1. Introduction and Problem Statement

South Africa's constitutional democracy was founded on a promise of social and economic transformation, yet that promise must be pursued within the reality of finite public resources. Government is simultaneously required to maintain sustainable public finances and progressively realise socioeconomic rights, including access to housing, healthcare, food, water and social security (Republic of South Africa, 1996, ss 26–27). This creates a difficult policy dilemma: when fiscal resources are constrained, how can government reduce deficits and stabilise public debt without undermining the constitutional rights it is required to protect?

The dilemma has become increasingly significant as South Africa confronts weak economic growth, substantial public debt, rising debt-service costs and competing demands for limited government resources (National Treasury, 2026). Fiscal consolidation may be necessary to preserve the state's long-term capacity to provide public services; however, the manner in which consolidation is achieved can have immediate and unequal consequences for citizens who depend most heavily on public provision.

This essay therefore asks: *How should South Africa balance fiscal sustainability with its constitutional obligation to progressively realise socioeconomic rights when public resources are constrained?* It argues that fiscal discipline and constitutional rights should not be treated as competing objectives. Rather, fiscal consolidation should be designed to protect constitutionally significant expenditure, minimise disproportionate social costs and preserve productive investment, thereby safeguarding the state's capacity to fulfil its constitutional obligations both today and for future generations.

2. South Africa's Fiscal Reality

South Africa enters the current fiscal period with a difficult combination of weak economic growth, elevated public debt and substantial debt-service costs. The 2026 Budget projects real economic growth of 1.6 per cent in 2026, while gross government debt is projected to reach 78.9 per cent of GDP before beginning to decline (National Treasury, 2026). Although the projected trajectory represents an improvement in the fiscal outlook, debt-service costs continue to place significant pressure on government resources. National Treasury estimates that government will spend approximately

R432.4 billion servicing debt in 2026/27, exceeding expenditure on several major public-service functions (National Treasury, 2026).

These pressures constrain the resources available for government priorities. Every rand allocated to servicing existing debt is a rand that cannot simultaneously be allocated to public infrastructure, healthcare, education or other priorities (National Treasury, 2026). At the same time, reducing expenditure too aggressively can weaken the services and investment required to support economic growth and improve living standards. Fiscal consolidation therefore presents a question not only of how much government spends, but also of where reductions occur and what consequences they produce.

The 2026 Budget recognises this tension. Government's fiscal strategy seeks to stabilise public finances while improving the composition and efficiency of expenditure, including through measures to contain the public-service wage bill, increase capital investment and identify savings for reprioritisation (National Treasury, 2026). Government intends to announce proposals for a principles-led fiscal anchor in the 2026 MTBPS, following consultation (National Treasury, 2026).

South Africa's fiscal challenge is therefore not simply a choice between spending and austerity. It is a problem of prioritisation under scarcity. The central policy question is whether fiscal consolidation can be structured in a manner that restores fiscal sustainability without disproportionately transferring the burden of adjustment onto citizens who rely most heavily on public services, or undermining expenditure capable of strengthening the economy's future productive capacity.

3. The Constitutional Framework

Fiscal constraints do not place government outside its constitutional obligations. The Constitution of the Republic of South Africa, 1996, expressly recognises both socioeconomic rights and the reality of limited resources. Section 26 provides for access to adequate housing, while section 27 protects access to healthcare, sufficient food and water, and social security. Importantly, sections 26(2) and 27(2) require the state to take "reasonable legislative and other measures, within its available resources" to achieve the progressive realisation of these rights (Constitution of the Republic of South Africa, 1996).

The wording of these provisions is significant. Socioeconomic rights do not require government to provide every service immediately or without regard to fiscal capacity. Rather, they impose a continuing obligation on the state to use reasonable measures to advance their realisation within the resources available to it. Fiscal scarcity is therefore constitutionally relevant, but it does not provide an unrestricted justification for government decisions.

The Constitutional Court developed this principle in *Government of the Republic of South Africa v Grootboom*, where it held that the state's programme for realising the right to housing had to be reasonable and make provision for people in situations of particular vulnerability. The Court subsequently reinforced this approach in *Minister of Health v Treatment Action Campaign*, holding that government measures concerning access to healthcare were subject to constitutional scrutiny for reasonableness. These cases demonstrate that the Constitution gives government considerable latitude in determining how resources are allocated, while retaining judicial oversight of whether the measures adopted are reasonable.

