a child a basic nutritious diet cost **R693,05.** The Child Support Grant of **R440** a month is **25% below the food poverty line of R585** per capita and a further **37% below the October cost of R693,05 to feed a child a basic nutritious diet.**

Families eat out of the same pot. If government removes the R250 top- up on the Old Age Grant and the R500 Caregiver Grant, then hunger will explode in millions of our children's bellies and condemn yet another generation to desperate poverty.

Not extending the COVID Relief grants will continue the systematic violence levied against womxn, mothers, and children. We are still in a crisis. Covid19 is still with us. Jobs have not been recovered. The household affordability crisis has deepened. Household debt levels have escalated. Food prices are still on the rise. The risk of widespread hunger is still alive. Millions of South African families cannot be abandoned now, when we are still in the midst of a pandemic, a massive household affordability crisis and an economy which is struggling to recover.

OCTOBER 2020 PMBEJD Household Food Basket: per area & averaged

Foods tracked	Quantity tracked	Joburg	Durban	Cape Town	Springbok	Maritzburg	Average
Maize meal	*30kg*	R 218,97	R 190,72	R 240,61	R215,97	R 232,17	R216,84
Rice	*10kg*	R 135,41	R 135,57	R 146,99	R156,99	R 111,79	R136,70
Cake Flour	*10kg*	R 95,49	R 90,74	R 94,89	R101,66	R 86,59	R93,33
White sugar	*10kg*	R 151,87	R 141,07	R 159,21	R178,66	R 145,99	R151,54
Sugar beans	*5kg*	R 122,81	R 126,56	R 124,07	R136,57	R 120,59	R124,93
Samp	*5kg*	R 40,82	R 44,57	R 43,49	R51,30	R 32,99	R42,53
Cooking oil	*5L*	R 105,99	R 106,16	R 110,12	R106,15	R 103,99	R106,71
Salt	*1kg*	R 13,40	R 12,82	R 6,65	R16,66	R 15,39	R12,23
Potatoes	*10kg*	R 77,17	R 75,16	R 87,80	R90,46	R 80,81	R80,33
Onions	*10kg*	R 56,44	R 61,89	R 74,05	R97,51	R 54,27	R64,64
Frozen chicken portions	*10kg*	R 308,24	R 315,46	R 311,98	R326,17	R 309,89	R312,62
Curry powder	*200g*	R 31,16	R 29,99	R 29,65	R31,99	R 29,79	R30,38
Stock cubes	*24 cubes x2*	R 39,93	R 37,98	R 38,42	R38,65	R 35,58	R38,40
Soup	*400g x2*	R 41,96	R 33,98	R 40,18	R33,31	R 27,98	R36,81
Tea	*250g*	R 23,90	R 22,24	R 23,77	R18,99	R 25,19	R23,18
Full cream milk	*6L*	R 72,73	R 75,90	R 68,61	R69,99	R 83,03	R73,81
Maas	*4L*	R 47,48	R 42,63	R 49,43	R49,99	R 43,39	R46,26
Eggs	*60 eggs*	R 97,31	R 98,81	R 97,27	R114,65	R 88,79	R98,01
Chicken feet	*2kg*	R 82,15	R 77,10	R 27,65	R59,98	R 71,89	R65,78
Gizzards	*2kg*	R 68,49	R 69,19	R 51,65	R69,98	R 64,39	R64,40
Chicken livers	*2kg*	R 55,98	R 54,44	R 41,31	R46,98	R 51,94	R51,18
Beef livers	*2kg*	R 78,61	R 69,19	R 68,38	R71,98	R 76,94	R73,18
Beef	*2kg*	R 142,49	R 140,44	R 135,98	R134,94	R 150,44	R141,10
Wors	*2kg*	R 118,22	R 109,44	R 102,31	R109,94	R 119,39	R111,88
Inyama yangaphakathi	*2kg*	R 80,77	R 76,44	R 65,58	R99,90	R 76,89	R76,65
Fish	*2kg*	R 67,88	R 102,94	R 78,79	R138,94	R 106,99	R91,34
Tomatoes	*6kg*	R 81,08	R 80,44	R 96,86	R107,94	R 68,48	R85,19
Carrots	*5kg*	R 31,78	R 29,44	R 26,77	R19,99	R 19,19	R27,95
Butternut	*10kg*	R 117,47	R 120,58	R 102,84	R93,72	R 126,37	R114,36
Spinach	*8 bunches*	R 85,42	R 68,29	R 83,49	R103,92	R 34,94	R75,90
Cabbage	*2 heads*	R 27,65	R 28,31	R 43,53	R39,31	R 28,38	R32,27
Green pepper	*2kg*	R 53,98	R 44,18	R 57,98	R51,31	R 39,98	R50,30
Cremora	*800g*	R 35,90	R 35,66	R 34,32	R30,66	R 33,79	R34,84
Tinned pilchards	*400g x6*	R 114,39	R 120,94	R 117,67	R111,94	R 104,34	R115,62
Canned beans	*410g x6*	R 65,23	R 63,94	R 65,94	R71,94	R 64,74	R65,44
Bananas	*4kg*	R 56,80	R 58,96	R 60,39	R71,96	R 42,36	R57,51
Apples	*3kg*	R 40,63	R 30,24	R 32,54	R34,32	R 24,79	R33,42
Orange	*7kg*	R 56,21	R 79,44	R 66,78	R44,78	R 36,49	R62,68
Margarine	*1kg*	R 36,98	R 29,66	R 31,65	R27,32	R 37,99	R33,08
Peanut butter	*400g x2*	R 61,81	R 63,15	R 61,98	R52,65	R 63,18	R61,74
Polony	*2.5kg*	R 48,28	R 50,55	R 41,99	R45,99	R 59,19	R48,58
Apricot jam	*900g*	R 27,12	R 28,57	R 27,72	R25,66	R 28,39	R27,72
White bread	*25 loaves*	R 345,29	R 334,13	R 333,11	R274,75	R 291,40	R327,62
Brown bread	*25 loaves*	R 307,75	R 299,75	R 316,44	R258,08	R 258,85	R297,72
Total household food basket		**R 3 969,41**	**R 3 907,62**	**R 3 920,86**	**R 4 034,53**	**R 3 709,92**	**R 3 916,72**

The **Household Food Basket** has been designed together with women living on low incomes in **Johannesburg, Durban, Cape Town, Springbok and Pietermaritzburg.** It includes the foods and the volumes of these foods which women living in a family of seven members (an average low-income household size) tell us they typically try and secure each month, given affordability constraints. Food prices are tracked directly by women data collectors off the shelves of **44 supermarkets and 30 butcheries that target the low-income market** and which women identified as those they shop at where they live. Food selection at the supermarket shelves mirrors how women themselves make decisions at the supermarket shelves viz. that the foods are chosen on relative affordability and reasonable quality, and food brands are switched to seek out the cheapest prices and special deals. The date for data collection is between the 1st and 4th day of each month. There are 44 foods in the household food basket. **The Household Food Basket accurately captures the real costs of a food basket for households living on low incomes.** *Note that The Household Food Basket is not nutritionally complete. It is a basket of food which women try and secure each month for their families given affordability contraints.*

The right to water and sanitation

> **“Provision of water and sanitation**
>
> **“Water taps - they don't have running water since it was said that they will introduc**
> **new taps**
>
> - Respondents to our call for submissions to Imali Yesizwe, on the questio
> “How could South Africa be spending or prioritising its money differently
> October 202

South Africa is currently not on track to reach its global commitment to meet the water supply and sanitation targets of Sustainable Development Goal 6 which underpins the basic human right to water and sanitation.

The water sector receives approximately R70 billion annually from its own revenue and over R40 billion in national government budgetary transfers to local government in addition to the R17 billion budget of the Department of Water and Sanitation (DWS). However, many municipalities and the DWS itself have failed to use their resources effectively. While municipalities and the DWS call for more investment funds, DWS acknowledges that a substantial proportion of the investment required is to rehabilitate and replace infrastructure due to inadequate maintenance.

Critical policy and institutional issues need to be addressed in order to ensure that the stated priority of providing basic services for all is implemented in practice. It is therefore recommended that the indicative budget allocations (DORA 2020) be maintained but not increased until policy and institutional arrangements can ensure that the provision of basic services is prioritised and effectively delivered. In the interim, the focus should be on large scale infrastructure investment to ensure the long term sustainability of the water resource systems that underpin the water security of the majority of people in the country.

A substantial proportion of funding required should be sourced off-budget from the private sector water users whose water charges will underpin these investments. Public project implementing agencies such as TCTA and water boards must collaborate with private water users and funding partners to ensure that projects are cost-effectively designed and phased and built efficiently using transparent tendering processes.

While additional allocations to compensate municipalities for a loss of revenue during the COVID period would be appropriate, this should be used, in the first instance, to pay outstanding debt to bulk water providers (DWS and Water Boards). This would support the ongoing operational viability of these self-financing public utility organisations.

The Sustainable Development Goals

South Africa is currently not on track to reach its global commitment to meet the water supply and sanitation targets of Sustainable Development Goal 6.

These are:

- Target 6.1: Achieve access to safe and affordable drinking water
- Target 6.2: Achieve access to sanitation and hygiene and end open defecation

In both cases, an important criterion used is that services should be ‘safely managed’ which requires the services are both reliable and safe. In South Africa, approximately 3 million people do not have access to any adequate water supplies and, according to StatsSA Household Surveys, services to over 30% of households are unreliable. The status of sanitation provision is even worse.

The DWS National Water and Sanitation Masterplan

There is currently no convincing pathway to address this challenge. The ‘Masterplan’ prepared between 2016 and 2018 and released by the Minister of Water and Sanitation in 2019 states that the sector requires infrastructure investment of R90 billion annually but can currently only fund R50 billion of this.

The plan estimates that roughly R100 – R120 billion is required annually to operate and maintain water and sanitation infrastructure. To fund these expenses, over R72 billion is estimated to come from user charges and R29 billion from the proportion of the Equitable Share of national revenue allocated for water and sanitation.

The plan also acknowledges that much of the infrastructure investment required is the result of the failure to maintain existing infrastructure. As a result, infrastructure has deteriorated prematurely and now required refurbishment or replacement.

Framework of analysis

The October 2020 MTBPS is not the primary budget allocation but rather an indication of the likely trends and the key policy considerations that guide them

As Mboweni reminded us in 2019, from 1997, it has been stated that “There is no point in publishing a Policy Statement if it simply means publishing the Budget three months early. The purpose is to open up the debate before the (actual) Budget is finalised.” So what should the focus be for water and sanitation services in the current conjuncture? The priority must be to ensure that essential services do not collapse. It is also important to support improvements where performance is failing. But it is critical not to give more funds to institutions that have misspent or failed to spend their current allocations. In addition, the MTPBS must support economic recovery in a manner that sustains and grows jobs as well as the making more resources available for public purposes.

