OUTA

ORGANISATION UNDOING TAX ABUSE

Actions speak louder than words

OUTA comment on the 2021 MTBPS

Submission to Parliament's

Standing and Select Committees on Finance

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1. OVERVIEW

MTBPS 2021 shows South Africa what we've known for a long time: our backs are against the wall as we grapple with the lingering and ongoing impacts of state capture, a stagnant economy exacerbated by the ongoing pandemic, a government unable to put its foot down and slash unnecessary spending, and a continuing inability to address maladministration. This MTBPS did not include major announcements. Key fiscal goals remain the same. The bulk of the statement comprised plans and hopes rather than actions and implementation. It stated that "*reforms should focus on improving competitiveness, productivity, investment and employment*". These are worthy goals civil society has been advocating for over time, yet in practice we see:

- Less competition by way of the ongoing protection of SAA and other failed SOEs that operate in the competitive business space and will seemingly continue to rely on government guarantees.
- Lower productivity due to many unqualified people in positions of authority within the public service and little accountability being applied. Modern digital platforms when introduced are costly to society, ineffective and lack uptake. Drivers licenses and AARTO concerns and problems continue to plague our country, yet effective solutions proposed by civil society are not favoured by those in authority.
- We see no new policies or amendments to existing policies that will attract business to invest in South Africa.

The consolidated budget deficit is expected to be 7.8 percent of GDP in 2021/22, gradually lowering to 4.9 percent in 2024/25. This is not low enough; more must be done. The bulk of upward adjusted expenditure plans are earmarked for public sector wages. This statement flies in the face of millions of South Africans who have been exasperated by ever-poor service delivery from police officers, traffic department officials, and the military in a time of need and struggle due to address the Covid-19 pandemic and the unrest that shocked South Africa.

Senior public officials should address board wage caps or cuts, and drive consequence management and accountability that sets examples of discipline and consequences for middle and junior officials who fail to perform their duties. It is no longer negotiable to increase public sector remuneration, unless several failed SOEs that have not delivered public benefit are formally wound down, privatised, or closed entirely. Containing our sovereign debt-servicing costs requires deep, long-term trade-offs from 2022.

2. LOCAL GOVERNMENT

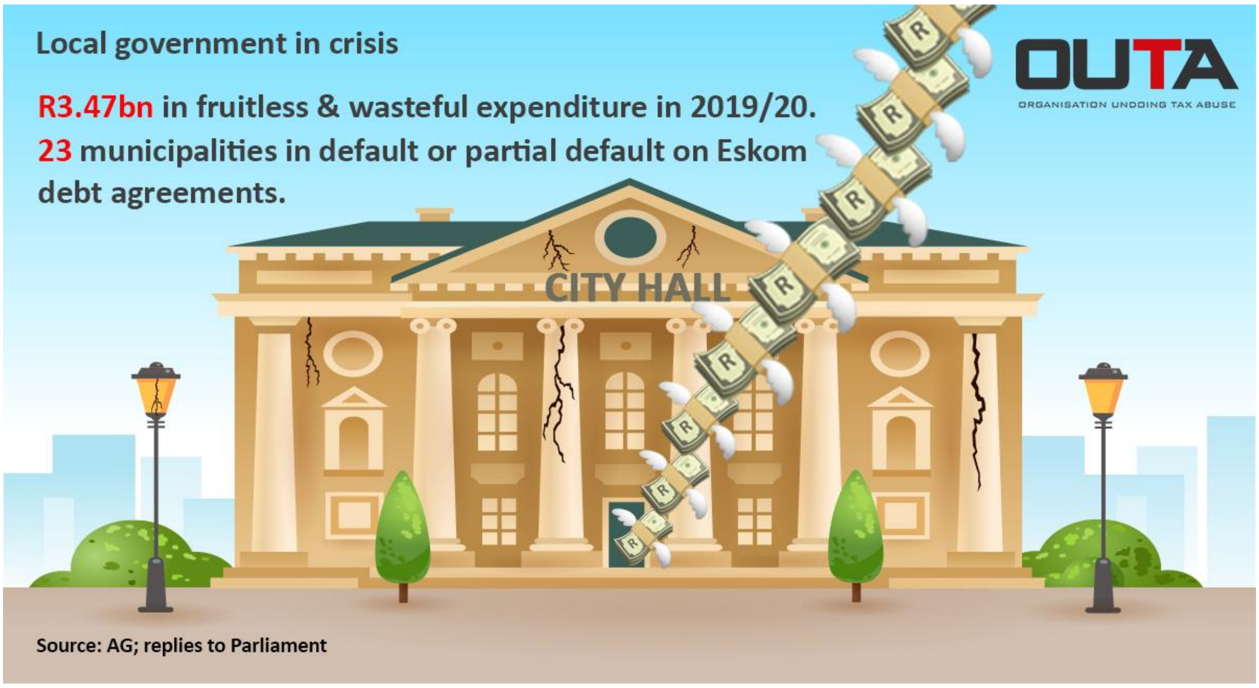
Local government requires extreme measures to be taken, since this sphere of Government has all but collapsed in many of our towns and cities across the country, where. Many municipalities have ceased to provide consistent basic services like water, and electricity, waste and sewage management have become dire. The lack of longer-term planning and maintenance is not being addressed at Local Government levels and the access to water is now becoming a threat to the socio-economic stability of our country. There is an increasing number of municipalities that are failing to meet their obligations to Eskom, whilst water & sanitation infrastructure has fallen into disrepair to such a degree that many rural communities spend nearly half their time without water on a permanent basis. Civil society needs to be meaningfully engaged with, to drive transparency and must be the solution to prevent another cycle of failed public finance management.

