

**Examining the Legal Challenges in Debt Financing: Implications on Economic
Development in Kenya**

Submitted in partial fulfilment of the requirements of the Bachelor of Laws Degree, Strathmore
University Law School

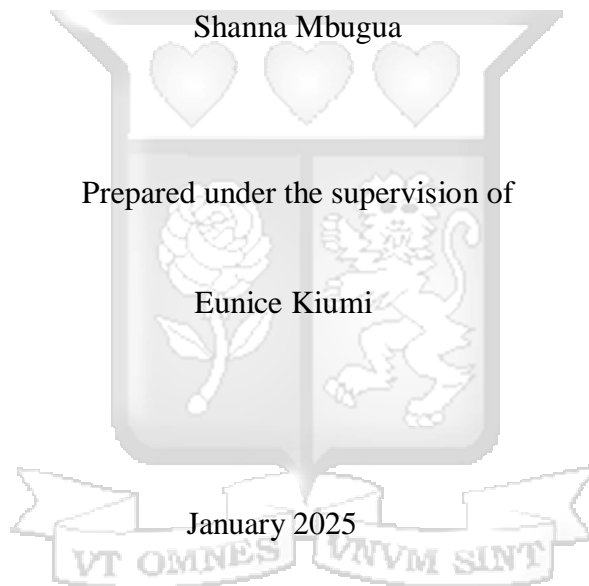
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January 2025



DECLARATION

I, **SHANNA WAIRIMU MBUGUA**, do hereby declare that this research is my original work and that to the best of my knowledge and belief, it has not been previously, in its entirety or in part, been submitted to any other university for a degree or diploma. Other works cited or referred to are accordingly acknowledged.

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This dissertation has been submitted for examination with my approval as University Supervisor.

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Date...*31/01/25*.....

Eunice Kiumi, Strathmore Law School

DEDICATION

To my sisters Sherryl, Samya and Saira. This project is dedicated to you. May you always see me in an inspirational light.



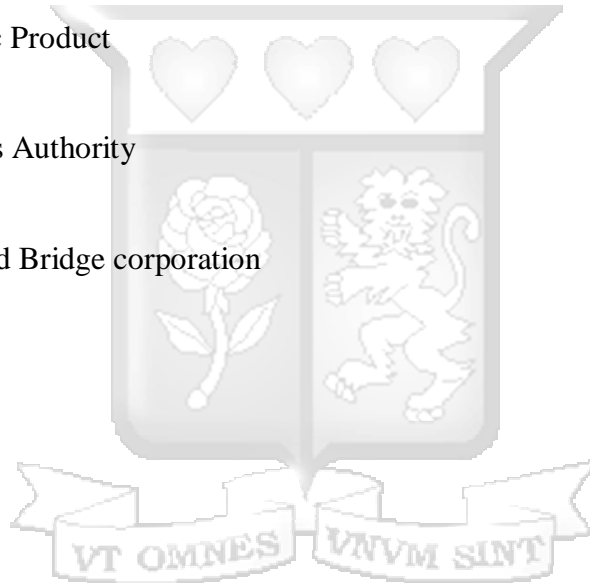
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LIST OF ABBREVIATIONS

| | |
|-------------|-----------------------------------|
| KRA | Kenya Revenue Authority |
| IMF | International Monetary Fund |
| SGR | Standard Gauge Railway |
| PAYE | Pay As You Earn |
| GDP | Gross Domestic Product |
| CMA | Capital Markets Authority |
| CRBC | China Road and Bridge corporation |



LIST OF STATUTES

Capital Markets Act 2012

Constitution of Kenya 2010.

Finance Act 2022.

Kenya Revenue Authority Act 1995.

Public Finance Management Act 2012.



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ABSTRACT

This study will demonstrate the link between legal issues in debt financing, their implications for Kenya's economic growth as well as its effect on the debt that the country is in. Kenya has been and remains dependent extensively on debt financing to drive its economic growth and development goals. However, the efficacy and sustainability of this method are hampered by several legal obstacles, including concerns about transparency, accountability, and debt management techniques. The study intends to investigate how inadequate debt management techniques, lack of transparency, and accountability in borrowing procedures lead to unsustainable debt build up and impeding economic progress. An analysis of how the effects of excessive borrowing stifles consumer spending, investment, and resource allocation, perpetuating social gaps and preventing inclusive growth due to the increase of the cost of living which is one of its effects.

The end goal of this research piece is to inform policymakers, practitioners, and stakeholders about the urgent need for debt management and fiscal policy reforms by providing critical insights into the nexus between legal challenges in debt financing and economic development in Kenya. This study is tantamount as it will contribute to evidence-based policymaking for achieving fiscal sustainability with transparency and accountability, risk management with regard to debt and the impact this has had on economic development prospects for Kenya by advocating some sustainable solutions that will have better prospects in the long run.

Key words:

Economic growth, debt financing and debt management.

1.0 CHAPTER ONE: INTRODUCTION

1.1 Background to the Study:

Kenya, like many underdeveloped countries, confronts substantial financial issues for its economic development projects. The main sources of external debt in Kenya are bilateral and multilateral creditors and the principal instruments of domestic debt are treasury bills and bonds.¹ The Kenyan government has increasingly relied on debt financing to support rapid infrastructure expansion, social welfare programs, and economic growth.² Whereas debt may be an important step in financing developmental plans, it may have its legal aspects and consequences on economic development and the tax burden of the people.³ Kenya borrowed and borrowed from all local and international sources to finance development of various projects: the Nairobi Expressway, SGR, and Southern Bypass.⁴ Nonetheless, the accumulation of debt has raised concerns about Kenya's fiscal sustainability and ability to service these obligations in the long run.⁵

Alarmingly, Kenya's debt currently stood at 10.1 trillion as of 30th of June 2023.⁶ IMF warns that Kenya is at high risk of debt distress.⁷ This situation would have been avoided if the legal mechanisms outlined in the public finance management act were adhered to. This section mandates that the government must borrow at the lowest possible cost and with a low degree of risk ensuring that the level of public debt is sustainable.⁸ According to Maingi, the government's borrowing practices have constantly deviated from this requirement, leading to unsustainable debt levels.⁹

¹ Cytonn Kenya's public debt review 2023: *Is Kenya's public debt level sustainable*, 22 October 2023,1.

² Waiyaki N., 'Financial Development, Economic Growth and Poverty in Kenya' unpublished, University of Nairobi, Nairobi, 2016, 34.

³ Kobey L, 'Effect of Public Debt on Economic Growth in Kenya' unpublished, University of Nairobi, Nairobi, 2016,23.

⁴ The Conversation, 'Debt burden: How Kenya could avoid running on empty' *Nation*, 18 September 2024 [Debt burden: How Kenya could avoid running on empty | Nation](#) on 16 December 2024.

⁵ Kariuki J, 'Kenya's Road to Debt Sustainability: Key Insights From The 2023/24 Public Debt Management Report' *Mt Kenya Times*, 12 November 2024 on [Kenya's Road To Debt Sustainability: Key Insights From The 2023/24 Public Debt Management Report - The Mount Kenya Times](#) on 16 December 2024.

⁶ [Kenya's public debt rises by a record \\$10.8 billion | Africanews](#) on 16 December 2024.

⁷ Wanjala E, 'Kenya has high risk of debt distress – IMF' *The Star*, 22 November 2024, [Kenya has high risk of debt distress – IMF](#) on 16 December 2024.

⁸ Section 50(1), The Public Finance Management Act (2012).

⁹Maingi J, 'The impact of government expenditure on economic growth in Kenya: 1963-2008' 5 *Advances in Economics and Business* 12, 2017, 640.

Instead of implementing measures that stimulate economic growth, the government has resorted to over-taxation as a method to increase revenue, which has had a punitive effect on the economy.¹⁰

The burden of excessive taxes has led to a significant increase in the cost of living more rapidly than the citizens can keep up. According to the Kenya Economic Report, the inflation of food went from 7.7% to 13.1% which is a drastic increase and the largest increment since 2018 according to analytical reports.¹¹ There is a current withstanding 298 billion dollar Eurobond that is maturing which needs to be paid.¹² The government needs to find a way to repay this Eurobond as it is faced with high interest rates. The deadline of the repayment of the Eurobond was set at June 24th 2024 and the government was able to pay it back by June 21st 2024.¹³ However, there is concern as to how this debt was paid back. The government opted to use money that they had borrowed from the World Bank which amounted to 1.2 million dollars and out of that the 500 million dollars was used to repay the Eurobond.¹⁴ There is a growing concern over the method used to repay this debt that had matured and interest rates grown.

This has led to Kenya entering a process of loan stacking which is where a borrower takes out multiple loans from multiple lenders which is adding to the financial burden currently ongoing.¹⁵ Borrowing leads to high levels of debt servicing shift resources away from critical public services and infrastructure expenditures, resulting in an overreliance on taxes to pay debt commitments.¹⁶ This, in turn, can impose a significant burden on taxpayers while impeding economic growth and progress.¹⁷ In the year 2022 taxes such as income tax increased from 5% to 15%, turnover tax from

¹⁰ Murunga J, 'Essays on the Size of Kenya's Informal Sector, Tax Productivity and Optimal Tax Ratio' unpublished, University of Nairobi, Nairobi, 2022, 34.

¹¹ The Kenya Institute for Policy Research and Analysis, *Cost of Living and the Role of Markets Analysis*, 5.

¹² Amboko J, 'Treasury reveals plan to settle Sh298bn Eurobond' Business Daily, 17 October 2023 — <<https://www.businessdailyafrica.com/bd/economy/treasury-reveals-plan-to-settle-sh298bn-eurobond--4403404> > on 17 July 2024.

¹³ Lawi J, 'Kenya clears 257 billion Eurobond three days to the deadline' The Star, 24 June 2024 —<<https://www.the-star.co.ke/business/kenya/2024-06-24-kenya-clears-sh257billion-eurobond-three-days-to-deadline/> > on 20 July 2024.

¹⁴ Obulutsa G 'Kenya to use World Bank loan to make 500 million dollars bond payment this month' Reuters, June 6 2024 <<https://www.reuters.com/world/africa/kenyas-central-bank-governor-gdp-grow-57-2024-2024-06-06/> > on June 6 2024.

¹⁵ Green D, Liu E 'A Dynamic Theory of Multiple Borrowing' NYU,2019,2.

¹⁶ Foster V, Rana A and Gorgulu N, 'Understanding Public Spending Trends for Infrastructure in Developing Countries' World Bank, Policy Research Working Paper 9903, 2022, 2 [World Bank Document](#) on 16 December 2024.