Local government funding for water

Process: The Division of Revenue Bill and its underlying allocations are the result of extensive consultation between national, provincial and local government. The Budget Council deliberated on the matters discussed in this memorandum at several meetings during the year. The approach to local government allocations was discussed with organised local government at technical meetings with the South African Local Government Association (SALGA), culminating in meetings of the Budget Forum (the Budget Council and SALGA). An extended Cabinet meeting involving ministers, provincial premiers and the SALGA chairperson was held in October 2018. The division of revenue, and the government priorities that underpin it, was agreed for the next three years. - *Ex Explanatory memorandum to the Division Of Revenue Annexure W1 P2*

Local government institutional reforms required

If local government is not fixed, increased budget allocations will have little impact on basic service provision. Urgent reform of both municipalities and the national DWS is required before an increase in allocations can be justified. The processes identified in the 2019 MTBPS need to be continued and implemented effectively. It also acknowledges that much of the infrastructure investment required is the result of the failure to maintain existing infrastructure. As a result, infrastructure has deteriorated prematurely and now required refurbishment or replacement.

To guide future budget allocations, agreement is needed with social partners on the level of basic services that will be provided for all as well as on measures to manage water use of households that use more than this basic amount. This will guide the annual review of the budget allocation to be made for water and sanitation in the determination of local government's Equitable Share of Revenue. In the meantime, the focus should be on supporting the large water resource infrastructure projects to ensure that there are adequate sources of water for municipal supply, maximising the use of off-budget funding. Public project implementing agencies such as TCTA and water boards must collaborate with the private sector water users whose water charges will underpin these investments should work with to ensure that these are cost-effectively designed and phased and built efficiently using transparent tendering processes.(Further funding for the DWS so-called 'regional bulk infrastructure' projects is NOT recommended since provision if often not made by DWS or municipalities to operate these and they have often involved corruption)

Additional allocations may be required to compensate municipalities for a loss of revenue during the COVID period but these should be used, in the first instance, to pay outstanding debt to bulk water providers (DWS and Water Boards). The provision of water and sanitation services is a municipal function and depends on effective administration and governance at local level.

In many communities, there is no effective agreement on service standards and payment for services. This leads to inequity in access with some communities enjoying good services while in many others services have failed. National government can support and attempt to regulate but cannot easily direct or intervene in service provision.

The availability of water supply services depends on the equitable availability of adequate water resources which is the responsibility of national DWS to assure and, in some cases to provide some bulk water supply services are provided by water boards. Difficult choices have to be made about the kind of services to be provided and how they are run. If communities don't support the choices made, they will not work. Municipalities serving poorer communities have limited technical capacity which is compounded by weak administrations and governance.

Funds allocated to national government for water supply have tended to be allocated for large and expensive bulk projects that municipalities do not have the financial resources or the technical capabilities to operate.

Where the water and sanitation budget comes from and goes to

Since the local government has the primary responsibility, funds for water supply and sanitation services are channelled through the annual Division of Revenue Act (DoRA) whose 'custodian' is COGTA. Much of local government's funding comes from the unconditional 'Equitable Share of Revenue' grant over which . Another substantial budget allocation comes in the form of a variety of 'conditional grants' to municipalities. Details of DoRA including the calculation of the equitable share are negotiated with SALGA (as the statutorily mandated representative of local government) with input from the Financial and Fiscal Commission. Conditional grants may be paid directly to municipalities or channelled through national line departments such as DWS (in the case of W&S) The This includes the calculation of the

Institutions such as Water Boards and the TransCaledon Tunnel Authority (TCTA, which funds the Lesotho Highlands and other large projects) do not normally receive budgetary allocations. They should be funded through payments by their customers, large users such as municipalities as well as industries. (Municipal payments will be funded by revenue from the sale of water as well as a portion of the Equitable Share). However, some of them are currently in serious financial difficulty due to the failure of municipalities to pay their bulk service bills.

The right to a healthy environment

Inequality takes a multiplicity of forms. Unequal access to life-sustaining natural spaces is illustrative of persistent patterns of spatial inequality in South Africa. Researchers using satellite images and national census data revealed that 96% of South African cities remain under what they term 'green apartheid'.[78] The pattern shows that white citizens tend to live in areas with

[78] Venter, Z. 29 July 2020. We Mapped Green Spaces in South Africa and Found a Legacy of Aparheid, **The Conversation**. Available Online: https://theconversation-com.cdn.ampproject.org/v/s/theconversation.com/amp/we-mapped-green-spaces-in-south-africa-and-found-a-legacy-of-apartheid-143036?amp_js_v=a6&amp_gsa=1&usqp=mq331AQHKAFQCrABIA%3D%3D#aoh=16026575394666&referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Ftheconversation.com%2Fwe-mapped-green-spaces-in-south-africa-and-found-a-legacy-of-apartheid-143036

many more trees and easier access to public parks than areas with predominantly black African, Indian, and coloured residents.

Section 24 of the Constitution states that everyone in South Africa has the right to an environment that is 'not harmful to their health or wellbeing'. Further - everyone has the right to have their environment protected, for the benefit of present and future generations through measures (by the state) to prevent pollution and ecological degradation, promote conservation; and secure ecologically sustainable natural resource use and development.

The protection of natural biodiversity and safeguarding of conservation areas through the enforcement of environmental legislation is fundamental to meeting South Africa's sustainable development agenda. The impacts of climate change are all too evident across all spheres. Health ecosystems and biodiversity increase resilience against the worst of these impacts. The restoration and protection of ecosystems promotes natural adaptation and mitigation processes, which in turn protects human communities and decreases the economic burdens induced by climate disasters.[79]

At a national level, various organisations have outlined the impact of the South African government's failure to ensure compliance with the National Environmental Management Act. Goal 15 of the SDGs obliges nation states to "*(p)rotect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss".* A major national biodiversity assessment released in 2019 ranked threats to water security among the most pressing.[80] The county's estuarine lakes are in crisis. This is attributed to significant infrastructure development in these ecosystem functional zones and to the impacts of climate change. Climate change will not only increase the negative impacts on estuarine ecosystems, but also to human communities, including subsistence fishers. Biodiversity loss is a direct threat to the wellbeing of all who share this earth and that its impacts are most acutely felt by the most vulnerable communities. Nearly half a million people are dependent on jobs connected to biodiversity with related tourism and the informal traditional medicine sector valued at more than R 30 billion and R 18 billion per annum respectively.[81] If South Africa is to meaningfully increase its protection of threatened territorial and marine systems, then development and recovery strategies must strike a balance between environmental and economic imperatives.A true human rights budget is one in which adequate financial and human resources are allocated and spent to support sustainable land management practices, implement sustainable food production methods, develop more climate-friendly industry and restore degraded land. This is currently not the case.

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[79] South African National Biodiversity Institute (SANBI). 2019. National Biodiversity Assessment 2018: The status of South Africa's ecosystems and biodiversity. Synthesis Report. South African National Biodiversity Institute, an entity of the Department of Environment, Forestry and Fisheries, Pretoria. pp. 1–214.
[80] Ibid

[81] According to Driver et al (2019), *"for every job dedicated to conserving or managing South Africa's biodiversity assets and ecological infrastructure, approximately five jobs depend on utilising biodiversity. The implication is that current efforts to conserve and manage biodiversity should be seen not simply as an end in themselves or a cost to the economy but as an investment in a resource that supports wider economic activity and employment. The results suggest strong potential for biodiversity assets to support long-term inclusive growth and employment outside major urban centres...."*
Available online:
http://opus.sanbi.org/jspui/bitstream/20.500.12143/6993/1/Driver%20et%20al%202019%20Biodiversity-related%20employment%20in%20SA%2c%20DPRU%20WP201902.pdf

Core mandates of the Department of Environmental Affairs, Forestry and Fisheries include environmental impact assessment, enforcement and compliance, biodiversity conservation, ocean and coastal regulation and chemicals and waste management. Ensuring that environmental governance is strengthened at all levels of government is central to ensuring all South Africans enjoy the rights enshrined in Section 24. The current configuration of national budgets, however, does not reflect this priority. The Department itself is allocated a mere 0.5% of the national budget and of that, only 1% is assigned to its enforcement functions.[82] Similar trends are reflected at the provincial level.[83]

We need to transition to a just, clean energy transition away from extractism such as coal mining. This transition must protect the rights of vulnerable workers. Economic models that value growth for its own sake towards the expense of a circular economy are not sustainable.The budget must also place local communities and womxn at its centre in developing asset-based resource management that recognises the needs, livelihoods and aspirations of all. President Rampaphosa has committed the government to drawing on traditional knowledge, and promoting the inclusion of womxn and indigenous populations in bioprospecting and other sectors. South Africa's efforts towards 2030; meeting the deadline for the National Development Goals and for halving emissions as Africa's single largest carbon emitter must be prioritised in policy and funding.

Spending which transforms gender relations

The effects of budget expenditure are not gender-neutral. It is vital to ensure that the budget does not reproduce power that negatively impacts womxn, children and the most marginalised of our country. Austerity also reinforces gendered economic outcomes. Austerity policies dismantled the mechanisms that "reduce inequality and enable equitable growth". When people needed the welfare and social protection systems the most, they were crumbling, as a result of fiscal cutbacks. This hurts womxn and the vulnerable hardest as the "existing structural inequalities, including gender and ethnic inequalities, mean that poor women from marginalised groups have been disproportionately affected". Womxn carry more of a burden in social provisioning and require more access to public services which austerity takes away.

Gender based violence and femicide

GBV-F remains an inadequately addressed crisis that has implications for all South Africans. To begin addressing the GBV-F crisis, violence prevention and mitigation must be prioritised in the budget. Earlier this year, the much anticipated National Strategic Plan on Gender Based Violence and Femicide (GBV-F NSP) was finalised, but without any budget allocation information in the Supplementary Budget. Without a budget, the GBV-F NSP cannot achieve the structural changes required. The lack of information in the Supplementary Budget to provide the information on allocations to the GBV-F NSP or the additional barriers to accessing support during the lock-down is unacceptable. With this budget we again see the pattern of failure to

[82] Department of Environmental Affairs, Forestry and Fisheries, Budget 2020/21, Accessed online via vulekamali: https://vulekamali.gov.za/2020-21/previews/national/south-africa/environment-forestry-and-fisheries

[83] See for instance - a summary of key findings emanating from comprehensive budget reviews of allocations for environmental governance in the Eastern Cape between 2012/13 and 2020/21: http://psam.org.za/wp-content/uploads/2020/07/Budget-review-EC-Environment-202021.pdf

allocate towards initiatives to intervene in this second pandemic that increases the risk to the majority of our population of increased fear and brutality.[84]

We instead see cuts to the National Prosecuting Authority budget within the Department of Justice and to detective services within SAPs which could negatively affect the prosecution and conviction of crimes against womxn and children, and the provision of support services within Thuthuzela Care Centres. Furthermore, the lack of any additional funding for provinces, combined with the requirement that they re-prioritise R20 billion to the COVID response, carries a significant risk that violence prevention and victim support services for womxn and children within provincial DSD's will be reduced. The lack of direction from National Treasury on the need to prioritise these services in the reprioritisation process is startlingly absent from the supplementary budget documents.

A human rights budget would ensure that more money in the Division of Revenue Act (DORA) is allocated to provinces and that GBVF and Child Protection NPO subsidies are ring fenced.