This creates an important constitutional principle for fiscal policy: scarcity may constrain what the state can provide, but it does not remove the state's obligation to justify how scarce resources are prioritised. Fiscal decisions must therefore be understood not merely as questions of financial management, but as decisions capable of affecting the practical enjoyment of constitutional rights. The challenge is consequently to determine how fiscal consolidation can remain both economically sustainable and constitutionally reasonable.

4. Constitutional Jurisprudence and the Reality of Scarcity

South African constitutional jurisprudence demonstrates that the protection of socioeconomic rights has never been understood as requiring unlimited state expenditure. In *Soobramoney v Minister of Health (KwaZulu-Natal)*, the Constitutional Court recognised that the resources available for healthcare are limited and that government must make difficult choices about how those resources are allocated. The case established that constitutional rights must be understood alongside the practical constraints facing the state.

However, *Government of the Republic of South Africa v Grootboom* established that resource constraints do not provide an unrestricted justification for government

inaction. The Court held that state measures must be reasonable, appropriately address urgent needs and remain responsive to changing circumstances. Crucially, a programme that excludes people in desperate need may fail the constitutional standard of reasonableness, even where resources are limited.

This principle was reinforced in *Minister of Health v Treatment Action Campaign (No 2)*. The Court acknowledged that it was not institutionally equipped to determine how public revenues should be allocated across competing priorities but affirmed its role in assessing whether government measures reasonably fulfil constitutional obligations.

The jurisprudence therefore establishes a careful balance: government retains substantial discretion in allocating scarce resources, but that discretion is not absolute. Fiscal scarcity may determine the pace at which rights are realised; it does not eliminate the obligation to make reasonable, rational and constitutionally defensible choices. This principle is central to fiscal policy because decisions to reduce, protect or reprioritise expenditure are ultimately decisions about how constitutional obligations are translated into material outcomes.

5. Fiscal Discipline and the Protection of Rights

Fiscal discipline should not be understood as inherently incompatible with constitutional rights. A fiscally unsustainable state may ultimately become less capable of fulfilling those rights. As public debt increases, a greater share of government revenue may be directed towards servicing that debt, reducing the resources available for public services and investment. Sustainable public finances are therefore relevant to the long-term realisation of socioeconomic rights. Fiscal discipline can, in this sense, function as a mechanism for protecting the state's future capacity to meet its constitutional obligations.

However, the pursuit of fiscal sustainability does not make every form of expenditure reduction desirable. The consequences of fiscal consolidation depend substantially on where the adjustment occurs. Reductions in inefficient administration, wasteful expenditure or poorly performing programmes may strengthen fiscal sustainability without significantly reducing access to essential services. Conversely, reductions in healthcare, education, social protection or productive infrastructure may impose substantial immediate costs on vulnerable communities while weakening the foundations of future economic growth.

This distinction is particularly important in a country characterised by significant inequality and high levels of socioeconomic vulnerability. The same nominal expenditure reduction can produce very different consequences across different sections of society. A reduction that appears fiscally efficient at an aggregate level may impose a disproportionate burden on households with limited alternatives to public provision.

Fiscal consolidation must therefore be assessed not only by whether it reduces the deficit or stabilises debt, but also by how the burden of adjustment is distributed and what economic and constitutional consequences follow. The objective should not be to avoid difficult fiscal choices, but to ensure that those choices preserve essential constitutional protections, support productive capacity and maintain the state's ability to deliver public services over the long term.

6. A Constitutional Fiscal Prioritisation Framework

South Africa's fiscal challenge requires more than a choice between expenditure cuts and increased spending. It requires a systematic method for determining which expenditure should be protected, reduced or reprioritised. This essay proposes a Constitutional Fiscal Prioritisation Framework, through which major fiscal adjustments would be assessed according to both their economic consequences and their implications for constitutional rights.

First, government should consider constitutional significance. Expenditure directly supporting constitutionally protected rights, particularly essential healthcare, education, social protection, food, water and housing, should receive heightened protection where reductions would substantially impair access to those rights.

Second, fiscal decisions should be evaluated according to their distributional consequences. Government should identify which groups would bear the costs of a proposed reduction and whether vulnerable households would experience a disproportionate impact. Fiscal consolidation should not be considered equitable merely because its aggregate financial effect is neutral or positive.