¹⁷ Kobey L, 'Effect of Public Debt on Economic Growth in Kenya'25.

1% to 3%, introduction of cryptocurrency tax at 3%, marketing and advertising services for residents which is 5% and digital content monetization to residents at 5% and at 20% for non-residents as well as rental income received on behalf of the owner of a premises.¹⁸The 2023 government has used an approach that for every 10ksh of tax collected 6ksh goes to repaying debt.¹⁹ Considering the main issue is misappropriation of funds, the above strategy is impaired. Consequently, the rationale for the increase in tax collection is in order to pay back Kenya's current debt which may worsen economic distress.

All of these taxes have had an adverse effect on the economy which will inevitably deter economic growth, reduce entrepreneurship and encourage tax evasion as businesses cannot maximise on their profits.²⁰ More importantly, the cost of living has increased at an alarming rate where even the citizens are not able to keep up due to the lack of control of the debt crisis. This study aims to examine the legal framework governing public debt management in Kenya and its role in funding economic development. It also analyses overtaxation as a strategy for achieving sustainable debt repayment.

1.2 Statement of The Problem

Kenya cannot sustain debt financing because the current strategies have not yet started earning money or repaying the debt. The Debt and Borrowing Policy is Kenya's only debt limit statute. The Public Finance Management Act of 2012 regulates how the government manages finances in an accountable manner, and the Debt Management Reports inform how Kenya takes debt, but the parliamentary committee, national treasury, and public debt management office have failed to ensure sustainable borrowing. When the government is displeased, they change laws and regulations to benefit themselves rather than citizens. Are the country's debts helping or hurting? Or is it dragging Kenya into a greater economic crisis while taking unfavorable loans that lead to overtaxation and higher living costs?

¹⁸ —<<https://www.kra.go.ke/popular-links/key-highlights-of-the-finance-act-2023> > on 26 June 2023.

¹⁹ Munda C, '45 percent of Kenya's tax revenue to be used for debt repayments' Business Daily, 27 December 2020 —<<https://www.businessdailyafrica.com/bd/news/45-per-cent-of-kenya-s-tax-revenue-to-be-used-for-debt-repayments-2185834> > on 2 December 2023.

²⁰ Kemboi L 'Economic Freedom and Taxation: A Kenyan Perspective' Institute of Economic Affairs, 2023,1.

Kenyans don't understand how the country is in irrecoverable excessive debt because there has been no adequate breakdown and no reflection of the debt in the infrastructural projects it has been taken out of other than the SGR and Expressway. The study examines the legislative framework to protect citizens from high living costs and whether overtaxation is the best way to repay debt. It examines debt financing's legal issues and long-term viability.

1.3 Research Objectives

1. To analyse Kenya's legal framework on public debt management and evaluate its effectiveness in supporting sustainable economic development.
2. To conduct a comparative analysis of public debt management frameworks in Rwanda and South Africa, identifying best practices that can inform Kenya's approach to debt sustainability.
3. To examine the legal and institutional implications of over borrowing in Kenya and propose strategies for addressing these challenges to ensure sustainable debt management.

1.4 Research Questions

1. What is the current legal framework governing public debt management in Kenya, and how effective is it in supporting sustainable economic development?
2. How do the public debt management frameworks in Rwanda and South Africa compare to Kenya's, and what best practices can Kenya adopt from these countries to enhance debt sustainability?
3. What are the legal and institutional implications of over borrowing in Kenya, and what strategies can be implemented to mitigate the risks associated with excessive debt accumulation?

1.5 Hypothesis

Legal barriers to borrowing and a heavy taxation policy substantially impede economic development in Kenya. The analysis is predicated on two primary assumptions. First, the existing legal framework for debt financing is deficient in transparency and accountability, resulting in inefficient borrowing practices. Additionally, that high taxation for debt repayment negatively impacts citizens' economic well-being and overall economic growth. The research will utilize a mixed methods approach to validate these assumptions, integrating empirical analysis of economic indicators with a thorough legal review of current statutes and regulations. It shall correlate data on debt levels, taxation rates, and economic performance to illustrate the negative impacts of the existing legal and fiscal framework on Kenya's economic sustainability.

1.6 Justification of the Study

This study aims to demonstrate that it is possible for section 62 (3) of the Public Finance Management Act which states that the public debt management office shall reduce the cost of public debt management as well as borrow with minimal risk, develop government debt securities and sharing of public debt opportunities between the current and future governments and its individuals.²¹ This is not the current situation in Kenya due to the debt crisis ongoing which is temporarily being solved through overtaxation which is not sustainable because it is posing a threat to economic growth. There is a lack of debt management in Kenya despite laws clearly stipulated in the Public Finance Management Act such as the correct legal mechanism to use when borrowing. Debt management is necessary for the contribution of poverty alleviation, economic growth and taxation policies that citizens can abide by without having a strain on them. The lack of fulfilment of the duties of the public debt management office need to be studied and solutions to the inoperative office need to be found.

The government has failed to explore alternatives to borrowing such as resource management which includes utilising our current resources such as agriculture and tourism both of which are

²¹ Section 62(3), *Public Finance Management Act* (2012).

the highest contributors to our GDP.²² The tourism sector expansion as well as focus on agriculture has led to an increase of our GDP from 4.8% in 2022 to 5% in 2023. ²³ Proper resource management could lead to substantial financial gains for the country, making borrowing less necessary. These are potential sustainable sources of income and an alternative to borrowing.

Little to no studies have been done on the legal impact of debt financing in terms of economic development as well as what over taxation can do for a country all of which are negative impacts. This study aims to act as not only an eye-opener to everyone who reads it but also as an enriching academic research paper which hopefully can in-turn if read by the right people enable strategy change and the development of an accountable, separate office that is not influenced by the executive and instead is influenced by the law, finance and economics to handle the debt crisis in Kenya and take loans that benefit instead of dig the country into deeper debt.

The study will impact policymakers and government officials tasked with formulating effective fiscal policies and strategies. It will enable practicality of the application of debt management and sustainable mechanisms to enable debt repayment other than over taxation which is ineffective. Lastly, it will contribute to the academic research field on research based on debt financing, debt management, taxation policies as well as the legal impact.

²² Musambi E, 'Kenya's president warns of huge consequences after his effort to address an \$80 billion debt fails' AP, July 10, 2024 [Kenya's president warns of huge consequences after his effort to address an \\$80 billion debt fails | AP News](#) on 16 December 2024.

²³—<<https://www.worldbank.org/en/news/press-release/2023/12/20/kenya-s-economic-performance-strengthened-in-2023-despite-afe-1223-challenges>> on 20 December 2023.

1.7 Theoretical Framework

1.7.1 Debt Overhang Theory

First, debt overhang mainly impairs investment through the channel of reduced investment incentives, both for the private and the public sector. Where a large fraction of prospective profits is to be used for debt servicing, governments may neglect basic investments in infrastructure, health, or education.²⁴ This certainly is true for many African countries, including Kenya, where a high level of debt servicing draws resources away from major development needs. The IMF, however, stresses that debt overhang does not come from the high level of debt itself but rather from how it affects the decisions on production and investment.²⁵

It often gives rise to greater uncertainty with regard to government policies. For example, increases in tax rates or currency devaluation would bring about capital flight and further aggravate economic stagnancy.²⁶ The debt Laffer curve clearly illustrates the debt overhang theory which indicates the diminishing returns of excessive debt.²⁷ The debt Laffer curve very nicely traces the argument of the debt overhang theory. It means that after a certain point, it is possible to promote growth by facilitating productive investment; however, past that point, the costs of repayment would outweigh the benefits. In Kenya's case, we can see a similar dynamic occurring with the increasing external debt whereby costs of debt servicing have de-crowded public spending on developmental projects. In 2021, debt servicing took up almost 60% of Kenya's revenues, leaving little room for pursuing growth-enhancing initiatives.²⁸

The theory of debt overhang is a theory first proposed by Stewart Myers in 1977 relating to obstructions to investment and growth caused by high levels of debt. .²⁹ Originally developed in corporate finance to explain why companies would typically elect a capital structure with a low

²⁴ Vanlaer W, Picarelli M, and Marneffe W, 'Debt and Private Investment: Does the EU Suffer from a Debt Overhang?' 32 *Open Economies Review* 2021, 792.

²⁵ Redo M, 'The External Debt Overhang Problem as a Threat to Global Financial Security' 5 *Law and Administration in Post-Soviet Europe* 1 2018, 30.

²⁶ Diamond D and He Z, 'A Theory of Debt Maturity: The Long and Short of Debt Overhang' 723.

²⁷ Mwaba A, *External Debt and Private Investment in Low-Income African Countries*, The University of Manchester, Manchester, 2002.

²⁸ [Kenyan president William Ruto right – nearly 60% of country's tax revenue goes to repaying debt - Africa Check](#)

²⁹ Diamond D and He Z, 'A Theory of Debt Maturity: The Long and Short of Debt Overhang' 69 *The Journal of Finance* 2, 2014, 720.

debt ratio even though the tax advantage of borrowing is present, it was later applied to sovereign states.³⁰ Myers argued that decisions regarding investments are hampered by excessive debt, as in the future, returns on investments will be recouped by creditors. .³¹ In the context of sovereign debt, economists including Paul Krugman and Eduardo Borensztein expanded the concept. Debt overhang is a situation where the obligations of a country exceed its ability to repay. It thus discourages investment because the fruits of growth are largely funneled into the debt service. Additionally, Borensztein explains that debt overhang depresses economic growth and can cause further defaults on debt. .³² The provision of this theory surely lights the way for developing economies like Kenya, in showing them how to effectively manage the issue of debt in relation to objectives of economic growth.

This study's theoretical framework centers on the intersection of public debt management and taxation policies in Kenya, analysing their impact on economic development. The research scrutinizes roles played by individual institutions such as the Public Debt Management Office and the Kenya Revenue Authority (KRA) to identify the legal and institutional issues that contribute to over-borrowing and excessive taxation. Public finance theory and concerns about debt sustainability will be used as a framework in evaluating the efficiency of the current legal frameworks, i.e. the Public Finance Act of 2012 and the Finance Act 2022. This research aims to create an understanding of the mechanisms of borrowing in Kenya and suggests policy reforms that might allow the country to embark on sustainable economic growth.

Similar constraints are currently experienced by several African countries, blocking away sustainable prospects for their long-term development.³³ In the Kenyan context, the overhang theory states that sound debt management would steer away from economic stagnancy characterized by excessive borrowing. While foreign debt can be a key development source, it can also lead to long-term tensions in cases of ineffective investment.³⁴ These structural issues which contribute to ineffective debt utilization such as the lack of transparency and with limited capacity

³⁰ Diamond D and He Z, 'A Theory of Debt Maturity: The Long and Short of Debt Overhang' 721.