Care work

The budget must invest in the care economy. This is because economic outcomes are not gender-neutral. For example, the first estimates of the impact of the coronavirus on livelihoods in South Africa have been harrowing. Over the first three months of the imposed lockdown, almost 3 million people have lost their jobs, particularly in the informal economy. More concerning is that women accounted for the 2 million in lost employment. The precarity of women's livelihoods, particularly Black women, is one of the defining features of South Africa's economy and yet the dynamics that perpetuate these gender inequalities remains marginal to Treasury's budgeting processes.

The NIDS CRAM Wave 2 results reveal that women are bearing the brunt of additional childcare responsibilities due to ECD closures. "38% of men and women residing with their own children said at least one child aged 0-6 in the household had been attending an ECD programme before the crisis. When asked who was now looking after children that weren't back at ECD programmes, 67% of women versus 25% of men said they were looking after these children themselves."

Research by the International Trade Union Confederation (ITUC) on South Africa shows that multipliers are high in the care economy. If 2% of GDP were invested in the health and care sector, it would generate increases in overall employment of over 400 000. A similar level of investment in construction would increase overall employment by 511 000. Investing in the care economy also helps to improve equity by changing the distribution of unpaid work. The 2000 time-use survey confirmed that, "women were found to spend much more of their time on unpaid, reproductive type work while men were more likely to be engaged in paid work". In a further analysis of this data, researchers have argued that unpaid work obligations "affect women's employment options and their ability to look for paid work". Spending on care work improves livelihoods for the most vulnerable. ITUC, for example, argues that the "lack of provision of formal care puts an enormous burden on elderly members of the community" in the context of high

[84] Himmelweit, S. (2016). 'Conclusion: Explaining Austerity and its Gender Impact', in H. Bargawi, G. Cozzi, and S. Himmelweit (eds.) Economics and Austerity in Europe. Gendered Impacts and Sustainable Alternatives. London: Routledge

HIV/AIDs prevalence. They argue that to achieve formal long-term care provision for the elderly, South Africa needs to increase the number of formal care workers by 86 000 which is five times the current long-term care work force.

Not only is investment in care (childcare, elder, education and health) critical for jobs, it also enables services that raise women's participation in direct employment, increasing supply capacity in the economy and improving equity. Many gender activists have argued that "unlocking the potential offered by many millions of women joining the formal workforce builds stronger economies and wealthier households". Such investment can also undo the harm caused by austerity. International evidence has shown that women disproportionately bear the burden of austerity policies - women carry more of a burden in social provisioning and require more access to public services which austerity takes away.

Mental Health

Oyenubi and Kollamparambil (2020)[85] show that the prevalence of depressive symptoms doubled between 2017 and June 2020 (Covid-19 era). Specifically, while 12% of South Africans screened positive for possible depressive symptoms in 2017, when those same individuals were resurveyed in 2020 (June/July 2020), this had increased to 24%. Austerity has also shown to increase mental health issues in context such as Greece. Branas et al. conclude that "select austerity-related events in Greece corresponded to statistically significant increases for suicides overall, as well as for suicides among men and women". Their health policy research paper shows that in October 2008, as Greece entered into a recession, suicides among men spiked by 13% and remained at a higher level in the months that followed. With a new round of austerity measures in June 2011, suicides among both men and women increased by 36%.[86]

In 2019, on World Mental Health Day, the UN special rapporteur on the right to health, Dr. Dainius Pūras, recommended that states adopt human rights-based strategies for preventing suicide. The rapporteur stated that "the prevalence of suicide is an indication that the mental health of individuals and populations must be seriously addressed — this is a human rights imperative". He further wrote that "A focus on locating problems and solutions within individuals obscures the need to address the structural factors that make lives unliveable."[87] Addressing the structural factors that impact mental health is critical to addressing some intersectional outcomes.

Caregiver grant

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85 Available at: https://www.dailymaverick.co.za/article/2020-09-30-depression-and-mental-health-issues-skyrocket/
86 Branas CC, Kastanaki AE, Michalodimitrakis M, et al The impact of economic austerity and prosperity events on suicide in Greece: a 30-year interrupted time-series analysis. BMJ *Open* 2015.
doi: 10.1136/bmjopen-2014-005619
87 United Nations Human Rights Office of the High Commissioner. Removing obstacles to liveable lives: A rights-based approach to suicide prevention.
https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25117&LangID=E. Published October 10, 2019. Accessed October 23, 2019.

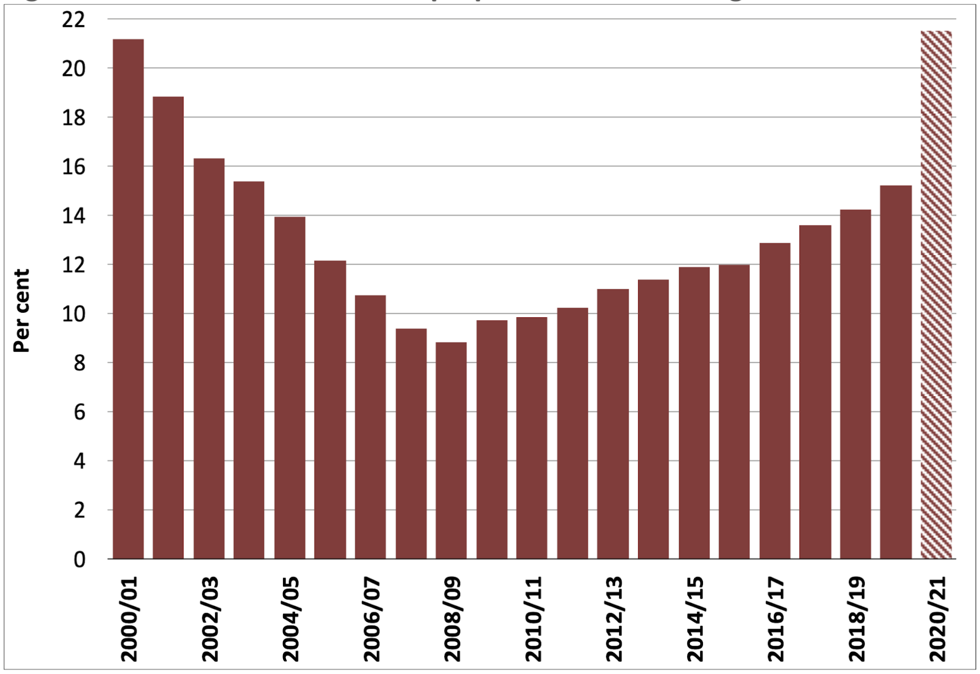
Caregiving is a human rights issue. In 1995, the Beijing Declaration and Platform for Action highlighted the importance of tackling the unequal distribution of paid and unpaid work between men and women, as an essential step towards achieving gender equality. Unfortunately, very little progress has been made since that time. The neglect of unpaid care in policy persists, at great cost to caregivers themselves. Caregivers are not adequately rewarded for their unpaid work and their work is seen as “infinite, cost-free resource that fills the gaps when public services are not available or accessible”.[88] The unequal distribution of care work is a barrier to womxn's greater involvement in the labour market, affecting productivity, economic growth and poverty reduction, hindering their abilities to access their rights. This leaves women disproportionately more vulnerable to poverty and undermines the progress towards gender equity. The work that is done to sustain human life, which benefits society and the economy must be compensated. A caregiver grant is therefore important in challenging these gendered inequalities.

Debt

The issue of South Africa’s debt permeates throughout the South African economy and is one of the main arguments used by Treasury to legitimise harsh austerity and the deepening of a neoliberal macroeconomic framework. The situation at state-owned enterprises (SOEs) and the government’s increasing debt-to-GDP ratio is of serious concern. In response, the government, led by the Treasury, has prioritised debt-service costs at the expense of higher levels of social spending. As a result, debt-service costs are the fastest-growing budget item in the national budget. Already debt-service costs amount to more than 15% of the main budget revenue and it is expected to increase to above 20% before the end of the year. The main budget deficit (revenue minus non-interest expenditure - 9.7% - and debt service costs - 4.9% - estimated to be 14.6% of GDP before the end of the year.

[88] Available at: https://www.girlsrightsplatform.org/node/1188

Figure 1.1 Debt-service costs as a proportion of main budget revenue



Source: National Treasury

In February, it was expected that the Debt-to-GDP ratio would increase from 65.6% (2020/21) to 71.6% (2022/23). Despite prioritising debt payments, South Africa's debt-to-GDP ratio has continued to grow and is likely to exceed 80% by the end of the year. While South Africa's growing public debt is a concern, especially in light of the Zuma years and the possibility of some of these loans being tainted with corruption. However, it is critical to indicate that a high government debt-to-GDP ratio is not inherently a problem. For instance, the UK (80.7%), France (98.1%), Belgium (98.6%), USA (107%), Singapore (126%) and Japan (237%), all maintain rather high government debt-to-GDP ratios. Greater transparency in relation to loans and the terms as well as conditionalities pertaining to them is therefore essential. One way to ensure move toward greater transparency is to legislate for the public disclosure of all loan agreements. Moreover, what loans are used for must also be interrogated. Borrowing money to invest in productive capacity and social services is not necessarily bad as we will show later. If loans are taken for activities against the interest of the majority of the population, they should be annulled.

The bigger question relates to a country's ability to service its debts: for example, an economy that is experiencing rapid levels of growth is able to service debt costs easier than a country in an economic recession. Furthermore, when GDP is growing, it also reduces the overall debt-to-GDP ratio. Therefore, rather than focusing solely on the level of debt, a good debt policy is one that borrows to invest in improving a country's productive capacity. Historically, this has proven to reduce the debt-to-GDP ratio in the medium to long term. Conversely, fiscal consolidation in order to prioritise debt-service costs has often resulted in exactly that which it was meant to avert – a higher debt-to-GDP ratio.

The Supplementary Budget makes it clear that the Treasury is fixated on deepening budget cuts to constrain South Africa’s public debt. In addition to the R160 billion cut to the public sector wage bill. The Supplementary Budget indicated that “*spending reductions amounting to about R230 billion are required in 20221/22, followed by further reductions in 2023/24.*” Research has shown that Treasury's approach is bound to fail on its own terms. During economic recessions, there is shrinking private-sector expenditure. Cutting expenditure or increasing (particularly regressive) taxes (when tax revenue is already falling due to the economic climate), depresses tax revenue and/or spending in private and public sectors — which determine the growth and size of GDP. Because debt levels are measured as a ratio of debt to GDP, if measures to tackle debt lead to, or exacerbate, poor economic growth, then debt relative to the (shrinking) GDP will go up, not down. It is critical to understand debt as a structural issue which requires a systematic response through the transformation of the economy itself.