The MTBPS states that "*our immediate task is to build a capable local government that delivers services effectively and efficiently*". This is not a new problem. The Standing Committee on Public Accounts (SCOPA) has had to deal directly with numerous failed municipalities due to provincial CoGTA and Treasuries' inability to implement Section 139 of the Constitution. This section allows provinces to intervene in local government when it fails to provide basic services or meet financial obligations. Interventions in numerous municipalities have not resulted in noticeable improvement in municipal management. The announcement that there will be "*...pilot sites for innovation and experimentation*" fails to recognise that some municipalities have consistently produced clean audit outcomes, which means existing models can work when corruption, incompetence, and maladministration are eliminated from the situation.

As regards the above, we believe that no "experimentation" is required and that the authorities merely turn to observe best practice in those municipalities that perform at the highest standards and for the State to introduce interventions in those municipalities that fail to achieve the desired financial and performance management outcomes.

The proposed course of action to fix local government is, one that hinges on closer collaboration and alignment between provincial, local, and national governments. We argue that addressing the disconnect between spending and outcomes in local government should meaningfully involve local communities. This may take the shape of councils opening their budgets to a much more detailed level for public scrutiny and recommendations, as well as hosting more regular and meaningful meetings and engagements with civic bodies. The failure to instil a culture of accountability and commitment is at the heart of most of South Africa's problems and this issue is not addressed in wage negotiations. OUTA objects to increased net remuneration for public officials, despite poor service delivery outcomes.

The same principle applies to the introduction of new employment programmes that will cost R74 billion over the MTEF. Government expenditure is not the solution to South Africa's severe unemployment crisis. Rather, expenditure should be reprioritised to focus on infrastructure and the provision of essential basic services that will enable small- to medium-sized businesses in urban and rural areas to grow and absorb more labour. The Minister's support of renewable energy development and de-regulation is welcome, as this can boost growth on a sustainable basis in municipalities where abundant renewable energy sources await.



3. STATE-OWNED ENTITIES

"*In this MTBPS, no additional funding is provided for state-owned companies*." However, support will be provided to those major public entities where guarantees have been called in by creditors, the entities have met certain conditions and have strategic importance. This is, in essence, precisely what has been happening to date. Guarantees provided by the sovereign are backed up by taxpayers, and if the entities which receive these guarantees fail to recover the expenditure incurred against such, it will become a further burden on taxpayers and all beneficiaries of social expenses that will in turn be crowded out further with more debt. We call for an assurance from Treasury that all financial support for state-owned entities will be transparent, so the public can see exactly what we are paying for (e.g., if Treasury pays SOE debtors directly, then it must be clear). Transparency is essential.