³¹ Martinez L, Roch F, Roldan F, and Zettelmeyer J, 'Sovereign Debt' *Research Handbook of Financial Markets*, 2023, 390 <https://doi.org/10.4337/9781800375321.00026> on 2 December 2024.

³² Krugman P, 'Financing vs. Forgiving a Debt Overhang' 29 *Journal of Development Economics* 3, 1988, 253-268.

³³ Simbanegavi W, 'Expediting Growth and Development: Policy Challenges Confronting Africa' 3 *Journal of Development Perspectives* 1, 50, 2019.

³⁴ Ndung'u N, Shimeles A, Manda K, 'Growing with Debt in African Economies: Options, Challenges and Pitfalls' 30 *Journal of African Economies* 13, 2021.

for revenue generation need urgent attention from the policymakers. Proper examples drawn from successful debt management practices like fiscal reforms in Rwanda would enable Kenya's prudent management of national debt in alignment with her development agenda. ³⁵

1.7.2 Public Finance Theory

This theory discusses how a government manages its resources such as revenue, expenditure and debt through the institutions allocated to doing so.³⁶ There are five important components of public finance which include; collection of taxes which are the main sources of revenue for any government, a budget which gives various allocations as to what the government intends to spend within the course of the year, expenditure which is what the government spends its money on within and outside the budget, deficit and surplus and finally national debt. ³⁷

This theory aims at stating the relation between legislative constraints, fiscal policy, and economic development, while in part drawing on public finance concepts. This hypothesis reflects an in-depth study using public finance concepts to understand tax collection as an important source of revenue and its implications for maximizing collection to foster debt servicing and infrastructure projects. The paper analyses the legal framework regulating debt management and tax policies and elaborates how these legal issues impede or promote economic development and fiscal sustainability in Kenya. ³⁸ Additionally, the use of the public finance theory allows for a more in-depth assessment of the legal issues surrounding debt financing and taxation burden.

A good tax system can be postulated on several principles. These include equity, which refers to the dimensions which lead to paying taxes proportionately according to an individual's income, and others shall suppose a malleability that can keep up with the demands of society. ³⁹ Furthermore, it should be simple; that is, pay as a percentage of income or whatever other form the government wishes, yet cater to all taxable aspects. There must be certainty, where the amount

³⁵ Maweje J, 'The determinants and cyclicity of fiscal policy: Empirical evidence from East Africa' 169 *International Economics*, 2022, 57.

³⁶ Stiglitz E., 'New perspectives on public finance: recent achievements and future challenges' 86 *Journal of Public Economics* 3, 2002, 345.

³⁷ Vipond T, 'Public Finance' Corporate Finance Institution, 2020,1.

³⁸ Tkachenko L, 'Public finance management: Challenges and opportunities' 6 *Athens Journal of Business & Economics* 1, 2020, 77.

³⁹ Nellen A, 'Internet taxation and principles of good tax policy' 4 *Policy & Internet* 1, 2012, 4.

of taxes to be collected is clear, and the principle of good faith, ensuring transparency and regular audits that make tax information accessible to the public.⁴⁰

Kenya has uncertainty in terms of taxes as they keep increasing at a rapid rate that the citizens are not able to keep up with leading to over taxation and there being a tax burden imposed on individuals.⁴¹ By applying this theory this study can provide light on the legal obstacles connected with overtaxation, such as confusing tax laws and high tax rates, as well as proposed legal changes and governmental initiatives to address these issues. Combining taxation theory with an examination of the overtaxation burden informs evidence-based policy suggestions targeted at advocating tax reforms that promote economic growth goals while reducing the burden on firms and individuals. This approach will strengthen this study's findings on the contribution to a better understanding of the implications of taxation policies on the country's economic development.

1.7.3 Applicability in Debt Management

Previous studies and theories on Kenya's debt management have focused on historical trends, causes, and macroeconomic impacts of public borrowing, such as the adverse effects of Structural Adjustment Programmes and mismanagement scandals like the Eurobond controversy. However, these studies usually tend to overlook the systemic inadequacies in the legal and institutional frameworks that govern borrowing and debt management. Further, most studies on the matter focus on the socioeconomic impacts of poor borrowing practices without providing active ways of improving transparency, accountability, and fiscal sustainability. This paper seeks to fill these gaps through a critical analysis of Kenya's legal and institutional frameworks on public debt. The theories above shall help identify specific weaknesses and propose viable reforms inspired by best practices from comparable economies.

⁴⁰ —<<https://www.affluentcpa.com/principles-good-tax-system/>> on 11 January 2024.

⁴¹ Ndirangu W, 'Taxation Policy Implementation Costs, Macroeconomic Factors and Revenue Collection in Kenya' unpublished, JKUAT-COHRED, Juja, 2022, 25.

1.8 Literature Review

1.8.1 The Current Debt Crisis in Kenya

Scholars suggest that Kenya's debt management strategies are ineffective which heightens the nation's fiscal challenges and economic vulnerabilities. In 2022, Kenya was classified as one of the 30 countries at high risk of debt distress under the IMF-World Bank Debt Sustainability Framework, indicating persistent inadequacies in its debt management.⁴² According to Nkatha, despite the enactment of the Public Finance Management Act of 2012 to enhance fiscal accountability, systemic corruption and mismanagement within public entities thwarted its implementation.⁴³ In 2020 alone, Kenya's public debt surged past 7 trillion, equivalent to 69% of its GDP, clearly breaching the 50% debt-to-GDP threshold set for fiscal sustainability.⁴⁴ Such figures underline the need for the existing frameworks to deal with borrowing risks and focus on sustainable economic growth.

Research implies that the most significant factor in Kenya's debt crisis is over-reliance on high-interest loans with short repayment periods. Following the 2014 rebranding of its economy to lower-middle-income status, Kenya gained access to international financial markets but at a steep cost.⁴⁵ The issuance of Eurobonds and acquisition of syndicated loans introduced unfavorable terms, including shorter grace periods and higher interest rates. As mentioned earlier, by 2021, the country was spending more than 60% of its ordinary revenue on debt servicing, leaving inadequate resources for essential social services such as health and education.⁴⁶ This growing fiscal pressure has eroded economic stability, particularly in low-income households, as inflation and taxation rise to compensate for the budgetary shortfall.⁴⁷

⁴² Pinto B., 'The 2017 Version of the IMF and World Bank's LIC Debt Sustainability Framework: 'Significant Overhaul' or Obsolete?' *SSRN*, 2019, 12.

⁴³ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study' *CFS*, Working Paper 03/03 ADHR, 2022 [Microsoft Word - Winnie G Nkatha, Resolving debt sustainability issues from a legal and political perspective-A Kenyan Case study 23.23.21.docx](#) on 2 December 2024.

⁴⁴ Mwita M, 'Kenya's Public Debt Soars to Sh7.7 Trillion' *The Star*, 25 July 2021 [Kenya's public debt soars to Sh7.7 trillion](#) on 2 December 2024.

⁴⁵ Wade H, 'Global Growth, Inequality, and Poverty: The Globalization Argument and the "Political" Science of Economics' *World Development*, 2017, [Wade Growth Inequality and Poverty.pdf](#) on 2 December 2024.

⁴⁶ [Kenyan president William Ruto right – nearly 60% of country's tax revenue goes to repaying debt - Africa Check](#)

⁴⁷ Zeleza T, 'Economic Policy and Performance in Kenya Since Independence' *Transafrican Journal of History*, 1991, 39.

Besides that, Kenya's borrowing behaviour also violates legal and regional policy ceilings, illustrating the need for more adherence to the established debt control mechanisms.⁴⁸ It surpassed the 3% of GDP fiscal deficit limit by the East African Community, while it increased its debt ceiling several times, most significantly to KES 9 trillion in 2019.⁴⁹ However, even these revisions were unable to contain the fiscal deficit, which became increasingly strained due to external shocks such as the COVID-19 pandemic.⁵⁰ The pandemic-induced economic slowdown brought structural weaknesses to Kenya's debt management. Emergency loans were procured without stringent accountability measures which further compounded fiscal imbalances.⁵¹

Essentially, the debt problem in Kenya is historically linked to governance inefficiencies and structural adjustment policies of the 1980s and 1990s.⁵² These policies, introduced under IMF and World Bank mandates, were intended to reduce public expenditure but actually led to deteriorated living standards.⁵³ Key sectors such as health and education suffered significantly, and the public discontent over rising inequalities deepened the socio-economic divide. Today, poor fiscal management has resulted in accumulated public debt, which has continued to rise at unsustainable rates.

1.8.2 The Ineffectiveness of Current Laws on Debt Management and its Impact

According to Dr Bett, Kenya's legal framework on borrowing, while comprehensive, has been insufficient in addressing the challenges posed by unsustainable debt practices.⁵⁴ The Public Finance Management Act of 2012 prescribes principles for transparency and accountability in public finance.⁵⁵ However, loopholes in its implementation have allowed for frequent violations. For example, the constitutional requirement for parliamentary approval for external borrowing

⁴⁸ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study'4.

⁴⁹ Ochieng A, 'The Impact of External Public Debt on Stock Market Performance in Kenya' unpublished, Strathmore University, Nairobi, 2022, 45.

⁵⁰ Makin A and Layton A., 'The Global Fiscal Response to COVID-19: Risks and Repercussions' *Economic Analysis and Policy*, 69, 2021, 343.

⁵¹ Kamande A and Martin M, *The Inequality Crisis in East Africa: Fighting Austerity and the Pandemic*, Oxfam, 2022.

⁵² Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study'5.

⁵³ International Monetary Fund, *Kenya Requests for an Extended Arrangement Under the Extended Fund Facility and an Arrangement Under the Extended Credit Facility Debt Sustainability Analysis*, 19 March 2021,23.

⁵⁴ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework' *SSRN*,2018,3.