The United Nations Human Rights Council has also recently released Guiding principles on human rights impact assessments of economic reforms:

> In his report the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights, presents guiding principles on human rights impact assessments of economic reforms, which set out the human rights principles and standards that apply to States, international financial institutions and creditors when designing, formulating or proposing economic reforms. Based on the existing human rights obligations and responsibilities of States and other actors, the guiding principles underline the importance of systematically assessing the impact of economic reforms on the enjoyment of all human rights before decisions are taken to implement such reforms, as well as during and after their implementation. Economic policymaking must be anchored in and guided by substantive and procedural human rights standards, and human rights impact assessments are a crucial process that enables States and other actors to ensure that economic reforms advance, rather than hinder, the enjoyment of human rights by all.

This report puts forward new guiding principles as well as commentaries on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights. These guidelines must be implemented.

State owned entities

While Eskom remains the biggest threat to the economy, we need to consider the structures, functions and performances of SOEs in a more comprehensive manner. Eskom’s predicament is the perfect opportunity to reflect on South Africa’s developmental state capabilities. For an SOE reform strategy, we

- Require that National Treasury present to the Finance Committees on the project applications that have been made to the Budget Facility for Infrastructure and specifically request clarity on whether the Grand Inga Project has been properly appraised.
- Undertake oversight visits to Eskom, SABC, SAA, Denel and SANRAL to determine whether these State Owned Entities are taking sufficient measures to better manage their finances including tighter management of their procurement functions.

- Ensure that all State Owned Entities (particularly Eskom due to the extent of the risk) that require loan guarantees from Treasury disclose the full details of all loan agreements that it enters into.
- Request that Treasury provide full disclosure of pre-conditions given to any State-Owned Entities that obtain special appropriations / bail-outs and regularly reports to Parliament on the compliance of State-Owned Entities with the pre-conditions.
- Request that Treasury and the Department of Public Enterprises present plans to manage Eskom's debt.
- Request Treasury to present on how it is performing its oversight function to ensure that fiscal risks entailed in contingent liabilities do not materialise and to highlight where State Owned Entities are non-compliant with Treasury's requests or are failing to implement turnaround plans.
- Engage the Parliamentary Budget Office and the Fiscal and Financial Commission to ask if they can identify existing allocations and areas of underspending that can be applied to reskilling and supporting mine workers and to boosting other sectors in the economies of provinces hardest hit by job losses in the mining sector.
- Ensure that responses to the country's environmental crises are adequately met with financial and human resource capacity by ensuring strategic coherence between the departments of Environmental Affairs as well as Agriculture, Forestry and Fisheries Agenda 2030 and the National Development Plan commitments
- Request an investigation into financial mismanagement at NECSA.
- Consider inviting CABRI to present on the measures that can be taken to better manage the risks that contingent liabilities present.

On infrastructure led recovery

We note , with caution, the government's plan to de-risk infrastructure projects for the private sector as part of the economic recovery. This recovery endorses a number of mechanisms, including finance measures such as PPPs, blended finance, green bonds, transforming infrastructure into a tradeable asset class. In all the mentioned mechanisms, the private sector is heralded as the most efficient, cost-saving source of service provision. However, empirical research on PPPs, for example, has shown the complex nature of these type of transactions.

A key emerging issue concerns the role of the government in providing public services. The prevailing notion that the public sector is inherently incapable of providing efficient services opens the door to parasitic actors that seek to use the untapped markets in social policy to make a profit. In 2016, the chief procurement officer at the Treasury Kenneth Brown estimated that government is paying between 30 and 40 percent above market prices for goods and services procured through the private sector due to inflated prices and fraud.[89] Instead of relying on private investors to take up the mantle of providing public services, greater effort must be placed on tax justice initiatives to avoid the illicit financial flows -estimated to cost $50 billion in Africa alone -

[89] Available at: http://www.smartprocurement.co.za/overpricing_is_where_governments_real_leakage_sits_says_treasurys_kenneth_brown.php#sthash.8INQAQb0.dpbs, November 2016

and looking to domestic resource mobilisation and developing the state capacity to build the much needed infrastructure the country requires.

Infrastructure development is a key aspect of a human rights budget for many reasons, including for the provision of safe, affordable and sustainable education, health, water and energy as well as for its potential to create many jobs in the process.

It is also imperative that government develop a strategic approach to private sector investment, including the regulation of such investments. There must be transparent, accountable actors, with public consultations. All the financing terms and conditions of guarantees must be publically accessible.

Effort must also be made by government to ensure that there is no undue risk transferred to the public. Private investors are hesitant to invest in high-risk projects such as social infrastructure, because it does not yield profits. According the UNCTAD[90],'policymakers hoping to deliver (the SDG goals) have also tended to ignore the dependence of contemporary financial markets on access to cheap credit, the fragile nature of the assets that underpin the credit system, the perverse incentives and excessive risk taking of many financial actors, and the resulting fragility of the entire financial system. Mistaking the accumulation of debts for the accumulation of capital is not a sound basis for delivering the SDGs.'[91]

5. REVENUE

The general consensus is that the realisation of human rights is impossible without fiscal policies, including tax measures, to redress inequalities and guarantee adequate resources. The ICESCR states that governments should enforce progressive tax systems and prevent "business activities [which] result in abuses of Covenant rights or where a failure to act with due diligence to mitigate risks allows such infringements to occur".[92] The ICESCR encourages member states to revise their tax codes, negotiate and conclude their tax treaties, and make efforts to combat abusive tax practices by transnational corporations, to effectively prevent infringements of economic, social and cultural rights in the context of business activities. The recommendation is that:

[90] UNCTAD trade and development report, 2019

[91] https://gfintegrity.org/press-release/2019-iff-update-press-release/

[92] United Nations: Economic and Social Council. 2017. General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities.

> [S]tates should combat transfer pricing practices and deepen international tax cooperation, and explore the possibility to tax multinational groups of companies as single firms, with developed countries imposing a minimum corporate income tax rate during a period of transition. Lowering rates of corporate tax solely with a view to attracting investors encourages a race to the bottom that ultimately undermines the ability of all States to mobilize resources domestically to realize Covenant rights.[93]

In addition, it notes that "the undertaking by a State party to use "the maximum" of its available resources towards fully realizing the provisions of the Covenant entitles it to receive resources offered by the international community"; this speaks to the imperative to combat IFFs. The role of tax in rights realisation is also reflected in the United Nations Sustainable Development Goals (SDGs). SDG 17 is to "Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection". In order for human rights to be realised through the provisioning of essential services, the ability of a State to mobilise its own resources and collect taxes is essential.

Besides the inevitable failure of Treasury's way of addressing the growing debt, it further does not acknowledge that there are alternative ways to address the public debt and the growing debt-to-GDP ratio. In the context of needing to finance a just recovery, for a people's budget (Imali Yesizwe), and towards protecting and advancing socio-economic rights, **here are four proposals linked to an alternative strategy to address the debt issue in a sustainable way.**

1. **Greater transparency and accountability**
   The public disclosure of loan agreements, the terms of the agreements and the conditionalities attached to them should be mandatory. An independent audit of South Africa's debt is necessary to assess whether any loans have been incurred against the interests of the majority of South Africans, and/ or if there are any corrupt transactions linked to these loans. Even the business press acknowledges that much of South Africa's debt is potentially odious, even though they don't yet question whether these debts should be paid back at all.
2. **Stricter capital controls**
   The implementation of stricter capital control measures to slow down the level of capital outflows from the South African economy, in order to mitigate against the volatility of the market and finance capital. Doing so will also allow for the further reduction of the repo rate, allowing for cheaper domestic borrowing.

3. **Fiscal stimulus and investment towards enhancing productive capacity**
   Fiscal stimulus that directs resources to the majority of South Africans, most of whom live below the upper bound poverty level, included in this should be the expansion of cash transfers as well as increased resources to essential social and public services. Included

[93] United Nations: Economic and Social Council. 2017. General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities.

in this should be looking towards mobilising resources, including possibly borrowing more, to finance investment towards expanding domestic productive capacity.

4. **Increased progressive taxation**
   Look to more progressive taxation to raise additional revenues. In the context of the current economic recession, the level of taxes on income - personal and corporate - will be reduced. This necessitates looking to tax historically accrued income, through the implementation of a progressive net wealth tax. In the medium-term, increasing taxes on high net worth individuals and increased capacity for SARS to ensure tax compliance will be essential.

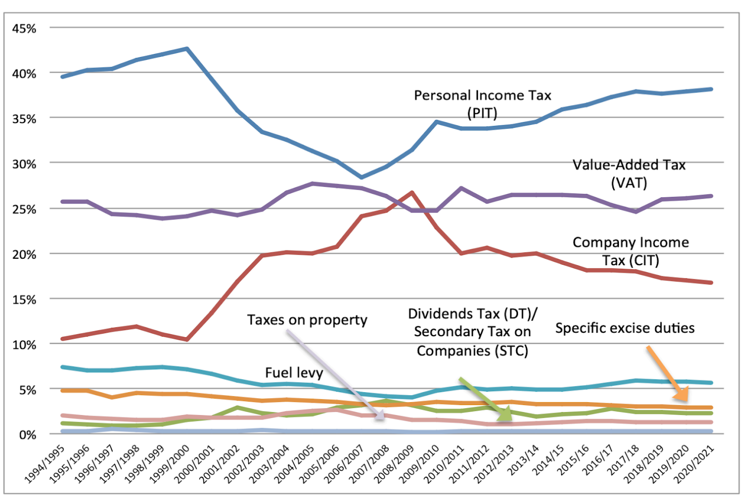
Tax overview

Tax has been a key redistribution tool in post-apartheid South Africa. South Africa has maintained a tax-to-GDP ratio of around 25% over the last decade. However, given the scale of socioeconomic challenges and extreme levels of inequality, the tax mix must be evaluated holistically and on a more granular level. Figure 5 below provides an overview of South Africa's tax mix over time.

The increase in the VAT rate from 14 to 15% as of April 2018 represents a clearly retrogressive austerity measure, which when combined with spending cuts imposes a greater burden on the poor. This increase is projected to raise the share of VAT in the overall tax mix from 24.6% in 2017/2018 to 26.3% in 2020/2021. As expected, this VAT change increases the taxes paid by poor and low-income households, reducing their ability to afford foodstuffs and other essential goods and services, necessary for rights realisation, through lowering disposable incomes.