Third, expenditure should be assessed according to its productive capacity. Spending on infrastructure, education, healthcare and other areas that strengthen human capital and economic participation should not automatically be treated as short-term

consumption. Where such expenditure contributes to future growth and revenue generation, protecting it may strengthen rather than weaken long-term fiscal sustainability.

Fourth, every programme should remain subject to an efficiency test. Constitutional importance cannot justify indefinite funding of programmes that consistently fail to produce meaningful outcomes. Government should therefore prioritise the elimination of waste, duplication, ineffective programmes and inefficient procurement before reducing expenditure that directly supports essential services.

Finally, fiscal decisions should be evaluated against intergenerational sustainability. Current policy must consider not only the rights of citizens today but also the fiscal capacity available to future generations. Excessive borrowing may transfer the burden of present consumption to future taxpayers, while underinvestment in education, infrastructure and public services may equally compromise their opportunities.

The framework would therefore require major expenditure adjustments to answer five questions: What constitutional interest is affected? Who bears the burden? What is the economic return? How efficiently is the money being used? And what are the consequences for future fiscal capacity? Such an approach would not remove difficult choices from the budget process. Instead, it would make those choices more transparent, evidence-based and constitutionally conscious.

7. Recommendations

The proposed framework should be incorporated into South Africa's existing budget and fiscal-policy processes rather than creating a parallel system of fiscal governance. Three measures could strengthen the relationship between fiscal discipline and constitutional rights.

First, major expenditure reductions should be accompanied by a Constitutional and Distributional Impact Assessment. Before significant reductions to programmes affecting socioeconomic rights are implemented, government should identify the constitutional interests affected, the groups likely to bear the costs, alternative measures considered and the expected medium-term fiscal consequences. This would strengthen transparency and provide a clearer basis for evaluating whether proposed measures are reasonable.

Second, fiscal consolidation should prioritise efficiency before essential service reductions. Government should systematically review inefficient procurement, duplication, poorly performing programmes and unnecessary administrative expenditure before reducing expenditure that directly supports vulnerable communities or essential public services. Fiscal discipline should focus not merely on reducing expenditure, but on improving the value obtained from every rand spent.

Third, South Africa should distinguish between expenditure that represents short-term consumption and expenditure that strengthens future productive capacity. Investment in infrastructure, education, healthcare and human capital can contribute to economic participation, productivity and future revenue. Protecting strategically important investment during periods of consolidation can therefore support both socioeconomic rights and long-term fiscal sustainability.

Finally, these assessments should be made publicly available and subjected to meaningful parliamentary scrutiny. Transparency would allow citizens to understand not only how much government is cutting or spending, but why particular priorities have been selected. This would reinforce accountability while recognising that difficult choices are unavoidable when resources are limited.

The objective is not to prevent fiscal consolidation. It is to ensure that consolidation is strategic rather than indiscriminate, constitutionally conscious rather than purely numerical, and sustainable rather than short-sighted.

8. Conclusion

South Africa’s fiscal constraints are real, and ignoring them would ultimately weaken the state’s ability to fulfil its constitutional obligations. Equally, pursuing fiscal consolidation without considering its constitutional and distributional consequences risks undermining the very rights that public finance is intended to support. The Constitution recognises that resources are limited, but it also requires government to use those resources through reasonable measures directed towards the progressive realisation of socioeconomic rights.

The appropriate response is therefore neither unlimited expenditure nor indiscriminate austerity. South Africa requires fiscal discipline that is deliberate about what it protects, what it reduces and who bears the cost of adjustment. A Constitutional Fiscal

Prioritisation Framework would provide a means of assessing major fiscal decisions according to constitutional significance, distributional impact, productive capacity, efficiency and intergenerational sustainability.

Ultimately, fiscal responsibility and constitutional responsibility should not be viewed as opposing principles. A fiscally sustainable state is better positioned to protect rights in the future, while a rights-conscious approach to fiscal consolidation can protect the social and economic foundations upon which sustainable public finances depend. The challenge is not simply to balance the budget, but to balance the obligations of the present with the capacity of the future. In a constitutional democracy facing scarce resources, the measure of fiscal discipline should therefore be not only how much government saves, but how responsibly it chooses what to preserve.

9. Bibliography

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