⁵⁵ Ewang A, 'Reforming Public Finance Management in Kenya: Implementation Challenges on the Principle of Openness and Accountability in Public Finance Management' unpublished, University of Nairobi, Nairobi, 2019,36.

exceeds five hundred billion has been consistently circumvented by ensuring that individual borrowing requests remain below this threshold.⁵⁶ This lack of oversight has facilitated a culture of financial opacity, enabling mismanagement and corruption. Interestingly, the Eurobond scandal revealed the misuse of 215 billion, with government officials failing to account for these funds despite claims they were allocated to public projects.⁵⁷

Poor borrowing practices have led to an unsustainable debt trajectory with significant implications for economic stability. By 2017, Kenya's external debt had escalated to over \$4 billion, and an additional 2 billion dollars sovereign bond was issued in 2018 to finance infrastructure projects.⁵⁸ However, investigations revealed that funds from the Eurobond were deposited in offshore accounts instead of the consolidated government fund, violating constitutional provisions.⁵⁹ This mismanagement has left the Kenyan taxpayer to shoulder a Ksh. 17.5 billion interest burden on misappropriated Eurobond funds.⁶⁰ The return to local banks for borrowing, despite the international loans, indicates inefficiencies in fund utilization, further compounding fiscal strain.⁶¹

Additionally, the social and economic effects of poor borrowing have been alarming, particularly in sectors essential to public welfare. Mismanagement of borrowed funds has diverted resources from pro-poor sectors like health and education which heightens inequalities.⁶² Although aimed at fiscal stabilization, these policies severely deteriorated living standards, with long-term effects on human capital development. Kenya's rising debt servicing costs, which accounted for 69% of GDP by 2020, further illustrate the consequences of poor borrowing.⁶³

⁵⁶ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework' 4.

⁵⁷ Wafula P, 'Audit: Sh215b Eurobond Cash Unaccounted for' *The Standard*, 2018 <https://www.standardmedia.co.ke/article/2000215138/audit-sh215b-eurobond-cash-unaccounted-for> on 2 December 2024.

⁵⁸ Onjala J, 'China's development loans and the threat of debt crisis in Kenya' 36 *Development Policy Review*, 2018, 730.

⁵⁹ Kegoro G., 'Eurobond scandal puts Jubilee in a difficult situation' *Daily Nation*, 2018 <https://www.nation.co.ke/oped/opinion/Eurobond-scandal-puts-Jubilee-in-a-difficult-situation/440808-3046654-lwkpsz/index.html> on 2 December 2024.

⁶⁰ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework' 4.

⁶¹ Makin A and Layton A., 'The Global Fiscal Response to COVID-19: Risks and Repercussions' 345.

⁶² Shibairo P., 'Effects of Devolved Funding Policies on Household Welfare in Kenya' unpublished, The Open University of Tanzania, 2023, 34.

⁶³ Mwita M, 'Kenya's Public Debt Soars to Sh7.7 Trillion' 1.

Furthermore, Kenya's borrowing practices have also undermined trust in governance and transparency. The Eurobond scandal is a glaring example of a lack of public participation and financial transparency that allowed for widespread misappropriation.⁶⁴ Although the bond was intended to reduce local borrowing and promote private sector growth, the absence of accountability mechanisms resulted in funds being misused, perpetuating a cycle of high-interest borrowing.⁶⁵ Additionally, the failure to deposit the funds into the consolidated fund as required by law illustrates the persistent governance challenges in managing public debt effectively.⁶⁶

Finally, both domestic and international factors worsen the long-term effects of poor borrowing. Historically, events such as the oil crisis of the 1970s and subsequent global recessions have triggered balance-of-payment challenges, compelling the government to rely on hardened loans.⁶⁷ Domestically, unfavorable weather conditions, political instability, and expansionary fiscal policies have worsened the debt situation. The 2022 drought, one of the worst in four decades, severely impacted agricultural productivity which worsened food insecurity and reducing government revenues.⁶⁸ Additionally, the political tensions surrounding the 2022 general elections led to a 30% drop in foreign direct investment (FDI), which strained Kenya's fiscal position and increased reliance on borrowing.⁶⁹

1.9 Methodology

This study begins with a detailed examination of the Public Finance Act of 2012, the Finance Act of 2022, regulations, and international agreements with the IMF and the World Bank that govern debt financing, taxation, and economic development in Kenya. This will be done mostly through secondary qualitative sources such as newspaper articles, journals, reports, academic work on similar topics, books and other sources. It will deduce what can be done about the on-going debt

⁶⁴ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework'4.

⁶⁵ Mugwanja C, 'Effect of Country Risk on Yield Spreads in Kenyan Eurobonds' unpublished, University of Nairobi, Nairobi, 2021, 40.

⁶⁶ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework'3.

⁶⁷ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study'6.

⁶⁸ Paddison L, 'Catastrophic drought that's pushed millions into crisis made 100 times more likely by climate change, analysis finds' CNN,27 April 2023 [Catastrophic drought that's pushed millions into crisis made 100 times more likely by climate change, analysis finds | CNN](#) on 16 December 2024.

⁶⁹ Basham P and Ogera A, 'FDIs: Why Kenya continues to punch below its weight' *Business Daily*, 30 August 2023.

crisis in Kenya as well as how to have sustainable debt management and ways the government can without using overtaxation as a mechanism to pay debt be able to repay their debt and what a creation of a new accountable separate entity from uninfluenced by the government can do for the country in terms of sustainable development and economic growth.

It will be a doctrinal study therefore there will be use of statistical analysis that statistically evaluates the link between legal issues and economic variables, whereas the policy analysis done throughout the study will examine the government's policies and initiatives. Lastly, an interdisciplinary approach which will bring together ideas from several disciplines, providing an understanding of the complex relationships that shape debt financing, taxation policies as well as economic development in Kenya.

These techniques will contribute to a rigorous examination of legal difficulties in debt financing offering useful insights into the consequences for economic development.

1.10 Limitation of the Study

There are several limitations that will be faced while carrying this study out which include issues with data reliability for economic indicators. Official debt and tax records may be inaccurate, out of date, or influenced by political considerations. Second, while the comparative examination of Rwanda and South Africa provides useful insights, contextual differences in economic systems, governance, and legal frameworks may limit the findings' generalizability. Furthermore, the study may have difficulty distinguishing the effects of over borrowing and overtaxation from other economic issues such as external shocks and climate-related problems and political instability. There is also the changing nature of the economic environment which complicates the analysis, necessitating knowledge and ongoing updates to assure accuracy and relevance. The topic's multidisciplinary nature, which combines legal research with ideas from economics and other fields, may present difficulties in preserving coherence across diverse analytical frameworks. Despite these limitations, it is possible and a researchable area.

1.11 Chapter Breakdown

Chapter 1 will follow the structure of this research proposal as it has key aspects of the study such as the abstract, background, statement of the problem, research objectives, research questions, hypothesis, justification of the study, theoretical framework, literature review, the methodology and its limitations.

The second chapter shall examine Kenya's legal and institutional framework for managing public debt. It will provide an overview of the key policies and laws, such as the Public Finance Management Act (2012), and assess the roles of critical institutions, including the Kenya Revenue Authority. The chapter will specifically highlight the gaps, weaknesses, and challenges within the current framework and guide necessary reforms to enhance debt sustainability.

Chapter 3 will do a comparative analysis of the debt management frameworks in Rwanda and South Africa. The chapter will also offer a detailed analysis of the policies, the legal frameworks, and institutions that have been put in place in the two countries to help administer their public debt. This chapter, by contrasting this system with the Kenyan framework, highlights good practices, advantages, disadvantages, and lessons that Kenya may take to improve its debt management strategy.

Lastly, the fourth chapter seeks to assess the institutional and legal implications of excessive borrowing in Kenya. The implications that excessive borrowing could have for governance, economic growth, and public welfare will be discussed. Special attention will be paid to the difficulties posed by the strategy of repaying debt through high taxation. Suggestions will be made in the area of the law and institutions concerning excessive borrowing.

Alternative measures toward sustainable debt management, including the balance between fiscal responsibility and economic growth, may be explored.

Finally, Chapter 5 is the conclusion and recommendations of the dissertation, which would assess the findings, highlighting critical insights and policy implications. Suggestions for future studies are raised, pointing to the significance of continuing academic discourse on the topic of Kenya's debt financing and economic development.

1.12 TIME DURATION:

This study was started on the 1st of December 2023 and is expected to be completed in partial submission for the LLB dissertation on 31st January 2025.



2.0 CHAPTER TWO: AN EVALUATION OF KENYA'S LEGAL FRAMEWORK ON DEBT FINANCING AND MANAGEMENT

2.1 Introduction

Kenya's rising debt burden has prompted serious questions regarding the viability of its debt financing techniques and their influence on economic development.⁷⁰ The current legal framework, including the Public Finance Management Act of 2012 and the Debt and Borrowing Policy, outlines regulations on indebtedness in the country. Nonetheless, allowing standards has neither followed the principles of sustainable and responsible lending. General implementation of sustainable debt management continues as a major hurdle for some of the leading regulatory agencies including the Kenya Revenue Authority, Public Debt Management Office, and the National Treasury. The result is more taxation burden on the populace and a higher living cost. This chapter analyses the legal framework in Kenya. It reviews to what extent institutions such as KRA have succeeded in the management of debts.

2.2 Kenya's Legal Framework for Debt Management

2.2.1 Public Finance Management Act 2012

Kenya's financial governance is based on the Public Finance Act of 2012, which ensures transparency and accountability in public resource management.⁷¹ The government passed this Act to implement constitutional ideals of equitable resource allocation, fiscal accountability, and public financial engagement.⁷² The Act caps national and county government debt to minimise borrowing.⁷³ Despite these restrictions, loopholes and insufficient enforcement have caused the public debt to grow, requiring higher taxes to service it. This impact on public budgets shows the necessity for stricter Act compliance and regulatory oversight.

⁷⁰ Hassan M, Onger B and Ndolo D, 'The Effect of National Public Debt on Economic Growth in Kenya' 19 *European Scientific Journal* 79, 2023.

⁷¹ Preamble of the Public Finance Management Act (2012).

⁷² Article 201, Constitution of Kenya (2010).

⁷³ Section 4 and 5, Public Finance Management Act.

Public engagement in budgeting is another important feature of the Public Finance Management Act.⁷⁴ This ensures economic decisions meet citizens' demands and priorities, increasing openness. Critics have pointed out that the Act's implementation suffers due to the lack of public input and financial discipline at the national and local levels.⁷⁵

Delays in remittances and fiscal mismanagement have hampered sustainable economic development. Consistent delays in county revenue transfers from the National Treasury have resulted in incomplete infrastructure projects and unpaid workers in essential sectors such as healthcare and education.⁷⁶ The lack of transparency in cost-benefit analysis and loan terms in the distribution of funds for large-scale projects like the Standard Gauge Railway (SGR) represent a clear case of fiscal mismanagement." Inefficient resource allocation and the repayment of rising debts compound the situation of economic stagnation that was imposed on other sectors like agriculture and social services.⁷⁷

2.2.2 Finance Act of 2022

Kenya's tax reform came about after the passing of the Finance Act of 2022 which improved the efficiency of revenue collection, encouraged investment and modernized tax laws to reflect the realities of today's economy.⁷⁸ Some significant changes to the income tax laws, include a 15% flat tax levied on the income from financial derivatives the non-residents derive.⁷⁹ Additionally, the amendments extend thin capitalization exemptions to entities involved in lending, vaccine manufacturing, and firms with substantial investments outside Nairobi and Mombasa. These changes seek to expand the tax base and promote investments. Critics contend that the heightened tax burden, especially on capital gains and financial transactions, may dissuade investment.⁸⁰ This was bad news for the companies. It also worsened the financial problems of Kenya. The Act also

⁷⁴ Section 27, Public Finance Management Act.