The tax mix at a glance

Figure 1: Different tax categories as share of total tax revenue (1994 – 2020)

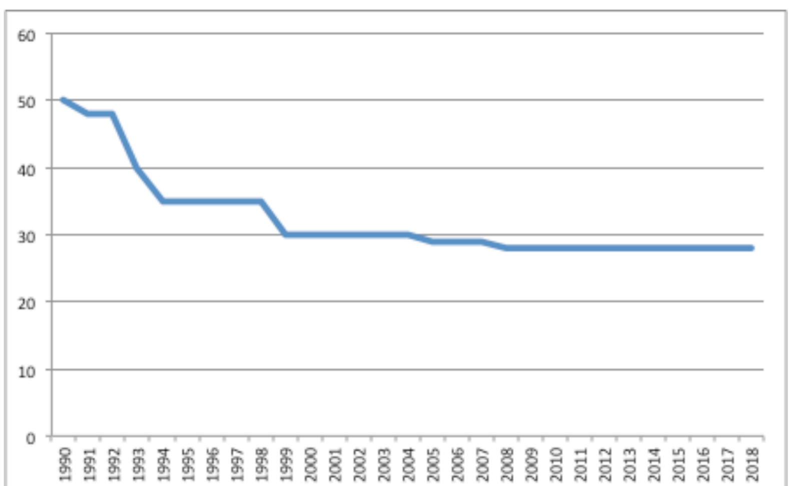


Source: National Treasury, Budget Review 2018 and Budget Review 2008

While South Africa's tax structure is moderately progressive overall, meaning richer households generally contribute a higher percentage of their income in tax than poorer ones (but inadequately so given the stratospheric levels of inequality), regressive trends have contributed towards a failure to optimally raise sufficient resources from the wealthy. These include:

- Personal income tax (PIT) rates have fallen since 1997. For example, someone earning R1 million annually (in 2018 prices), approximately $75,000 USD, paid an effective tax rate of 41% in that year. By 2018, this had fallen to 31%. The progressivity of personal income tax rates in South Africa is the lowest of comparable peer countries Brazil, Peru, Mexico, Ethiopia, Uruguay and Armenia.
- Corporate income tax (CIT) rates have also fallen dramatically, from 50% in 1990 to 28% in 2018. South Africa is not the only country that has been applying such policies. It has, nevertheless, contributed to the corporate tax race to the bottom. According to the World Bank and Price Waterhouse Cooper Paying Taxes measure— which takes account of all taxes facing an average middle-sized firm as a percentage of profits— South Africa ranks 172 out of 213 countries, where 1 has the highest company tax and 213 the lowest. By this measure, South Africa also has the lowest corporate tax rate in Africa and is in the bottom quarter of emerging markets.

Figure 4: Corporate income tax (CIT) rate (1990 – 2018)



Source: SARB, Tax Chronology of South Africa 1979-2016

- Besides no real wealth tax, the income derived there from wealth is also under-taxed. For example:
  - Capital gains tax is comparatively low. In 2016/17 it raised only R17 billion, a mere 1.5% of tax revenue. Because not all capital gains are taxed, in 2017, individuals only paid a rate of 16% on capital gains, and companies 22%. The weighted long-term integrated capital gains tax rate for OECD and BRIC countries in 2014 was 40%.
  - Tax on inheritance—estate duty—is levied at only 20% and raises revenue worth 0.05% of GDP compared with the OECD average of 0.2%.

- The securities transaction tax (STT) (a tax on sale of shares) raises a small share of income; bonds are excluded and there is no transaction tax on derivatives and other forms of financial transactions. Despite South Africa's market capitalization to GDP ratio being almost triple the OECD average, revenue from STT lags behind the OECD average.
- Taxes on immovable property (such as houses and offices) is levied at the municipal level, allowing wealthier areas to generate greater income than poorer areas; there is no national land tax despite the very unequal distribution of land.
- South Africa has no annual "net wealth tax" that would tax the total value of wealth held in a given year.

South Africa also offers a number of PIT tax breaks that only benefit higher-income households. In 2015/16, government expenditure on tax breaks for pension and retirement funds and private medical insurance amounted to approximately R52 billion. Accounting for inflation, this amount would sit well above the 2018/19 projected shortfall.44 These tax breaks only benefit the top three deciles (virtually no one in deciles 1-7 pays PIT) and are concentrated amongst the highest-earning 10% of the population.

According to a recent World Bank evaluation, South Africa does comparatively poorly in terms of the Kakwani index, which measures tax progressivity: South Africa's personal income tax is less redistributive than that of Brazil or Mexico, a result explained by the authors as follows: "the underlying distribution of pre-tax market income in South Africa is much more unequal than in other countries: the Gini coefficient of market income of 0.771 in South Africa compared with 0.579 in Brazil and 0.511 in Mexico. Since the Kakwani index subtracts the Gini coefficient of income from the tax concentration coefficient, it is lower in South Africa than in other countries. Although direct taxes in South Africa are working to redistribute, they therefore face strong headwinds from the underlying inequality in earnings".

Tax reforms

"Clamp down on illicit financial flows and institute a wealth tax."

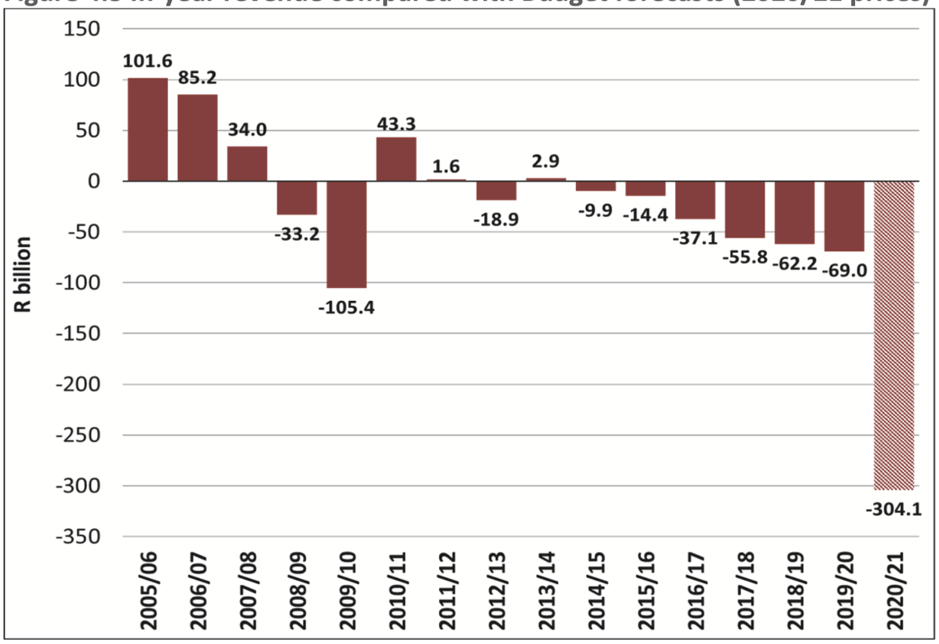
"an additional wealth tax should be introduced."

- *Respondents to our call for submissions to Imali Yesizwe, on the question: "How do you think the government could collect more revenue or money to fund the realisation of human rights?" October 2020.*

"Multinationals should have a budget for the community they operate in, not just the tax but an allocated budget every year. That looks to eliminate pressing problems of that community raised by the community directly."

- *Respondent to our call for submissions to Imali Yesizwe, on the question: "How do you think the government could collect more revenue or money to fund the realisation of human rights?" October 2020.*

Figure 4.3 In-year revenue compared with Budget forecasts (2020/21 prices)



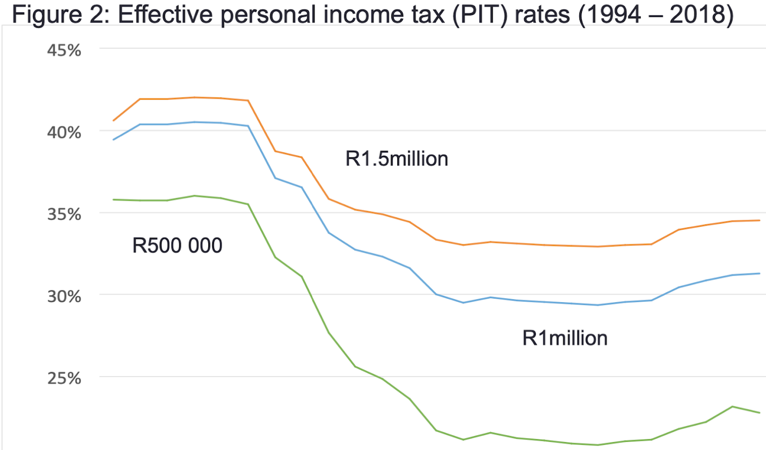
Source: National Treasury and SARS

It is expected that revenue collections will be R304.1 billion lower than estimated in the February 2020 budget. While the level of undercollection expected for this year is dramatic and can largely be attributed to a South African and global economic downturn. Nevertheless, since 2013/14, the South African Revenue Services (SARS) has consistently collected lower revenues than forecast. Here the role of corruption, the closure of the SARS large business centre and the hollowing out of SARS capacity through the dismissal of more than 2000 employees, including key officials, cannot be overstated. It is important that SARS continue to restore the integrity it had before the Zuma years. Furthermore, it is critical that the Treasury adequately resources SARS to ensure that it can effectively fulfil its mandate. Currently, according the SARS commissioner SARS is underfunded, and is therefore unable to "fill 600-800 critical vacancies".

In addition to increasing SARS capacity, given that the economic recession has severely impacted on the level of revenue anticipated from income tax - corporate and income, turning to the implementation of a net wealth tax is essential. Trusts and other mechanisms for concealing the true owners of assets make it challenging to exactly estimate the level of wealth held by South African individuals. However, according to the South Africa Wealth Report 2019 issued by The AfrAsia Bank, $649 billion in private wealth is held in South Africa by 39 200

South Africans who have net assets of $1 million or more and 2070 South Africans who have net assets of $10 million or more. This is despite a weak Rand and the ongoing emigration of the very rich (approximately 3000 HNWI have left SA over the past decade). A recent report corroborates these findings, in relation to the distribution of household wealth in South Africa. Their findings “reveal unparalleled levels of wealth concentration”, with “ top ten percent owning 86 percent of aggregate wealth, and the top 0.1 percent close to one third”. The implementation of a progressive net wealth tax would be able to raise much needed revenue as well as start to redistribute some of the wealth from the very rich to the poor. Moreover, there are a number of high earning individuals who go completely untaxed. For instance, SARS has indicated that 20 000 individuals with earnings of more than R1,5 million go completely untaxed each year. Furthermore, besides SA historically having much higher personal income tax and corporate income tax rates, the effective personal income tax rates have also declined substantially since the late 1990s.

Figure 2: Effective personal income tax (PIT) rates (1994 – 2018)



	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
R500 000	36%	36%	36%	36%	36%	35%	32%	31%	28%	26%	25%	24%	22%	21%	22%	21%	21%	21%	21%	21%	21%	22%	22%	23%	23%
R1 000 000	39%	40%	40%	41%	40%	40%	37%	37%	34%	33%	32%	32%	30%	29%	30%	30%	30%	29%	29%	30%	30%	30%	31%	31%	31%
R1 500 000	41%	42%	42%	42%	42%	42%	39%	38%	36%	35%	35%	34%	33%	33%	33%	33%	33%	33%	33%	33%	33%	34%	34%	34%	35%

Source: SARB, Tax Chronology of South Africa 1979-2016

If from an individual country perspective this makes sense (reduced tax rate means less tax revenue and financial resources, but this is compensated by a growing corporate tax base linked to new investments), from a global perspective, this fed a worldwide tax war. This led countries to sacrifice critical tax revenue that could boost their revenues to be directed towards advancing socio-economic rights.