The MTBPS suggests that the past 13 years have seen sustained efforts in government to fix Eskom, whilst evidence has emerged showing that this key SOE was looted and broken over precisely this period. Load shedding, currently disrupting businesses across the country, began almost precisely 13 years ago - and this problem has not been mitigated despite year-on-year bailouts and government guarantees. Special Appropriations with conditions attached to them have not resulted in improved outcomes, just more debt. Recent amendments to Schedule 2 of the Electricity Regulation Act of 2006 could have been enacted many years ago, yet government chose to rather hold onto the Eskom monopoly.

Nevertheless, the recent decision to de-regulate the energy sector is welcome and may provide energy security as well as green jobs financed by the private sector. A competitive energy market in South Africa will indeed foster economic growth and create some stability.

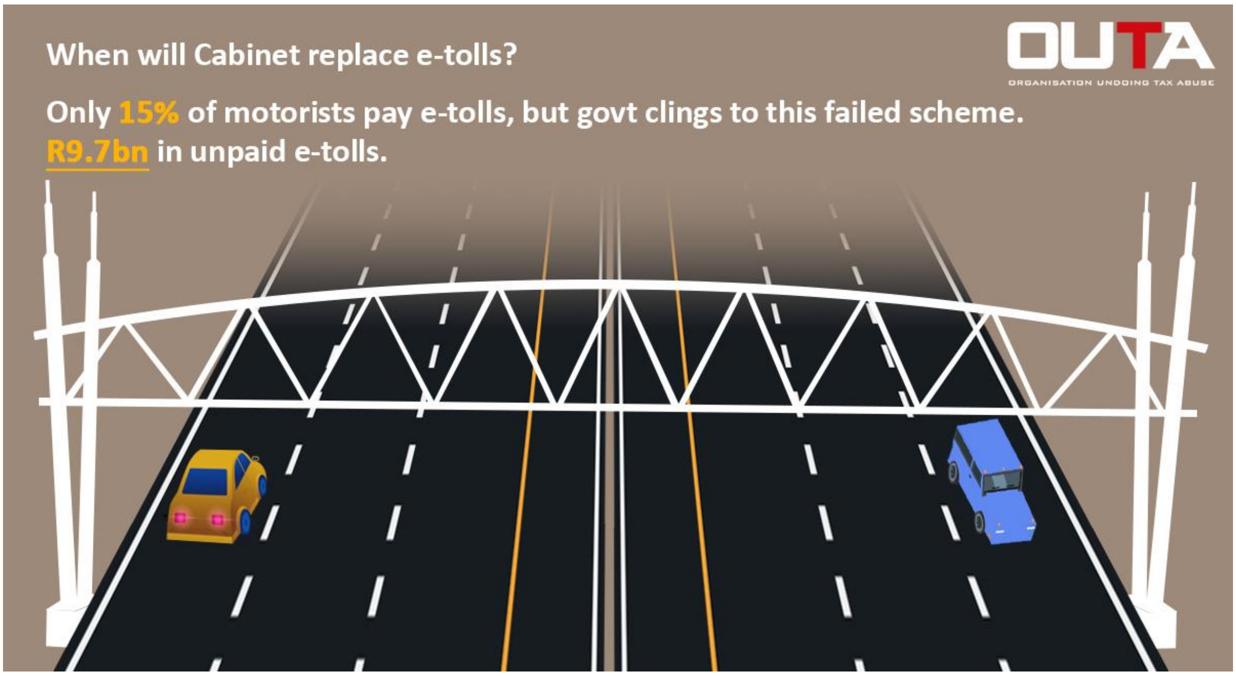
Transnet's reforms are long overdue. Whether the corporatisation of Transnet's National Ports Authority as an independent subsidiary of Transnet is commensurate with the aforementioned Bill remains to be seen. It is also unclear how exactly this move will create incentives for efficiency and competitiveness between port service providers.