⁷⁵ Kahutu F, 'The Effect of Public Finance Management Act, 2012 Adoption in Budgeting Process by County Governments in Kenya' unpublished doctoral dissertation, University of Nairobi, Nairobi, 2019,38.

⁷⁶ Wawire N, 'Constraints to enhanced revenue mobilization and spending quality in Kenya' Center for Global Development, Policy Paper 163, 2020, 1 [PPI63-Enhanced-Revenue-Kenya-Full.pdf](https://doi.org/10.19088/ICTD.2024.104) on 16 December 2024.

⁷⁷ Hassan M, Ongeru B and Ndolo D, 'The Effect of National Public Debt on Economic Growth in Kenya'⁷.

⁷⁸ Magale E and Schmidt M, 'Tax Awareness and Fiscal Workarounds in Contemporary Kenya: Reactions Towards New Taxation Laws, and the Need to Renew the Social Contract', The Institute of Development Studies, ICTD Working Paper 211, 2024,12 <https://doi.org/10.19088/ICTD.2024.104> on 18 November 2024.

⁷⁹ MGK Consulting, 'Kenya Finance Act 2022 Changes & Their Effective Dates', 26 July 2022, 3.

⁸⁰ Omar A, 'Effect of taxation on economic growth in Kenya' 5 *International Journal of Research and Innovation in Social Science* 8, 2021, 478.

amended the VAT Act, subjecting exported services to 16% tax instead of exemption, which would make outsourcing services from Kenya more costly.⁸¹

Some of the measures introduced include requirements for non-resident digital service providers to register for VAT, aimed at enhancing tax compliance.⁸² Such amendments seek to enhance government revenues. Nonetheless, they have raised concerns regarding their effects on small businesses and consumers, especially in light of the elevated cost of living.⁸³ Adjustments to excise duties on commonplace goods like mobile phones, beverages, and perfumes have drawn criticism for disproportionately affecting low-income people.⁸⁴ The Act attempts to address growing governmental debt and budgetary imbalances. It highlights the need for a well-rounded approach that protects marginalised groups and fosters long-term economic expansion.

Finally, the Finance Act promotes investment by offering incentives including tax breaks for vaccine production firms and a 150% investment allowance for large projects in rural counties.⁸⁵ These actions are advice of the government authorities so as to promote industrial development and foreign direct investment (FDI). One of their basic conditions of effectiveness is the attendant enabling business environment. This includes ensuring policy coherence and reducing administrative bottlenecks.⁸⁶

2.3 Acts of Parliament: Regulatory Agencies

2.3.1 Kenya Revenue Authority Act 1995

According to the Act, the primary institution charged with evaluating, collecting, and accounting for all government revenue is the Kenya Revenue Authority.⁸⁷ Section 3(2) states that the KRA will furnish a framework for a coherent process of tax administration to improve the efficiency of

⁸¹ MGK Consulting, 'Kenya Finance Act 2022 Changes & Their Effective Dates' 5.

⁸² Mponwana K, 'Digital Services Tax: Analytical View of Challenges and Successes in Kenya and the United Kingdom' 52 *Intertax* 4, 2024,14.

⁸³ Magale E and Schmidt M, 'Tax Awareness and Fiscal Workarounds in Contemporary Kenya: Reactions Towards New Taxation Laws, and the Need to Renew the Social Contract' 18.

⁸⁴ Kenya MW & Facilitating L, *Routledge Handbook of Natural Resource Governance in Africa*, 1st ed, Routledge, London, 2024, 17.

⁸⁵ MGK Consulting, 'Kenya Finance Act 2022 Changes & Their Effective Dates'7.

⁸⁶ Magale E and Schmidt M, 'Tax Awareness and Fiscal Workarounds in Contemporary Kenya: Reactions Towards New Taxation Laws, and the Need to Renew the Social Contract' 20.

⁸⁷ Preamble of the Kenya Revenue Authority Act (1995).

revenue collection in administering and enforcing specified tax law.⁸⁸ Some powers that the Act grants the KRA are conducting audits, investigating tax crimes, and calling for financial disclosures.⁸⁹ The Authority therefore can make assessments, collect taxes due and owing, and impose penalties and interest on delinquent taxpayers by virtue of section 5(2).⁹⁰ The powers are essential for maintaining fiscal discipline and securing sufficient resources to support Kenya's economic development.

KRA plays a very important role in debt management and taxation by creating effective mechanisms for recovering arrears and ensuring compliance. The services under its debt program include processing debt collection, reconciliation of payment, revocation of TCCs, and redressing grievances relating to waiver applications and ledger error corrections.⁹¹ Major practices which are undertaken in KRA operations include coercive debt recovery by means of agency notices that sees third parties such as banks ordered to recover outstanding taxes.⁹² In addition, the agency sales of taxpayers' movable and immovable assets through distraint and caveats. Other programs introduced include DPOs which bar delinquent taxpayers and their associates from leaving the country before the liabilities are discharged.⁹³ These enforcement tools ensure that persistent defaulters are held accountable, thus enabling the authority to secure substantial revenues intended for economic development.⁹⁴

The Kenya Revenue Authority employs an open and progressive escalation strategy in regard to its debt collections. Initially, demand notices are sent to the defaulting taxpayers, indicating the principal tax, penalties, and interest demands, giving a grace period of 14 days to the defaulters to pay the taxes due. If there is no response from the taxpayer, a reminder letter is sent after 7 days; if the taxpayer continues to be in default, an instant Demand Notice is issued. This procedure inherently goes around KRA's appendix but is balanced as they offer a payment system & waiver for penalties on monetary hardship. KRA has been able to collect revenues in excess of KES 2.14

⁸⁸ Section 3(2), Kenya Revenue Authority Act (1995).

⁸⁹ Section 5(1), Kenya Revenue Authority Act (1995).

⁹⁰ Section 5 (2), Kenya Revenue Authority Act (1995).

⁹¹ KRA, *Debt Management Program*, 2024, 2.

⁹² Mukui J M, 'The Impact of Debt Management on Customs Administration at Kenya Revenue Authority (KRA)', 2018.

⁹³ Magale E and Schmidt M, 'Tax Awareness and Fiscal Workarounds in Contemporary Kenya: Reactions Towards New Taxation Laws, and the Need to Renew the Social Contract' 19.

⁹⁴ KRA, *Debt Management Program*, 3.

trillion during the financial year 2022-2023 due to simple debt collection processes. KRA's successful enforcement of compliance and prompt collections does indeed strengthen Kenya's fiscal framework for promoting sustainable debt management and economic resilience.

2.3.2 Capital Markets Act 2012

The Act empowers the Capital Markets Authority (CMA) with extensive authority to regulate and encourage the development of a structured and efficient capital market in Kenya.⁹⁵ It grants the CMA authority to supervise, monitor, and regulate capital market activities, which encompasses the licensing and oversight of market intermediaries, including stockbrokers, investment banks, and securities exchanges.⁹⁶ Additionally, the Act empowers the CMA to enforce adherence to market regulations, thereby promoting transparency and integrity within the market.⁹⁷ Finally, the Act empowers the CMA to provide governmental advice on capital market policies and is essential for investor protection by regulating public offerings, securities trading, and the overall behavior of market participants.⁹⁸

In relation to the topic, the CMA enhances debt management by creating an environment that supports long-term investment financing, thereby decreasing Kenya's dependence on foreign institutional loans.⁹⁹ Its policy framework supports the issuance of long-term bonds and asset-backed securities, which are essential for financing infrastructure projects. Additionally, CMA facilitates the allocation of savings into productive investments, hence reducing the burden on commercial banks, which often lack adequate short-term assets to meet long-term development requirements.¹⁰⁰ Kenya's Economic Recovery Strategy for Wealth and Employment Creation outlines the importance of initiatives aimed at raising domestic savings and investment ratios.¹⁰¹ Despite these efforts, the ratios remain below 10% of GDP, falling short of levels needed for industrialization and economic growth.

⁹⁵ Preamble of The Capital Markets Act (2012).

⁹⁶ Section 11, Capital Markets Act (2012).

⁹⁷ Section 12, Capital Markets Act (2012).

⁹⁸ Section 6, Capital Markets Act (2012).

⁹⁹ Cheruiyot R, 'Contribution of Unit Trusts Funds in the Growth of Capital Market in Kenya' unpublished, JKUAT-COHRED, Nairobi, 2021, 43.

¹⁰⁰ Authority CM, *Capital Markets Handbook*, 2010, 8.

¹⁰¹ Musamali R, Mutia C and Ngugi W, 'The determinants of domestic saving in Kenya' WIDER Working Paper, Paper Series No. 2022/132, 2022 <https://www.econstor.eu/handle/10419/273925> on 18 November 2024.

Furthermore, the CMA promotes innovation through the encouragement of capital inflows and the enhancement of investor confidence.¹⁰² Financial sector reforms initiated in the 1980s established the groundwork for the development of alternative financing avenues, including capital markets, to complement traditional borrowing methods.¹⁰³ These initiatives correspond with international trends aimed at decreasing tax liabilities to draw foreign investments, hence establishing Kenya as a competitive investment location. Kenya mobilised over 1 trillion in corporate bonds and infrastructure financing through capital markets by 2023.¹⁰⁴ These measures diminish dependence on high-interest external loans, thereby ensuring debt sustainability and promoting economic growth. The strategic approach of CMA in mobilising both domestic and international capital illustrates its essential function in Kenya's financial ecosystem.¹⁰⁵

2.4 International Agreements

International agreements with institutions like the IMF significantly influence Kenya's debt financing strategies.¹⁰⁶ The completion of the fifth review under the IMF's Extended Fund Facility (EFF) and Extended Credit Facility (ECF) in July 2023 allowed Kenya to access immediate disbursements of approximately 415.4 million dollars.¹⁰⁷ These funds, combined with a total disbursement of 2.04 billion dollars under the arrangements, aim to address debt vulnerabilities, support economic recovery, and enhance governance.¹⁰⁸ Moreover, the IMF also extended the program duration to April 2025 to ensure Kenya has ample time to implement critical fiscal reforms.¹⁰⁹ These reforms are designed to stabilise the economy amid global economic uncertainty, demonstrating how such agreements can act as vital lifelines in challenging times.