This is a massive loss for public finances globally, and for South Africa in particular. If the rate of the Corporate Income Tax was still at its previous levels of 50% in 1994 or 35% in 1999, an additional R410 billion, (or R287 billion) could have been collected for the 2019/20 budget year. Since there are efforts currently underway at the OECD under the BEPS multi-stakeholder engagement to implement a global minimum corporate tax rate, South Africa must be at the forefront of this battle to push for such a rate to be as ambitious as possible. A global minimum tax rate for corporations of 20 to 25% seems to be a progressive starting point that could be increased over time.

The following is required to reform wealth taxes:

- Committing to develop a plan for the implementation of a permanent annual net wealth tax as soon as practicable. This should be levied within the international range of 0.5-2.5%, taking into account the extremely high concentration of wealth to ensure a meaningful outcome. Wealthy individuals must immediately be required to declare their assets and liabilities in full so that SARS can gather a more accurate picture of wealth in contemporary South Africa.

Further, in terms of income taxes on high-income earners , and high-net worth individuals:

- Increases to personal income tax on the two highest brackets and adjusting the remaining tax brackets below inflation. High-income earners have experienced significant growth in their income over the last two decades, due to "skills inequality" and are the most likely to have remained in employment and saved on monthly expenses during the lockdown period. The top 1% of income earners in South Africa averaged a compounded growth rate of 5.4% over the years 2003-2015, whilst the majority (at least 80% of income earners in South Africa) have experienced declining negative growth in income over the same period. Effective tax rates for the earners above R500,000 have declined by 5% between 2008 and 2018. In the immediate term, the government must take the opportunity of a moral high ground by increasing taxes on high incomes (above R500 000).

- Higher income groups have also received higher deductions on their taxes. In 2018, those earning above R500,000 received tax deductions of 12% of their income. R30.5 billion could be raised by not granting deductions on retirement fund contributions to those earning above R1 million.

In relation to income derived from wealth:

- Revising the primary abatement for estates of R6 million, and clamping down on and the use of trusts to shield individuals from paying the full estate duty tax. A comparative study of South Africa's estates duty with other countries needs to be done in order to assess why it contributes (as a share of GDP) only a quarter of the OECD average and whether rates should be increased.

- Capital gains tax should be restructured so that:

  - Longer holding periods and capital reinvestment are encouraged through rate reduction.
  - A surcharge is applied to taxpayers earning high levels of capital gains
  - The inclusion rate is raised to 100%.
  - The inclusion of non-resident is simplified and widened.
  - The use of share buybacks to avoid paying capital gains is prohibited.

- Further, the capital gains rate of 16% - 33% is below the OECD and BRICS norm and could be raised over the medium term.

- The securities transaction tax (STT) should be raised. Despite South Africa's capital market to GDP ratio being almost triple the OECD aggregate, revenue from SST (as a share of GDP) lags being the OECD average. A taxation on cancelled orders should be instituted to disincentivise high frequency trading, and derivative taxation requires further research.

- Regarding taxation of immovable property and land there is room for:

    - A property tax over and above municipal rates and for this to cross subsidise poor municipalities.
    - A surcharge on the transfer duty for the acquisition of second homes.
    - Non-residents to pay higher transfer duties than residents, particularly, or exclusively, for residential property.
    - A land tax, particularly of vacant/unused land be instituted. This has been successfully implemented elsewhere and has been used to fund land redistribution. This submission has not sufficiently interrogated this issue to make firm recommendations but this matter requires attention.

Illicit Financial Flows and Base Erosion and Profit Shifting

It is extremely difficult to come to one concise estimate of illicit financial flows out of South Africa due to their illegal nature. However, a number of estimates have been produced recently that help us analyse the losses for South Africa. Some of our estimates appear in Tax and Wage Evasion, A South African Guide compiled by the Alternative Information and Development Centre. Here are a few telling figures.

According to the African Union high level panel on illicit financial flows (Mbeki Panel), 4% of the South African GDP was lost every year on average between 1970 and 2008, this represents over the period US81.8bn (R1145 billion). In today's terms, this trend of 4% of GDP would mean R216.5 billion for the 2019/20 budget year. A 2019 statement from Financial Intelligence Centre (FIC) indicated that South Africa loses between US$10 billion and US$ 25 billion is lost annually in illicit financial flows. At today's exchange rate (R16.49 per US$), this amounts to between R165 billion and R400 billion.

In terms of tax losses, it is difficult to evaluate the cost of illicit financial flows due to the different types of taxes which could have been levied on these monies. According to the OECD, on a global level, countries lose between 4% and 10% of their Corporate Income Tax revenues. For South Africa this would mean between R9.2 and R23 billion lost revenue.

However, this doesn't account for tax evasion practiced by individuals and tax avoidance schemes used by multinational corporations to 'legally' bypass South African tax laws. It also doesn't take into account the ripple effect these losses have on the economy in general under what the AIDC call wage evasion (See Tax and Wage Evasion - A South African Guide). In other words, illicit financial flows have a massive impact in eroding the South African tax base and perpetuating high levels of income inequality through the avoidance of paying decent wages. This in turn has led the South African government to reverse the progressivity of the South African tax system by increasing indirect taxation in 2018, and to a growing pile of public debt which future generations will have to deal with.

The fact that the government recognises the massive impact that illicit financial flows, base erosion and profit shifting has in relation to the erosion of the tax base is a step forward. However, the February 2020 budget indicated that the Treasury endeavours to reduce corporate income tax rates to mitigate against the incentive for multinational corporations to shift profits to low-tax (or zero-tax) jurisdictions. This will continue to drive the global corporate tax race to the bottom and make the South African tax framework increasingly regressive. Alternative measures to combat IFF and BEPS would be for South Africa to increase capacity for SARS including the restoration of the large business centre and the IFFs unit, to ensure effective enforcement of the general anti-avoidance rule. Further, the strengthening of legislation through the introduction of a general anti-tax avoidance act would enable statutory bodies to take action against individuals or corporations found to be involved in IFFs.

It is also essential to move towards a system of enhanced tax transparency. This will help to re-establish trust and confidence in our tax system, as well as assist in mitigating against the risks of corruption, and preventing any complacency from tax authorities. These will also help to ensure greater oversight over MNC's tax avoidance schemes. All the following options to impose tax transparency rest on one fundamental assumption: in the face of the threat of corruption tax authority's internal oversight mechanisms won't be enough. Therefore, this tax information should be made publicly available, allowing for independent organisations and journalists to have the possibility to check, creating another mechanism for accountability.

Creating a public registry of beneficial ownership

Another very important step towards tax transparency is the need to create a public registry where all property titles, of both real and financial assets, would be listed. The objective is to force the beneficial owners to disclose their identity in such a registry as soon as they buy an asset or property in South Africa. This means they wouldn't be able to hide behind a trust, an offshore company or any other kind of legal structure; the ultimate owner's name would have to appear.

This can be implemented fairly easily by enhancing the role of already existing institutions or databases such as the Companies Intellectual Property Commission (CIPC), and will in addition, ease the automatic exchange of information with foreign authorities while putting pressure on such foreign bodies to disclose the information they have on the foreign assets of South African taxpayers. All together this will mean an increase in tax compliance and a re-establishment of the South African tax base.

Ensuring the transparency of MNCs tax practices

Lastly, a key measure to boost tax collection in South Africa will be to force multinational companies to disclose their tax practices in South Africa and worldwide. Under what is now defined as the country-by-country and subsidiary-by-subsidiary reporting, multinationals would have to disclose for each and every country in which they operate, what profits, sales and turnover they are making, with how many employees and with how much assets.

This disclosure mechanism can sound quite technical but the idea is simple: to avoid aggressive tax avoidance schemes, tax authorities need to access detailed information on how multinational companies value and price transactions made with their own subsidiaries abroad. This will enable them to track down false or mispriced transactions. Accessing a detailed picture of the multinational operations abroad means it is much easier to verify the legitimacy of the transaction and its price.

If some argue there is no need to make this information public, once again, in a bid to rebuild trust in our tax system and avoid the re-creation of mafia-like networks within our tax authorities, making this information public is the only effective disincentive we have. This is the only way for people to ensure tax oversight mechanisms are functioning.

Gendered impacts of SA's tax system

The Human Rights framework which has generally been applied to gendered tax justice is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which was adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women, it was instituted on 3 September 1981 and has been ratified by 189 states, including South Africa.

Not only is this reinforcing inequality between rich and poor South Africans, but this also entrenches gender inequality. According to the same document, the percentage of taxpayers who are womxn in this category of high income earners is only 30.1%. This means these tax deductions should not only be granted to the rich as it has been done in the past, but they should also be criticized for what they are: instruments that entrench a multiplicity of inequality along gender, race and class lines in South Africa.

Tax revenue collection capacity

Under tax collection is probably related to multiple factors including (but not limited to):

- Under capacity with more than 968 vacancies of which 600 to 800 are "critical"
- Lack of confidence in the revenue collector
- Growth, and consumption being revised downwards

To remedy this government intends to make up the shortfall through reductions to baseline spending. This is the wrong approach. Government should bolster taxes through a fiscal and social stimulus, and increased taxes on the rich including high net worth individuals and corporate income taxes. A major positive in line with restoring SARS capacity is the commitment by the finance minister to increase spending to SARS by R1 billion. This is more than a 10% increase and should go a long way in increasing SARS capacity.

Capital controls

Capital controls are measures taken by the government aimed at restricting financial flows both inflows and outflows. In the current context we need controls to limit the amount of capital outflows to ensure that sufficient capital stays in the country for domestic use, such as lending to the government so that it can finance the safety nets needed now more than ever.

For example, by implementing capital controls, the government will more effectively be able to manage the balance of payments (how much money flows in and out), and protect our monetary system in a crisis like this one. Monetary policy autonomy is an important motivation behind the imposition of capital controls, because without them, the central banks must follow the dictates of international financial markets.

To illustrate, take the case of interest rates. Any attempt to lower interest rates to cushion small businesses in SA from halt in productivity will result in capital outflows as investors seek higher interest rates or a stronger currency. If the interest rates remain high in South Africa domestic investment declines and a resource transfer to the rest of the world takes place. Whereas with the aid of capital controls, countries can maintain differential interest rates and follow a relatively independent monetary policy without risking capital flight.

Most states used capital controls until the International Monetary Fund forced them to "liberalise" as part of structural adjustment in the 1980s. But since the global financial crisis there has been a resurgence in the legitimacy of capital controls following many countries successfully re-imposing capital controls. These include Malaysia (1998), Argentina (2001), Venezuela (2003), Cyprus (2013), China (2016) and Brazil (2018). With the aid of capital controls introduced in 1998, for instance, Malaysian authorities were able to lower interest rates without being concerned about currency depreciation or capital flight that were destroying other Asian economies (especially South Korea, Thailand and Indonesia) that year. It is imperative that a regime of capital controls is accompanied by a transparent and accountable system of enforcement.

Borrowing (international)

A human rights budget, is premised on resource mobilisation that is not harmful to human rights. The Finance Minister set out to borrow $7 billion (R120 billion) from international finance institutions, of which $4.2 billion (R73 billion) is from the International Monetary Fund (IMF). To-date, no clear reasons have been provided by government about why they are borrowing these monies from international finance institutions and what the money will be spent on.