We welcome the call that Transnet Freight Rail will allow third-party access to the freight rail network by the end of 2022. This should be accompanied by internal improvements to the financial management of Transnet, however, which was recently downgraded because of ongoing irregular expenditure issues etc. With regards to *"issues blocking the release of high demand spectrum and making affordable data available to firms and households",* this is an urgent matter being driven by litigation rather than competent, urgent implementation of established plans in institutions like ICASA. Overall, a clear plan is needed to identify and prepare the many failed and/or redundant SOEs that should be closed. Key SOEs can be financed by diverting political party funding.

Coastal and inland towns and cities will benefit from the opening of rail infrastructure to third parties. Many sections of rail infrastructure have laid dormant for years, resulting in further decreases in logistic capacity for isolated rural and coastal economies; what infrastructure has survived should be available for use.

A National Water Resources Infrastructure Agency is welcome. OUTA and Water Shortage SA proposed an independent regulator to the Portfolio Committee on Water and Sanitation and await the formal introduction of this oversight authority which has been pronounced on, yet implementation appears to once again be our stumbling block.

4. SANRAL & E-TOLLS



Avoiding policy decisions

Once again, the future of e-tolls is dodged, although the MTBPS is the main budget policy document. However the MTBPS quietly acknowledges that e-tolls are effectively dead in a hidden allocation to SANRAL by shifting R3.740bn within the Transport vote from non-toll roads to the Gauteng Freeway Improvement Project (GFIP). Treasury has been funding the e-toll shortfalls for seven years now , failing to make a decision about funding the GFIP while only 15% of motorists pay e-tolls in this failed "user-pays" scheme.

The Gauteng e-tolls issue is a prime example of the state's inability to come to terms with a failed policy, and the ongoing inability to make a decision on how the alternative funding mechanism will be applied, in order to formally pull the plug on the scheme, generates ongoing confusion and uncertainty about its future.

This failure to make a policy decision leaves the non-toll roads underfunded (a similar reallocation within the Transport vote was made in 2017/18). It also affects SANRAL: "The inability to resolve the Gauteng Freeway Improvement Project (GFIP) continues to place significant pressure on SANRAL's balance sheet, compromising the ability to source funding and exacerbating uncertainty regarded the future of road funding. As an offshoot of the GFIP challenge, the need for a new Road Infrastructure Funding Policy becomes more pronounced," notes SANRAL in its Integrated Report for 2020/21.

2011/12 to 2021/22: R23.148bn transferred to SANRAL for GFIP

The Treasury's subsidy to SANRAL to compensate for the reduced e-toll tariffs, paid every year since 2015/16, has given SANRAL R3.478bn (2015/16 to 2021/22).

The reallocation of funds within the Transport vote from non-toll roads to GFIP added R5.640bn (2017/18 and 2021/22).

The Treasury's big bailouts to SANRAL for GFIP since 2011/12 added R14.030bn (R5.750bn in 2011/12, R5.750bn in 2018/19 and R2.530bn in 2020/21).

These together are R23.148bn, specifically for the GFIP, which is more than the initial cost of upgrading the roads (excluding e-toll collection infrastructure).

We need greater transparency on where this funding goes, and how much goes to the e-toll operator.

Reporting discrepancies between Treasury and SANRAL

The Transport vote (Budget 2021, not changed in MTBPS 2021) shows government funding for GFIP for as R550.516m (2019/20) and R3.130bn (2020/21). However, SANRAL's Integrated Report 2020/21 lists the "GFIP grant" as R2.668bn (2019/20) and R2.722bn (2020/21). These are significant discrepancies. How do they arise?