Moreover, Kenya's partnership with the IMF includes the Resilience and Sustainability Facility (RSF), granting an additional \$551.4 million to promote climate resilience and attract private

¹⁰² Authority CM, *Capital Markets Handbook*, 14.

¹⁰³ Senbet L W, *Annual World Bank Conference on Development Economics 2006: Growth and Integration*, World Bank, Washington D.C., 2006, 83.

¹⁰⁴ Ameyia M, 'Macroeconomic Variables Diaspora Remittances and the Growth of Bond Markets in Kenya' unpublished, JKUAT-COHRED, 2023, 16.

¹⁰⁵ Cheruiyot K, 'Domestic Savings in Unit Trusts and the Growth of Capital Market in Kenya' *New Trends of Global Influences in Africa*, 2021, 239.

¹⁰⁶ Leousi M, 'The evolution of the governance and anti-corruption policies of the International Monetary Fund: 1990-2018' unpublished, University of Oxford, Oxford, 2020, 45.

¹⁰⁷ IMF, *KENYA*, 30 June 2023, 13.

¹⁰⁸ Armah B, *Sustainable Development in Post-Pandemic Africa*, Routledge, 2022, 124.

¹⁰⁹ IMF, *IMF Executive Board Completed the Fifth Reviews of Kenya's Extended Fund Facility and Extended Credit Facility Arrangements and Approves Arrangement under the Resilience and Sustainability Facility*, 17 July 2023, 3.

climate financing.¹¹⁰ The program insists on fiscal consolidation by improving tax revenue collection and rationalising government spending while safeguarding essential social programs.¹¹¹ However, Kenya faces significant challenges, including exchange rate pressures, elevated inflation, and limited external financial buffers.¹¹² These factors underline the delicate balancing act required to meet debt obligations while promoting economic stability and sustainability.

Despite significant progress, Kenya's reliance on international financing also exposes it to risks, such as stringent conditional ties and external shocks.¹¹³ For instance, while Kenya has met most program performance criteria, it missed the June 2023 tax revenue target due to underperformance, prompting corrective measures.¹¹⁴ Tight external financial conditions and uncertainty in global markets further complicate debt management. Nevertheless, the IMF's support reinforces market confidence and Kenya's capacity to navigate these challenges.¹¹⁵ Aligning domestic policies with international standards enables Kenya to reduce debt burdens and improve fiscal health while focusing on long-term development goals.

2.5 Conclusion

This chapter has summarised the existing debt management framework in Kenya. It outlines key legislation such as the Public Finance Management Act and the Finance Act, alongside the role of institutions like the Kenya Revenue Authority. Moreover, it discusses the challenges posed by weak public input, lack of financial discipline, and the need for stronger transparency in managing the country's debt. The next chapter will compare approaches by Rwanda and South Africa in debt management to identify best practices for Kenya's current situation.

¹¹⁰ IMF, *KENYA*, 17.

¹¹¹ Gannon K E, 'What role for multi-stakeholder partnerships in adaptation to climate change? Experiences from private sector adaptation in Kenya' 32 *Climate Risk Management*, 2021,100319.

¹¹² Kirianki L, 'Moderating effect of balance of payment position on the drivers of exchange rate volatility in Kenya' unpublished, Strathmore University, Nairobi, 2024, 37.

¹¹³ Amenity M., 'Macroeconomic Variables Diaspora Remittances and the Growth of Bond Markets in Kenya' unpublished, JKUAT-COHRED, Juja, 2023, 43.

¹¹⁴ IMF, *KENYA*,40.

¹¹⁵ IMF, *IMF Executive Board Completed the Fifth Reviews of Kenya's Extended Fund Facility and Extended Credit Facility Arrangements and Approves Arrangement under the Resilience and Sustainability Facility*,5.

3.0 CHAPTER THREE: A COMPARATIVE ANALYSIS OF DEBT MANAGEMENT STRATEGIES: LESSONS FOR KENYA FROM SOUTH AFRICA AND RWANDA

3.1 Introduction

Public debt management is of paramount importance for fiscal stability, growth, and prevention of all risks of debt distress.¹¹⁶ This chapter reviews the Public Debt Management Frameworks in Rwanda and South Africa, the two African countries that embraced different yet effective strategies leading to debt sustainability. Rwanda's approach focuses on concessional financing, transparency, and domestic resource mobilization, while South Africa leverages a well-developed financial sector and strong institutional mechanisms to manage its debt. This chapter seeks to draw best practices for Kenya through a comparative approach to ensure sustainable debt management. The above is in regard to the practice of transparency, diversification of sources of financing, and conformity to long-term development goals.¹¹⁷

3.2 South Africa

South Africa's proposed debt management strategies provide valuable lessons for Kenya, especially in the areas of fiscal consolidation and debt restructuring.¹¹⁸ Fiscal consolidation has been a cornerstone of South Africa's strategy, emphasizing the reduction of non-essential expenditure and the optimization of revenue collection.¹¹⁹ For example, between 2021 and 2023, South Africa aimed to reduce non-interest expenditure by ZAR 300 billion.¹²⁰ This ambitious target highlights the government's focus on aligning expenditures with actual revenue streams, partly achieved through implementing zero-based budgeting.¹²¹ Unlike traditional budgeting, zero-

¹¹⁶ Murungi S and Okiro K, 'Impact of government debt on economic growth in Kenya: A critical literature review' 14 *European Scientific Journal* 1, 2018, 242.

¹¹⁷ The Conversation, 'Debt burden: How Kenya could avoid running on empty' 6.

¹¹⁸ Joy J and Panda K, 'Pattern of public debt and debt overhang among BRICS nations: An empirical analysis' 12 *Journal of Financial Economic Policy* 3, 2020, 347.

¹¹⁹ Okwuokei J, 'Fiscal consolidation: Country experiences and lessons from the empirical literature' *Caribbean Renewal: Tackling Fiscal and Debt Challenges*, International Monetary Fund, 2014, <https://www.elibrary.imf.org/view/books/071/20625-9781484369142-en/ch05.xml> on 29 December 2024.

¹²⁰ Fourie D and Blom P, 'Challenges, Strategies and Solutions to Manage Public Debt in South Africa' 13 *African Journal of Public Affairs* 1, 2022, 39.

¹²¹ Makamo T and Ngwamba P., 'The Influence Rent-Seeking Dynamics on Public Procurement Processes in South Africa: A Contingency Perspective of Knowledge Management' 17 *OIDA International Journal of Sustainable Development* 11, 2024, 167.

based budgeting starts from a zero base, ensuring that every expense must be justified and tied directly to anticipated revenues. However, challenges persist, as the successful implementation of such a system requires reliable institutional capacity, skilled personnel, and political will. Furthermore, South Africa's fiscal consolidation efforts often face socio-political resistance, particularly regarding cuts in public sector wages and social grants, critical lifelines for millions of citizens.¹²²

A significant feature of South Africa's debt management is the development of a vibrant domestic bond market.¹²³ The government has emphasized creating a stable environment for domestic borrowing to reduce reliance on foreign loans. This approach is particularly relevant given the high exchange rate volatility that can make foreign currency-denominated debt costly to service.¹²⁴ South Africa has sought to stabilize bond yields and encourage greater predictability in debt servicing by encouraging local investment in government securities.¹²⁵ For instance, the issuance of benchmark bonds with improved liquidity has been a critical tool in attracting both local and international investors.¹²⁶ However, the domestic bond market faces challenges, including limited participation by institutional investors and concerns over the government's fiscal health. Despite these hurdles, the focus on domestic borrowing outlines the importance of reducing external vulnerabilities.¹²⁷ This is a strategy that Kenya could emulate to mitigate risks associated with exchange rate fluctuations and external debt shocks.

Debt restructuring has also been a critical aspect of South Africa's debt management framework because it focuses on renegotiating terms to improve debt sustainability.¹²⁸ The government has explored options such as extending repayment periods, reducing interest rates, and negotiating partial debt forgiveness where feasible. For example, South Africa's approach to restructuring its obligations to international financial institutions indicates a practical understanding of its debt

¹²² [Microsoft Word - Ch3](#) on 28 December 2024.

¹²³ [PowerPoint Presentation](#) on 28 December 2024.

¹²⁴ Melecky M, 'Choosing The Currency Structure of Foreign-Currency Debt: A Review of Policy Approaches' 24 *Journal of International Development* 2, 2012, 136.

¹²⁵ Liu J, 'The Bond Market in South Africa: Efficiency and Investment Issues' unpublished, University of Witwatersrand, Johannesburg, 2013, 23.

¹²⁶ Buthelezi E and Nyatanga P., 'Impact of fiscal consolidation in different states of domestic government debt in South Africa 1979 to 2022' 11 *Cogent Economics & Finance* 2, 2023, 2.

¹²⁷ Melecky M, 'Choosing The Currency Structure of Foreign-Currency Debt: A Review of Policy Approaches' 138.

¹²⁸ Fourie D and Blom P, 'Challenges, Strategies and Solutions to Manage Public Debt in South Africa' 39.

burden.¹²⁹ Modifying the terms and conditions of loans to encourage forgiveness of the principal balance may have a positive impact on the economy as the debt servicing cost is reduced to an affordable level.¹³⁰ While such measures can provide immediate fiscal relief, they come with risks. Debt restructuring often raises concerns among investors about the government's creditworthiness, potentially increasing borrowing costs in the future.¹³¹ Furthermore, the negotiation process can be lengthy and complex, requiring diplomatic finesse and strong institutional frameworks.¹³² For Kenya, engaging creditors in meaningful restructuring discussions could alleviate the strain of rising debt servicing costs. Such negotiations should be paired with transparent fiscal reforms to restore confidence among stakeholders.

Additionally, the integration of debt management responsibilities within South Africa's financial institutions illustrates the importance of coordinated governance.¹³³ In South Africa, public debt management is handled by the Assets and Liabilities Unit within the National Treasury, with collaboration from the central bank and national statistics office.¹³⁴ This tripartite approach ensures that debt data is accurate, comprehensive, and effectively analysed. For example, the Reserve Bank compiles the public-sector borrowing requirement and government sector aggregates, while the National Treasury manages debt issuance and policy implementation.¹³⁵ This collaborative framework enhances transparency and allows for better monitoring of fiscal targets. However, challenges persist, such as the difficulty in accurately identifying beneficial holders of government securities and reconciling data across different reporting entities.¹³⁶ Addressing these issues requires advanced data systems and greater institutional capacity, both of which are essential for effective debt management in South Africa and serve as valuable lessons for Kenya.