There have been calls from civil society globally for the "IMF to immediately stop promoting austerity around the world, and instead advocate policies that advance gender justice, reduce inequality, and decisively put people and planet first." In the statement against IMF austerity endorsed by over 500 organisations, it states that:

> despite this rhetoric and its own warnings of deepening inequality, the IMF has already started locking countries into new long-term austerity-conditioned loan programs in the past few months.

> Beyond the conditionality in these recent programs, we note that a significant number of the IMF's COVID-19 emergency financing packages contain language promoting fiscal consolidation in the recovery phase. And with governments struggling to pay increased debt servicing and expected to continue to need extraordinary levels of external financing for years to come, IMF loan programs - and the conditions that accompany them - will play a highly influential role in shaping the economic and social landscape in the aftermath of this pandemic.

Indeed, the Supplementary Budget proposals for the 2021 MTEF look like a self-imposed "structural adjustment program" of the kind the IMF would devise for South Africa, should we run into trouble paying back their loans. For the Treasury to move closer to the IMF without a compelling reason could be interpreted as seeking political support from abroad for "structural reforms" which they have been unable to build at home.

A human rights budget includes meaningful participation and transparency. The National Treasury must demonstrate that domestic resource mobilization attempts have been exhausted and justify the need to mobilise externally .

Municipality revenue structures

The local government fiscal framework is under enormous pressure, and there are growing indications that it is close to collapse. A large contributing factor is the assumptions made in the 1998 Local Government White Paper about the ability of local government to raise its own revenue, particularly in respect of electricity revenue.

These assumptions have not materialized, resulting in a situation where there is insufficient funding in aggregate across local governments for critical expenditure items such as infrastructure maintenance. At the same time, the pressure to collect revenue within municipalities is undermining the provision of free basic services (municipalities have a strong fiscal incentive to limit the number of beneficiary households) and pushing the cost of basic services above the affordability level for millions of households. A capable and properly funded local government is central to the delivery of the state's developmental mandate.

Given that there is practically no prospect of increasing the equitable share allocation to local government under the current fiscal reality, the operating model of local government needs to be reviewed as a matter of urgency. We require an operating model that will deliver subsidized and affordable services to households and ensure that key budget items such as infrastructure are fully funded. A revised operating model in no way assumes job losses in local government; rather, the aim is to achieve a more effective and pro-poor revenue and expendture model.

Other resources (GEPF, PIC etc)

In his speech, Finance Minister Tito Mboweni illustrated the rising debt service cost of the government by saying that 21 cents of every rand in tax revenue goes to paying interest on the state debt. He failed to mention that 4 of these 21 cents is transferred to the Government Employee Pension Fund (GEPF) and the Unemployment Insurance Fund (UIF) as interest or levies. The Treasury has refused to participate in the public debate on how the 15-20% of the debt service costs that are paid internally within the public sector could be repurposed. These transfers should be reconsidered in order to reduce the government's borrowing cost, which it claims is the key aim of its austerity budgeting.

	2010/11	**2011/12**	**2012/13**	**2013/14**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**
Contributions	40	44.2	47.9	52.2	56.4	60.3	65.5	70.4	75
Investment Cash Income	40.6	44.5	49.9	54	68.5	69	69.5	72	82.8
Contributions & Income	**80.6**	**88.7**	**97.8**	**106.2**	**124.9**	**129.3**	**135**	**142.4**	**157.8**
Benefits Paid	**29.9**	**37.2**	**43.2**	**57.9**	**85.8**	**83.1**	**88.3**	**94.9**	**103**
Surpluses	**50.7**	**51.5**	**54.6**	**48.3**	**39.1**	**46.2**	**46.7**	**47.5**	**54.8**

The Public Investment Corporation (PIC) R2-trillion in assets under management is invested in the JSE. The largest contributor to the PIC's assets is the Government Employees' Pension Fund (GEPF). Currently, the GEPF has approximately R1.8-trillion in accumulated reserves, and has all current and future liabilities covered. The fund's financial position is bolstered given a surplus of approximately R40 billion to R50 billion each year, after benefits are paid to beneficiaries. Given the sound financial position of the GEPF, it can afford to forfeit the government's contribution to the fund in the medium-term by way of a contribution holiday from payments to the GEPF. Given that last year the government's contribution to the GEPF was R48.7 billion, a pension holiday for the next three years could raise more than R120 billion in revenue.

Table 8.7 Selected income and expenditure of GEPF

R billion	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Revenue							
Employer contributions	30.8	33.5	36.1	38.6	42.1	45.3	48.7
Employee contributions	17.1	18.7	20.3	21.7	23.4	25.1	26.9
Investment income[1]	49.9	54.0	68.5	69.0	69.5	72.0	84.2
Expenditure							
Benefits paid	43.2	57.9	85.8	83.1	88.3	94.9	102.5

1. Dividends on listed equities, interest on bonds and money market instruments and income from unlisted properties and unlisted investments excludes adjustments for value of financial assets

Source: Government Pensions Administration Agency

6. BUDGET REFORM

South Africa has introduced significant reform to the budget process since 1994. The most notable reforms include the establishment of decentralised budgeting (national, provincial and municipal) and the implementation of the medium term expenditure framework (multi-year budgeting). First and second phase reform included a range of legislative reforms including the introduction of the PFMA and Treasury Regulations.[94] Future reform must account for the need for more progressive, inclusive human-right-centred alignment of South Africa's decentralised budgets with its development needs.

Decentralised budget processes are both a blessing and curse where effective, human-rights oriented planning and execution are concerned.There is no escaping the technical and specialised nature of government budget planning and execution. Planning for health and education budgets, for instance, requires all spending proposals to be collated into a single process to allow side-by-side comparison of various bids. Political, economic and social judgments are made to inform spending priorities.[95] The National Treasury uses revenue forecasts to produce the fiscal framework that contains projections of expenditure - amongst others. The fiscal framework determines what is available for public spending and is approved by the Cabinet. The legislatures and public are informed via the Medium-Term Budget Policy Statement (MTBPS) of changes or revisions to the fiscal framework. International measures score South Africa's overall budget execution highly. The same is not true of provincial and municipal performance, however. A key benefit of increased transparency is explained by Sarr (2015 in CABRI 2020) via the principal agent theory in which the principal (legislature) passes a budget but does not have comprehensive information about how the budget is being implemented by the agent (the government). Fiscal transparency has hge effect of mitigating against information constraints, limiting poor budget execution and extent to which departments may divert spending in ways not consistent with Parliamentary approval.[96] It is therefore pressing that opacity in provincial and municipal budgeting is addressed.

The BJC acknowledges the intention of the National Treasury to review the local government fiscal framework and to improve improve consultation during the budget planning process;

> The National Treasury agrees that ongoing engagements with stakeholders, including SALGA, are important to resolving problems in the intergovernmental system. SALGA officials are invited to participate in a range of meetings and processes with the National Treasury and others, such as the local government equitable share working group and conditional grant framework meetings.- National Treasury Budget Review (p.118)[97]

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[94] Oliver, C.D. 2016 XXX Available Online: http://ir.cut.ac.za/bitstream/handle/11462/1595/Olivier,C.D;Pages%20p.46-70.pdf?isAllowed=y&sequence=1

[95] CABRI. 2020. Available Online: https://www.cabri-sbo.org/uploads/files/Documents/HBS-SOUTH-AFRICA-CASE-STUDY_Final-Web.pdf

[96] Ibid

[97] Avaiable Online via Vulekamali: https://data.vulekamali.gov.za/dataset/413a30f6-7908-4d9e-a6b8-fa3c9318a2fc/resource/96785311-1923-4b24-9393-c6abf153a20a/download/fullbr.pdf

However - the absence of local civil society, social formations and those most affected by weaknesses in budget planning is a major concern that must be remedied - the participation of non-state actors must constitute a central - not peripheral - aspect.

The Mandate Paper

The Budget Justice Coalition calls for greater transparency in the long term of political prioritisation and decision-making processes related to fiscal policy. Beginning in 2016, the Presidency, via the Department of Planning, Monitoring and Evaluation (DPME), has utilised a mandate paper for the formulation of the budget process. The paper guides all government departments in preparing their budget submissions and is aimed at aligning the annual budget with the long-term goals contained in the NDP. The relevance of this process to understanding year on year fiscal priorities is therefore integral and must be open to public scrutiny.

Fiscal Transparency and related limitations

On 30 April 2020, the International Budget Partnership (IBP) released the outcomes of the 2019 Open Budget Survey (OBS). The OBS is a biennial survey and is the world's only independent measure of fiscal openness. The survey assesses 117 countries on the transparency of their budgets, measuring the expanse and timeliness of budget information that they make public. It also examines the practices of the government's executive, the legislature, and the Auditor-General. Countries are scored between 0 and 100 and ranked on the Open Budget Index (OBI).[98] However, transparency alone is not enough to achieve real transformation in the execution of public budgets. For instance, if commitments for gender sensitivity and inclusive education[99] made under the SADC and UN SDGs are to be achieved, better mechanisms for citizen participation and improved accountability on the part of the government must be identified. Section 215 of the Constitution enshrines the principles of transparency in relation to public budget, stipulating that "(N)ational, provincial and municipal budgets and budgetary processes must promote transparency, accountability and the effective financial management of the economy, debt and the public sector". [100]

The most recent results indicate that while South Africa's transparency scores were the highest of all countries (at 87 out of 100), public participation in budget processes continues to be dismal at 24 out of 100. Ensuring meaningful public participation is a fundamental component of developing responsive, rights-based fiscal tools. Researchers attribute a sharp global increase of public interest in transparency, participation, and accountability in fiscal decision-making to shifts from "closed, *authoritarian political regimes to… ones characterised by policy contestation, separation of powers, political party competition, an organized civil society, an engaged citizenry,*

[98] The OBS applies 109 equally weighted indicators to measure transparency. These indicators assess the availability of eight key budget documents. This includes determining whether these are accessible online, in a timely fashion and the extent of their comprehensiveness and usefulness.
[99] Goal 4 of the 2030 Agenda for Sustainable Development is to "ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
[100] Chapter 13: Finance http://www.justice.gov.za/legislation/constitution/SAConstitution-web-eng-13.pdf

and an active media". [101] The BJC contends that similar trends are (anecdotally) evident in South Africa and bode well for strengthening the capacity of state institutions.

The 2017 OBS warned that there was a need for South Africa to safeguard its hard-won transparency status following post-apartheid budget reforms. This, the OBS contends could be achieved by ensuring that the integrity of institutions such as the South African Reserve Bank (SARB), the National Treasury and South African Revenue Services (SARS) are protected and bolstered.The lack of transparency and disclosure by some governments of their financial risks is cited as a contributing factor in many countries' fiscal crises, highlighting the importance of openness.

The state must proactively foster public participation in the development, implementation and evaluation of fiscal policy. It is also imperative for the National Treasury and SARB to proactively disclose financial risks emerging from the current health crisis. Public input must be sought at all stages of the budget process - not only at the approval stages when - arguably - decisions are near-final.