5. PUBLIC SECTOR REMUNERATION

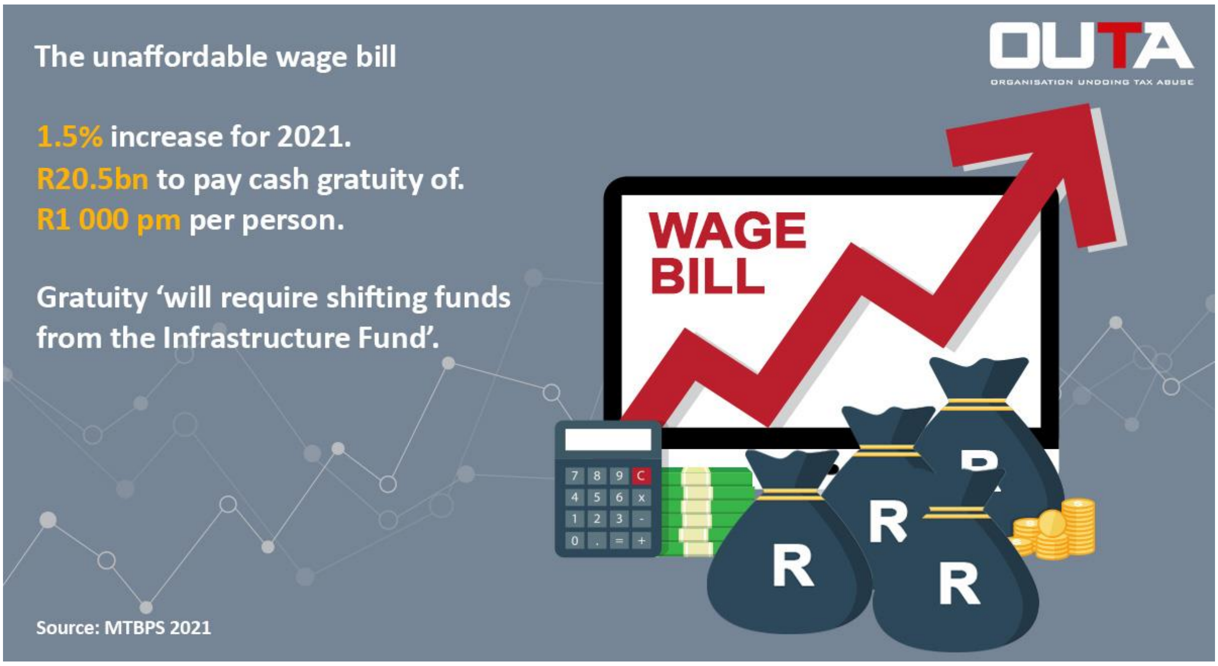
One major announcement in this MTBPS is on the unbudgeted part of the public service wage increase, much of which goes to the provinces. It was announced that this R20.5bn a year in operational costs might next year have to be taken from the Infrastructure Fund. This is an alarming suggestion which begs questions about government spending priorities in the context of severe fiscal constraints.

This is not to say that we advocate for the sanctity of the Infrastructure Fund. R100bn will be allocated to it over ten years from 2019/20, but it is unclear which projects will benefit from this investment and we are cautiously optimistic that lessons are being learned so that the associated contracts will be managed appropriately. Capital expenditure must be prioritised over current expenditure such as public sector remuneration. OUTA and other civil society organisations have repeatedly recommended to Parliament that the unsustainable increase to this expenditure across all spheres of government should be strictly limited in real terms. That is, it should not be measured as a proportion of overall expenditure - but rather as a function of performance outcomes and public satisfaction with associated service delivery.

The MTBPS states that "*we spent more than we were receiving in tax revenues on a consistent basis. This, together with the composition of spending, did not meaningfully increase growth".* The composition of spending is flawed in its emphasis on current expenses over capital expenditure. Public sector wages are a prime example of this problem, and we recommend that deep trade-offs are made to turn this flawed prioritisation on its head. Many public servants do crucial work, and do so competently and efficiently, but many do not. Further, senior public servants and managers of major public entities receive astronomical salaries which can no longer be justified in our current fiscal and socio-economic situation.

Trade-offs must be made within and between departments and programmes. For example, the MTBPS suggests that additional funding for the South African Police Service (SAPS) and the National Defence Force (SANDF) will "*strengthen the fight against crime*". According to the SAPS Annual Report for 2020/2021 financial year, a total of 10 689 new civil claims were registered valued at R16bn. A total of 52 203 claims valued at R59bn were still pending as of March 2021. These claims emanate from previous financial years, and this financial year.