¹²⁹ Lienau O, 'The challenge of legitimacy in sovereign debt restructuring' 57 *Harv. Int'l LJ*, 2016, 151.

¹³⁰ Blom P, 'The administration and management of public debt by the National Treasury in South Africa: lessons for sub-Saharan African Countries' Unpublished Public Management and Policy Thesis, University of Pretoria, Pretoria, 2021, 29.

¹³¹ Paudyn B, 'Credit rating agencies and the sovereign debt crisis: Performing the politics of creditworthiness through risk and uncertainty' 20 *Review of International Political Economy* 4, 2013, 790.

¹³² Fourie D and Blom P, 'Challenges, Strategies and Solutions to Manage Public Debt in South Africa' 40.

¹³³ Soko B, *Debt management and governance in Africa*, June 2022, 14.

¹³⁴ [5 Ch5_18.2.pdf, page 1-16 @ Normalize \(Microsoft Word - Ch5_18.2.14\)](#) on 28 December 2024.

¹³⁵ Fourie D and Blom P, 'Challenges, Strategies and Solutions to Manage Public Debt in South Africa' 31.

¹³⁶ Liu J, 'The Bond Market in South Africa: Efficiency and Investment Issues' 45.

Furthermore, economic growth remains a central pillar of South Africa's strategy for reducing its debt burden which illustrates the link between fiscal health and overall economic performance.¹³⁷ The government has pursued structural reforms and targeted fiscal policies to stimulate growth, aiming to increase revenue collection and reduce the debt-to-GDP ratio.¹³⁸ For instance, expansionary fiscal policies during periods of economic stagnation have sought to spur private sector investment and job creation.¹³⁹ However, the relationship between economic growth and debt reduction is complicated. High levels of unemployment, coupled with sluggish GDP growth, continue to limit the government's ability to generate sufficient revenues to service its debt sustainably.¹⁴⁰ In 2022, South Africa's debt-to-GDP ratio hovered around 70% which outlines the urgency of achieving reliable economic growth.¹⁴¹ Kenya could learn from South Africa's focus on economic diversification and microeconomic reforms to enhance its own growth prospects and reduce dependence on borrowing.

Finally, South Africa's experience with fiscal and monetary policy integration indicates the importance of a holistic approach to debt management.¹⁴² The government has introduced tax reforms, including incremental corporate tax increases, to boost revenue collection.¹⁴³ While these measures have generated additional funds for debt servicing, they also risk slowing economic activity if not carefully calibrated. In addition, South Africa has sought to balance fiscal consolidation with social spending to ensure that austerity measures do not worsen inequality or undermine social stability.¹⁴⁴ For example, despite budget cuts, the government has maintained major social grants, recognizing their role in mitigating poverty and sustaining consumer demand.¹⁴⁵ This balanced approach demonstrates the need for fiscal strategies that are not only

¹³⁷ Fourie D and Blom P, 'Challenges, Strategies and Solutions to Manage Public Debt in South Africa' 40.

¹³⁸ Buthelezi E and Nyatanga P., 'Impact of fiscal consolidation in different states of domestic government debt in South Africa 1979 to 2022' 5.

¹³⁹ Lewis J and Viñals J, *Revised guidelines for public debt management, South Africa*, International Monetary Fund, 2014, 209.

¹⁴⁰ Van den Heever J., 'Improving public sector debt statistics in South Africa' *Indicators to support monetary and financial stability analysis: Data sources and statistical methodologies*, 2015, 620.

¹⁴¹ [South Africa Debt to GDP Ratio 2015-2024 | Macro Trends](#) on 28 December 2024.

¹⁴² Moeng M and De Jongh J, 'Economic Globalization and Public Debt: What Implications does an Integrated South African Economy Hold for Fiscal Policymakers?' 11, *Forum Scientiae Oeconomia*, 4, 2023, 41.

¹⁴³ Van den Heever J., 'Improving public sector debt statistics in South Africa' *Indicators to support monetary and financial stability analysis: Data sources and statistical methodologies*, 627.

¹⁴⁴ Fourie D and Blom P, 'Challenges, Strategies and Solutions to Manage Public Debt in South Africa' 42.

¹⁴⁵ Lewis J and Viñals J, *Revised guidelines for public debt management, South Africa*, 211.

technically sound but also socially equitable. It is a consideration that Kenya must weigh as it deals with its own debt challenges.

3.3 Rwanda

Rwanda's success in post-conflict reconstruction and its reputation for sound economic policies have positioned it as one of Africa's best-performing economies.¹⁴⁶ Following the devastating 1994 genocide, Rwanda embarked on a comprehensive reconstruction program focused on peace, stability, and economic transformation. These efforts have been complemented by the country's achievements in fighting corruption, promoting gender equality, and creating a favourable business environment.¹⁴⁷ As a result, Rwanda has consistently ranked among the top African nations in the World Bank's Doing Business Index.¹⁴⁸ This strong governance foundation, combined with prudent debt management practices, has enabled Rwanda to pursue an ambitious development agenda without falling into debt distress, setting a great example for other African nations.¹⁴⁹

First, a cornerstone of this strategy is the Medium-Term Debt Strategy (MTDS), which emphasizes minimizing borrowing costs while mitigating exposure to high-risk debt.¹⁵⁰ One of the key strategies employed is the prioritisation of concessional loans, which made up 63% of Rwanda's total debt stock by the end of 2018.¹⁵¹ This preference for concessional financing ensures that debt repayment terms are favourable, lowering the financial burden on the government. Additionally, Rwanda has actively worked to develop its domestic capital markets, issuing long-term securities to attract both local and foreign investors.¹⁵² To further encourage investment, the central bank

¹⁴⁶ Helal M, 'Rwanda's Reconstruction and Reconciliation After the War' 5 *International Research Journal of Humanities and Interdisciplinary Studies* 4, 2024,304.

¹⁴⁷ Rwigema C, 'Portrait of developing economy: Rwanda perspective' 8 *The Strategic Journal of Business & Change Management* 3, 2021, 649.

¹⁴⁸ World Bank Group, *Rwanda Systematic Country Diagnostic*, World Bank, Washington, D.C., 2019.

¹⁴⁹ Rwigema, P. C., 'Community development programs: conceptions and practices with emphasis on East Africa Community' 9 *The Strategic Journal of Business and Change Management* 4,2022, 1448.

¹⁵⁰ Rwigema C, 'Portrait of developing economy: Rwanda perspective' 650.

¹⁵¹ Mukasafari C, 'Influence of Information Asymmetry Management on Lending Performance of Commercial Banks in Rwanda' unpublished, JKUAT-COHRED, 2022,41.

¹⁵² Rusuhuzwa T, *Monetary Policy in Rwanda*, Springer Singapore, 2021, 36.

guarantees principal repayment for foreign investors and offers a reduced withholding tax rate of 5%, instead of the usual 15%.¹⁵³

Furthermore, a significant part of Rwanda's debt management strategy includes transparency and consistent reporting.¹⁵⁴ The Debt Directorate General produces detailed reports on the debt stock, including public sector debt statistics, and provides semi-annual statistical bulletins.¹⁵⁵ These reports help to track the debt status against projected levels, which are also regularly presented to the Auditor General's office and Parliament. The International Monetary Fund (IMF) has praised Rwanda's prudent debt management, indicating that despite undertaking capital-intensive projects, the country has maintained a low risk of debt distress.¹⁵⁶ This careful approach is reflected in the country's low debt-to-GDP ratio of 32.9% as of 2018, well below the threshold of 50%.¹⁵⁷ Rwanda has been able to keep its debt levels manageable while simultaneously investing in large infrastructure projects that are expected to bring high returns.

Evidently, this careful balance between debt accumulation and economic growth has allowed Rwanda to finance significant capital-intensive projects, such as the Kigali Innovation City and Bugesera International Airport, without jeopardizing fiscal stability.¹⁵⁸ These projects are anticipated to generate high economic returns by boosting tourism, technology, and trade, which are important to Rwanda's National Strategy for Transformation (NST1).¹⁵⁹ These are expected to boost economic growth and per capita income over the long term.¹⁶⁰ Looking ahead, Rwanda's strategy to maintain sustainable debt levels is underpinned by its focus on domestic resource mobilisation and economic diversification.¹⁶¹ The government aims to widen the tax base and strengthen tax compliance to support its development goals while ensuring fiscal sustainability.¹⁶²

¹⁵³ Rwigema C, 'Portrait of developing economy: Rwanda perspective'653.

¹⁵⁴ Mageo K, 'Resolving The Debt Sustainability Issues from A Legal and Institutional Perspective: A Focus on East Africa' 1 *Financing for Development* 4, 2022,23.

¹⁵⁵ Muyombano A, 'Analysis of the Contribution of Foreign Development Strategies on Economic Development of Rwanda' unpublished, JKUAT-COHRED, 2020, 45.

¹⁵⁶ Minecofin, *Rwanda's Debt is Carefully Managed*, 2024, 1.

¹⁵⁷ Minecofin, *Rwanda's Debt is Carefully Managed*, 1.

¹⁵⁸ Rubunda E, 'Finance Structure and the Growth of Small and Medium Size Manufacturing Enterprises in Rwanda' unpublished, JKUAT-COHRED, Nairobi, 2023.

¹⁵⁹ Muyombano I. A., 'Analysis of the Contribution of Foreign Development Strategies on Economic Development of Rwanda', 35.

¹⁶⁰ JVI, *Rwanda's Debt Management Strategies*,9.

¹⁶¹ Rwigema C, 'Portrait of developing economy: Rwanda perspective'652.

¹⁶² JVI, *Rwanda's Debt Management Strategies*, 2023, 8.

Rwanda's continued focus on fiscal transparency and its partnerships with multilateral organisations ensures that the country's debt remains sustainable.

3.4 Conclusion

On debt management, Kenya can borrow various lessons from Rwanda and South Africa to put in place the best framework for addressing its increasing challenge of unsustainable borrowing. From Rwanda, for example, Kenya can adopt a strategy that focuses on concessional financing and strengthening domestic resource mobilization. Concessional loans have low interest rates and prolonged repayment periods; hence, they are more sustainable and less costly than high-cost commercial borrowing. Also, Rwanda's success in increasing tax collection and encouraging domestic investment is a testimony to what good domestic resource mobilization can achieve in reducing dependence on external debt. This way, Kenya can equally improve its fiscal capacity to reduce debt-servicing costs and make borrowing more conducive to development priorities.