This is particularly pertinent under conditions such as appropriations towards COVID-19 and other disaster conditions and applies to opportunities within budget (re)formulation, expenditure and auditing. Notably - there are currently no formal opportunities for South Africans to inform the audit process despite this connecting to various important service delivery issues.

We urge the Committees to engage the Office of the Auditor-General on measures to establish formal mechanisms for the public to assist in the development ol its audit program and to contribute to relevant audit investigations.

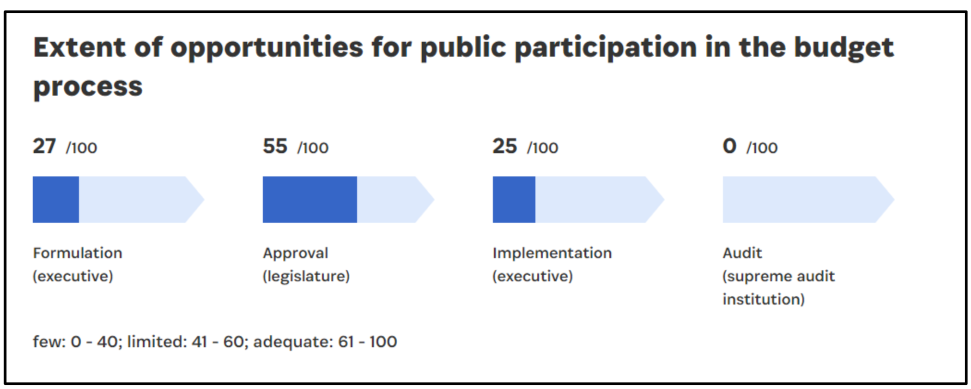

Figure: the OBS 2019 underscores overall lack of formal opportunities for public participation in the budget process

The BJC reasserts Minister Mboweni's MTBPS 2019 remarks in which he signalled Treasury's recognition of the need to bolster state capacity;

> The state can use its budget better…Where possible, given budgetary constraints, government is shifting resources to areas that urgently need to strengthen capacity. …the

[101] Khagram, S., De Renzio, P. and Fung, A. 2016. Overview and Synthesis: The Political Economy of Fiscal Transparency, Participation, and Accountability around the World, The Brookings Institution

> National Prosecuting Authority receives an additional R1.3 billion, and the South African Revenue Service receives an additional R1 billion for the next two years. These funding shifts will bolster efforts to combat corruption and improve revenue collection…. National Treasury has reviewed the procurement regulatory framework and developed a Public Procurement Bill

While much has changed since the MTBPS, the capacity of these institutions to fulfil their mandate and respond to highly dynamic socio-economic contexts is as imperative as ever. Strong public institutions are needed to steer South Africa out of this period of crisis towards longer term sustainable development.

Committees must therefore influence active engagement by the executive of vulnerable and underrepresented communities, directly or through civil society groupings. The OBS recommends that this should include providing feedback on how public inputs collected during pre-budget consultations and budget implementation are implemented by the government.

Each of these are more than mere 'nice-to-haves' but are vital for (re) building trust between the state and public.

The onset of the COVID-19 pandemic obliged provincial departments to spend significant additional amounts of money to curb the impact of the virus. And so the practices - at the provincial levels in particular of slow and/or non disclosure of key fiscal information, weak accountability, poor expenditure management and - historically - limited public engagement have exacerbated barriers for monitoring by civic actors and oversight entities alike. Many provincial departments do not proactively publish key data such as in-year expenditure reports which hinders effective monitoring and oversight.[102] Provincial, legislatures and health portfolio committees must fulfil their obligations by ensuring that the health officials and/or provincial treasuries remedy these deficiencies in a sustained manner.

Participatory processes

> ***"Generally spending should focus on inclusivity and prioritising those that are most vulnerable. It seems those provinces that are faring the worst are also receiving the smallest budgets, partly because they lack capacity to spend funds effectively. So that is where I would like to see prioritisation: spending funds also on capacity that is required in order to administer the funds effectively with a focus on areas with the highest needs. This process has to be guided by a strong public participation component through which vulnerability can be contextualised and be defined in an area specific development."***
>
> - *Respondent to our call for submissions to Imali Yesizwe, on the question: "How could South Africa be spending or prioritising its money differently?" October 2020.*

[102] See 2019 Health Budget Analysis, for instance http://psam.org.za/wp-content/uploads/2019/05/Health-Budget-Analysis-2019.pdf

The Constitution provides for public participation in many ways. Section 118 (1) states that a provincial legislature must *facilitate public involvement in the legislative and other processes of the legislature and its committees.* The Constitution also obliges the legislature to *conduct its business in an open manner and hold its sittings and, those of its committees, in public.* At the local government level - the Integrated Development Planning Process (IDP) also provides for direct public engagement. Public administration principles, read alongside section 195 of the Constitution, provide for the role of an accountable public service that must respond to people's needs and provide opportunities for their participation in policy-making. The current pandemic has illustrated the importance of a people-centred approach to response and recovery.

A human rights budget is centred on social accountability. Social accountability obliges the state to prioritise the effective use of public resources to fulfil commitments to addressing poverty and inequality. The allocation of public funds is but one element of the public finance management web. A budget is also a policy document; an explicit statement of what priorities and commitments a government has made or intends to make to its people. It is also a legal planning document that should be aligned with explicit lines of accountability. Social accountability principles also emphasise public resource management processes that are inclusive of and accountable to the public. In a functional social accountability context – systematically marginalised groups are prioritised not just in budget prioritisation but in the actual decision-making process. People’s right to engage and question elected representatives, public officials and private actors on budgetary and policy decisions is central. While this is by no means a new paradigm – it is one that the South African government must substantively shift towards to re-energise its participatory democracy ideals. Bassett (2016), for instance, asserts that participatory policy-making was the basis for policy negotiation forums which explored strategies to transform municipal governance to enable ordinary local residents to have more policy influence. It is also useful to remember that the design of South Africa’s municipal government framework is aligned with decentralised, transparent and participatory governance.[103]

In addition to deepening public participation in existing legislative and policy processes - people-centred fiscal policy must account for key principles including timeliness, reciprocity, inclusivity, accessibility and respect for self-expression as defined by the Global initiative for Fiscal Transparency (GIFT).[104] The BJC calls for the piloting of participatory mechanisms in fiscal policy taking South Africa’s social and demographic characteristics into account while addressing fundamental deficiencies in budgeting at the provincial and local levels. Examples of meaningful, cost effective and impactful processes include participatory budgeting as introduced in Cascais, Portugal in 2011 - resulting in the introduction of citizen-informed municipal projects.[105]

Parliamentary oversight and Supreme Audit Institution

National budgets are tabled in Parliament - not as sealed deals but as policy commitments for approval by the legislative arm of the state. Budget priorities must also be open to public input given that they are intended to serve the developmental needs of the people. Enabling thorough

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[103] Basset, C. 2016. An Alternative to Democratic Exclusion? The Case for Participatory Local Budgeting in South Africa . Auwal Socio-Economic Research Institute Available Online: https://www.asri.org.za/asri-programmes/asri-public-policy-programme/civic-engagement-civic-activism/

[104] Refer to GIFT’s 10 principles to guide public participation in fiscal policy: http://www.fiscaltransparency.net/pp_principles/

[105] See case study report via Global Initiative for Fiscal Transparency: http://guide.fiscaltransparency.net/case-study/cascais-participatory-budgeting-portugal/

scrutiny and debate of priorities set in the budget processes is therefore crucial and cannot continue in its current form.

> Openness in government decision-making, the availability of budget and outcomes data and the effective management of government constituencies in budget debates are inseparable. The release of better information by the executive branch will not mean much unless coupled with efforts in the legislature and civil society to use that information. Similarly, it is difficult for the executive to establish accurately what information and institutional provisions are most urgently needed in the absence of a dialogue with legislatures and civil society. Only through a vibrant budget debate will the potential benefits of transparency be realized[106]

Section 188 of the Constitution outlines the functions of the Auditor General of South Africa while the Public Audit Act, 2004 provides for the auditing of institutions in the public sector. Reports of the Auditor-General are therefore critical for evaluating the performance of the executive - and of accounting officers in particular. Various parliamentary committees such as public accounts committees rely on these reports as a means to verify financial information presented to them by departments and entities. The rigour and reliability of AGSA audit reports are arguably a hallmark of South Africa's public finance management environment. However, a key missing link is the lack of more direct connections to community experiences of the impacts of weak fiscal governance on the delivery of services. The emergence of COVID-19 necessitated real-time auditing and reporting of departments' procurement and spending of pandemic funds by the Auditor-General. The AG's office has also established ongoing partnerships with civil society and community groups to contribute to real-time COVID-19 monitoring. The BJC commends these efforts and calls deepening of partnerships of this nature and more direct engagement of communities in a sustained manner.

7. CONCLUSION

The South African economy, the ruling party, many of the key institutions of democracy, and ultimately the majority of people of South Africa, have suffered a dismal decade prior to the onset of the COVID-19 pandemic. As we search for ways out of the unsustainable status quo of rising inequality, poverty, unemployment and violence, we should be guided by our founding document. The 1996 Constitution, which was adopted after an unprecedented public debate and consultation process, sets out the supreme law of democratic South Africa. Its key goals are to:

> Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;
> Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;
> Improve the quality of life of all citizens and free the potential of each person; and
> Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.[107]

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[106] Matemba, L., Kgampe, L. and Claassens, M. South Africa in Claassens, M. & van zyl, A. (Eds) 2005. *Budget Transparency and Participation 2: Nine African Case Studies: Botswana, Burkina Faso, Ghana, Kenya, Namibia, Nigeria, South Africa, Uganda and Zambia*. IDASA, Cape Town. p.270

[107] Constitution of the Republic of South Africa, 1996, preamble.

Imali Yesizwe provides a starting point for shifting from harmful austerity budgeting to a budget and budget process which gives expression to these overarching goals. Constitutionally, the government is mandated to develop human rights focused economic and budget policies, the time to do so has come.

ENDORSEMENTS:

To endorse Imali Yesizwe, please follow this link:
https://docs.google.com/forms/d/e/1FAIpQLSeBPcu_KQinWShUdAqE5dZmVwvxOsSO2sqbjISMPOhegW2ftg/viewform?usp=sf_link

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Public Affairs Research Institute

ABOUT THE BUDGET JUSTICE COALITION

Civil society organisations who are part of the Budget Justice Coalition include: the Alternative Information and Development Centre (AIDC), the Children's Institute at UCT (CI), Corruption Watch (CW), the Dullah Omar Institute at UWC (DOI), Equal Education (EE), Equal Education Law Centre (EELC), the Institute for Economic Justice (IEJ), OxfamSA, Pietermaritzburg Economic Justice and Dignity Group (PMEJD), the Public Service Accountability Monitor (PSAM), the Rural Health Advocacy Project (RHAP), SECTION27, and the Treatment Action Campaign (TAC).

The purpose of the Budget Justice Coalition is to collaboratively build people's understanding of and participation in South Africa's planning and budgeting processes – placing power in the hands of the people to ensure that the state advances social, economic and environmental justice, to meet people's needs and wellbeing in a developmental, equitable and redistributive way in accordance with the Constitution