



# Financial and Fiscal Commission

---

*For an Equitable Sharing of National Revenue*

## SUPPLEMENTARY COMMENT ON BUDGET 2021 AND THE BILL OF RIGHTS

**05 March 2021**

Financial and Fiscal Commission  
Montrose Place (2nd Floor), Bekker Street,  
Waterfall Park, Vorna Valley, Midrand,  
Private Bag X69, Halfway House 1685  
[www.ffc.co.za](http://www.ffc.co.za)  
Tel: +27 11 207 2300  
Fax: +27 86 589 1038

1. The FFC is concerned that government has not adequately considered the impact of Budget 2021 on the rights set out in South Africa's constitution.
2. The Bill of Rights is "the cornerstone of democracy in South Africa" [s7(1)], and the state must "respect, protect, promote and fulfil" the rights contained therein [s7(2)]. The Bill of Rights is binding on the legislature and the executive. [s8(1)]
3. It states that:
  - Everyone has a right to basic education [s29(1)a]
  - No one can be refused emergency medical treatment [27(3)]
  - Every child has the right to basic nutrition, shelter, basic health care services and social services [28(1)(c)]
4. In addition, section 27(2) requires that the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of rights to-
  - Healthcare services
  - Sufficient food and water
  - Social security
5. Since the adoption of the Constitution in 1996 there have been substantial gains in all these areas. Over the last decade or so the services established to ensure the provision of these rights have been under significant budget pressure. However, Budget 2021 is the first time since the adoption of the Constitution in which a budget tabled by the executive has unambiguously proposed a substantial reduction in the real value of allocations to public services that undergird these rights, a reduction that looks set to continue for several years into the future.
6. For example:
  - a) Consolidated expenditure on emergency medical services was estimated at R8.2 billion in the 2019 fiscal year. It is estimated at R7.2 billion in 2021. The estimate for 2023 is R8.1 billion – i.e. below its nominal level in 2019.
  - b) Consolidated expenditure on central hospitals is estimated in the budget review to be lower in 2021 than it was in 2019.

- c) Estimates in the tabled budget documents imply that consolidated expenditure on central hospitals will grow at 1.3 per cent per annum between 2019 and 2023 – far below the inflation rate of around 4 percent.
  - d) Consolidated expenditure on basic education grows by less than 2 per cent per annum between 2019 and 2023, far below the average rate of consumer price inflation over the period.
  - e) The Budget Review indicates that “low compensation growth of 0.8 per cent over the MTEF period, combined with early retirements, will reduce the number of available teachers. This, coupled with a rising number of learners, implies larger class sizes, especially in no-fee schools, which is expected to negatively affect learning outcomes.
  - f) It is not only compensation budgets that are growing slowly. Learner and teacher support materials are also estimated to increase at rates well below inflation for the next three years.
  - g) The budget proposes an inflation-related increase in the child support grant of 3.4 per cent in 2021. However, the value of the grant is estimated to grow at far below inflation (at around 2.4 percent per annum in nominal terms) over the medium term.
7. It may be that economy realities mean that the promise of the constitution can no longer be achieved. South Africa has had a declining per capita income for several years, and the projection is for this path to continue. It is also true that debt service costs are increasingly crowding out the space for social provision, and this is not a sustainable position.
  8. The reality of above-inflation remuneration improvements of teachers and health workers over the last decade also creates real challenges for the provision of services, especially if these improvements in remuneration are not matched by improvements in the quality of human capital and service provision.
  9. With respect to basic education, or basic nutrition for children there is no qualification of rights in terms of “available resources”. The implication is that – to the extent that the state intends to reduce the allocations to basic education and the child support grant – a strong case must be made that it is impossible to prevent these reductions from taking place.
  10. The rights in section 27 of the Constitution are clearly qualified by the availability of resources. In this respect there are two factors that need to be considered. First,

even if it is accepted that economic conditions dictate a reduction in government's resource envelope, there is a need to consider the choices made within the envelope. In this regard it is notable that consolidated expenditure on healthcare and basic education is set to grow far below the average. In other words, resources are being shifted away from these functions towards other priorities. This partly reflects government's intention to reduce the pay of teachers and healthcare workers (which is almost certain to have negative consequences for the quality of human capital allocated to these public services). But it is not solely a reflection of compensation trends. Goods and services budgets in these two sectors, as well as conditional grants aimed at supporting "consumption" expenditure in the sectors are also set to grow far below average expenditure growth.

11. The second factor is that "available resources" implies a distributional question. Not only has government decided to reduce allocations to healthcare and basic education and reduce the real value of social grants over the medium term, it has also decided to reduce the resource envelope available to it by lowering the tax burden.
12. Neither the budget speech nor the budget review makes any reference to the state's constitutional obligations regarding these matters. There is also no indication that government has considered how the rights contained in the Constitution will be protected in the context of falling resource allocations. It is hard to avoid the conclusion that executive has not considered these matters seriously when preparing its budget proposal to parliament.
13. It is important that South Africa begins to discuss these issues. The tabled budget implies a real reduction in per capita non-interest spending of around 14% over the next 3 years. But this path does not assure South Africa of a clear and unambiguous stabilization of debt in the outer year of the medium-term framework.
14. The implication is that the erosion of real budgets for basic rights set out in the Constitution may well continue, even beyond the tabled medium-term plan. It is a matter we will return to next year, the year after that and into the period of the next administration. It is important that South African citizens discuss this. It is also important that government respond to these concerns. In particular, the Ministers of Basic Education, Social Development and Health should provide a clear indication of whether in their view the budget implies a retrogression of the rights contained in the Constitution. They should also indicate what measures they intend to put in place to mitigate this outcome.

15. Moreover, the Minister of Finance should indicate how and where he has applied his mind to these matters. The consolidated expenditure numbers set out above are the outcome of appropriations by both national government and provincial legislatures. As such this is a matter that provincial governments also need to consider and engage on.



---

**Mr Michael Sachs**

**Acting Chairperson/ Deputy Chairperson**

**Financial and Fiscal Commission**

**Date: 5 March 2021**