Such enormous liabilities contradict the MTBPS suggestions that additional funding will help the fight against crime. This is criminal activity within the SAPS, and National Treasury must apply regulations that provide for the recovery of compensation paid to victims from officials.



6. DEBT & DEFICIT MANAGEMENT

"The R4 trillion in debt that we now owe is incurring debt service costs that will become the largest portion of spending, compared to individual functions, from next year. These debt service costs are non-discretionary – in other words, we cannot avoid paying them. Their effect, therefore, is to crowd-out other spending priorities."

It is years of misspending that has resulted in debt-servicing costs crowding out essential services. These costs will reach R365.8bn in 2024/25. Whilst revenue has now bounced back as the Covid-19 pandemic is addressed, the combination of this anticipated expense on servicing our sovereign debt and eliminating the budget deficit implies that major austerity measures will need to be implemented. The cushion government was able to provide for poor households and individuals without eroding our fiscal position further is temporary.

This will not be possible in the near and distant future, unless tax abuse and evasion drastically decrease and revenue increases without increasing the rates of taxation on productive economic activity. To increase compliance and tax collections, which includes addressing illicit financial flows, more will be needed than skilled audits and modernisation of the SARS system. Sound fiscal policy must be seen and felt at the grassroots level to instil trust and voluntary compliance among taxpayers at all levels. This means more aggressive implementation of the Public Finance Management Act and its regulations, as well as further withdrawal of political involvement in the operations of key public entities and departments. This also means overhaul of municipalities and an application of the MFMA in that sphere.

Whilst the criminal violence and looting that took place especially in Kwazulu-Natal and Gauteng does undermine confidence in our recovery, and whilst such events do hinder long-term economic development, we argue that criminal activity in government does so tenfold. The allegations levelled against many senior government officials and politicians (many of whom are still in Parliament today) have not been resolved. This means that high-level financial decisions may still be taken by alleged white-collar criminals in high political office. This systemic issue undermines what the Public Procurement Bill would ultimately mean for our public sector when it is enacted in 2022/23.

7. RECOMMENDATIONS

1. We support the MTBPS position that reforms should focus on improving competitiveness, productivity, investment and employment; however, we have seen insufficient movement in that direction.
2. Local government: Rather than more studies and pilot projects, we believe that municipalities showing examples of best practice, including consistently produce clean audit outcomes, should be used as existing examples.
3. SOEs: We call for an assurance from National Treasury that all funding for SOEs will be transparent.
4. SOEs: We believe that reforms in Transnet are long overdue.
5. SOEs: We support the move to de-regulate the energy sector.
6. SOEs: We support the proposal for a National Water Resources Infrastructure Agency. We also encourage the establishment of an Independent Water Regulator.
7. SANRAL and e-tolls: We urge Cabinet to take a decision on the future of e-tolls. Avoiding this major policy decision is not best practice.
8. Public sector remuneration: Capital expenditure should be prioritised over increasing current expenditure such as public sector remuneration.

9. Public sector professionalism: The R59bn in civil claims against the SAPS raise concerns about criminal activity with the police and are creating enormous liabilities for the state.
10. Debt and deficit management: Debt-servicing costs will reach R365.8bn in 2024/25. This emphasises the need for increased action against tax abuse and tax evasion.
11. State capture: We are concerned that allegations against senior government officials and politicians (many of those politicians still in Parliament) have not been resolved. This means that high-level financial decisions may still be taken by alleged white-collar criminals in high political office.

Organisation Undoing Tax Abuse

The Organisation Undoing Tax Abuse (OUTA) is a proudly South African civil action organisation set up in March 2012. It is a registered non-profit, overseen by an executive committee and a board of directors.

OUTA challenges inefficiencies, maladministration, and corruption in governance. It was originally set up to oppose the tolling of Gauteng's urban freeways but later expanded to challenge corruption in government and the abuse of taxpayers' money.

OUTA is crowd-funded by thousands of ordinary people and businesses.

Our vision is of a prosperous country, free from the abuse of authority and governed with the efficient use of tax revenue.

Our vision is of a prosperous country with an organised, engaged and empowered civil society that ensures responsible use of tax revenues and public funds throughout all levels of government.

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