Furthermore, Transparency in the country's debt reporting and well-regulated financial markets have gained South Africa a better investor confidence with minimal borrowing risks. It is thus prudent for Kenya to have mechanisms for independent oversight of debt to ensure accountability and bar unsustainable borrowing. Besides, the diversification of financing sources, such as through green bonds issuance or in partnership with multilateral agencies in infrastructure development, offers alternative avenues through which funding needs can be met without increasing vulnerability to external shocks. These strategies put together can lead to long-term debt sustainability with prudent fiscal discipline which guarantees economic growth and social progress for Kenya.

4.0 CHAPTER FOUR: AN ASSESSMENT OF THE LEGAL AND INSTITUTIONAL IMPLICATIONS OF KENYA'S OVERRELIANCE ON BORROWING

4.1 Introduction

Countries globally frequently depend on both internal and external financing to manage budget deficits and facilitate recurrent and development expenditures.¹⁶³ The effect of public debt on economic growth is debatable which yields diverse conclusions among scholars and policymakers.¹⁶⁴ Regarding the impact of borrowing on economic growth, some contend that macroeconomic factors diminish its significance while others claim a positive correlation between public debt and economic performance.¹⁶⁵ This contrast indicates the ambiguous relationship between public debt and economic growth warranting additional scrutinization in Kenya's context.¹⁶⁶ This chapter evaluates the legal and institutional implications of Kenya's excessive dependence on borrowing. It focuses on the effects of excessive debt on economic development, public welfare, and governance, illustrating the challenges of associated with over-taxation as a strategy for debt repayment. Lastly, the chapter proposes legal and institutional reforms, along with alternative strategies, to achieve sustainable debt management.

4.2 The Impact of Excessive Borrowing on Kenya's Economy

4.2.1 Economic Instability

Excessive borrowing has contributed significantly to economic instability in Kenya, driven by the government's inability to balance its fiscal deficit.¹⁶⁷ While proponents of public debt insist on its utility in financing development projects, such as infrastructure, the mounting debt raises concerns about the country's financial sustainability.¹⁶⁸ Kenya's public debt has escalated dramatically,

¹⁶³ Arisa G, 'Impact of external debt on inflation and exchange rate in Kenya' published, Kenyatta University, Nairobi, 2020,1.

¹⁶⁴ Musyoka G, 'The effect of public debt on economic growth in Kenya' unpublished, University of Nairobi, Nairobi, 2017,2.

¹⁶⁵ Achwoga G, 'Effect of public debt on economic growth in Kenya' *KCA Journal of Business Management*, 2016 [Effect Of Public Debt On Economic Growth In Kenya](#) on 19 January 2025.

¹⁶⁶ Nyakoe C, 'The impact of public debt on Kenyan economic growth' *Research Gate*, 2020, 1 [The Impact of Public Debt on Kenyan Economic Growth](#) on 19 January 2025.

¹⁶⁷ Ogindo O, 'The effect of public sector borrowing on economic growth in Kenya' Unpublished Doctoral Thesis, University of Nairobi, Nairobi, 2015, 35.

¹⁶⁸ Panizza U and Presbitero A, 'Public debt and economic growth in advanced economies: A survey' 149 *Swiss Journal of Economics and Statistics* 2, 2013,177.

rising from Ksh 1.6 billion in 1963 to Ksh 7.7 trillion by June 2021.¹⁶⁹ This rapid increase illustrates a widening budgetary gap heightened by ambitious infrastructure investments and the economic impact of the COVID-19 pandemic.¹⁷⁰ A key concern is the reduced willingness of lenders to provide additional funds mentioning their doubts about Kenya's ability to repay.¹⁷¹ Consequently, the government's borrowing appetite has strained the private sector, as financial institutions prioritize lending to the state due to better securities and guarantees.¹⁷² This creates a "crowding-out" effect, where private businesses face higher interest rates and limited access to credit which stifles entrepreneurship and hinders economic growth.¹⁷³

Furthermore, overreliance on domestic borrowing destabilizes the economy.¹⁷⁴ Internal debt, which constituted Ksh 4.5 trillion or 31.3% of GDP in March 2023, comes with higher interest costs compared to external debt.¹⁷⁵ The government's focus on short-term domestic borrowing increases the risk of liquidity shortages which affects the availability of funds for essential services.¹⁷⁶ For instance, as interest payments consume a significant portion of government revenue, investments in poverty-reducing programs and growth-oriented sectors are deprioritized.¹⁷⁷ Moreover, the fiscal strain has sparked concerns about Kenya's debt sustainability, with growing public dissatisfaction.¹⁷⁸ Without effective debt management strategies, the current trajectory jeopardizes the long-term economic prospects of the country.¹⁷⁹



¹⁶⁹ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study'7.

¹⁷⁰ Murimi L, Weda C, and Matanda J, 'Influence of government borrowing on economic growth in Kenya' 26 *IOSR Journal of Humanities and Social Science*10, 2021,9.

¹⁷¹ Gicheru G and Nasieku T, 'The effects of public debt on economic growth in Kenya'4 *EPRA International Journal of Economic and Business Review Issue* 10, 2016, 181.

¹⁷² Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study'8.

¹⁷³ Ochieng A, 'The Impact of External Public Debt on Stock Market Performance in Kenya'44.

¹⁷⁴ Nyakoe C, 'The impact of public debt on Kenyan economic growth'4.

¹⁷⁵ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study'11.

¹⁷⁶ Barngetuny J, 'Navigating Debt Sustainability in Kenya: Strategic Insights for the Ministry of Finance' 5 *International Journal of Science Academic Research* 10, 2024,8412.

¹⁷⁷ Murimi L, Weda C, and Matanda J, 'Influence of government borrowing on economic growth in Kenya'12.

¹⁷⁸ Thiora M, 'Effects of External Debt on Economic Growth in Kenya' unpublished Doctoral dissertation, University of Nairobi, Nairobi, 2021,

¹⁷⁹ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework'3.

4.2.2 Devaluation of Currency

Over borrowing has also led to a decline in the value of the Kenyan shilling which worsens trade imbalances and inflation.¹⁸⁰ For example, the shilling depreciated from Ksh 72 against the US dollar in 2009 to Ksh 99 in 2019, a trend attributed to increased public debt servicing obligations.¹⁸¹ As the government relies heavily on hard currencies to service external loans, the demand for foreign exchange rises rapidly which influences devaluation of the local currency.¹⁸² Devaluation is often employed as a strategy to make Kenyan exports cheaper and more attractive in international markets, however, this approach has its drawbacks.¹⁸³ The depreciating shilling reduces the purchasing power of households, as inflation drives up the cost of goods and services. For instance, the Consumer Price Index (CPI) rose from 97 a decade ago to 192 which doubled the cost of basic commodities, significantly straining household incomes.¹⁸⁴

Moreover, inflation resulting from public debt accumulation discourages investment in the private sector.¹⁸⁵ Rising prices and high taxation reduce the disposable income of consumers, leaving businesses with lower demand for their products.¹⁸⁶ Kenyan banks, struggling to reconcile capped interest rates with inflation, are reluctant to lend to private enterprises.¹⁸⁷ Instead, they channel resources to the government which perpetuates the crowding-out effect.¹⁸⁸ Studies from other countries, such as Turkey and India, indicate similar patterns where external borrowing raises inflation and devalues currencies if funds are not invested productively.¹⁸⁹

¹⁸⁰ Nyakundi D, 'Exchange Rates and the Volume of Imports in Kenya' Unpublished Doctoral Thesis, University of Nairobi, Nairobi, 2022,30.

¹⁸¹ Nyoni T, 'Where is Kenya being headed to? Empirical evidence from the Box-Jenkins ARIMA approach'10 *Theoretical and Practical Research in Economic Fields (TPREF)* 20, 2019, 89.

¹⁸² Odera Q, 'An Analysis on the Effect of External Public Debt on Exchange Rate Volatility in Kenya' Unpublished Doctoral dissertation, University of Nairobi, Nairobi, 2015,26.

¹⁸³ Onyancha L, 'The Relationship between Foreign Exchange Fluctuations and Balance of Trade in Kenya' Unpublished Doctoral dissertation, University of Nairobi, Nairobi, 2012, 35.

¹⁸⁴ Nyakoe C, 'The impact of public debt on Kenyan economic growth'5.

¹⁸⁵ Arisa G, 'Impact of external debt on inflation and exchange rate in Kenya' 24.

¹⁸⁶ Ewang A, 'Reforming Public Finance Management in Kenya: Implementation Challenges on the Principle of Openness and Accountability in Public Finance Management' 28.

¹⁸⁷ Stiles K, *Negotiating Debt: The IMF Lending Process*, 1st ed., Routledge, New York, 2019, 51.

¹⁸⁸ Nyakoe C, 'The impact of public debt on Kenyan economic growth'5.

¹⁸⁹ Frankel J, 'Monetary Policy in Emerging Markets' *Handbook of Monetary Economics*, 3, Elsevier, 2010,1450.

4.2.3 Over Taxation

As public debt continues to rise, the Kenyan government increasingly relies on taxation to meet its debt repayment obligations which places a significant economic burden on citizens.¹⁹⁰ To service interest payments and honor loan terms, the government raises taxes on goods and services, which leads to inflation and reduced purchasing power.¹⁹¹ Consequently, it discourages private investment and limits economic growth.¹⁹² Businesses face additional hurdles as higher taxes cut into profits which reduces incentives to invest in long-term projects.¹⁹³ This has particularly affected small and medium-sized enterprises which struggle to compete with larger firms that are better equipped to bear these costs.¹⁹⁴

Furthermore, the tax-and-interest-payment model tends to disproportionately favor wealthier groups which heightens economic inequality.¹⁹⁵ Wealthier individuals and institutions are more likely to hold government bonds and benefit from interest payments funded by higher taxes on the general population.¹⁹⁶ Resultantly, public debt contributes to the reordering of wealth, where savings among high-income earners increase while lower-income groups face diminished consumption capabilities.¹⁹⁷ This inequality not only interferes with social welfare but also weakens public trust in government fiscal policies.¹⁹⁸ Without equitable debt management strategies, the cycle of borrowing and taxation delays economic stability and destroys public confidence.¹⁹⁹



¹⁹⁰ Ali M, Fjeldstad O and Sjursten H, 'To Pay or Not to Pay? Citizens' Attitudes toward Taxation in Kenya, Tanzania, Uganda, and South Africa' 64 *World Development*, 2014, 834.

¹⁹¹ Gicheru G and Nasieku T, *The effects of public debt on economic growth in Kenya* 183.

¹⁹² Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study' 13.

¹⁹³ Mwita M, 'Kenya's Public Debt Soars to Sh7.7 Trillion' 2.

¹⁹⁴ Nyakoe C, *The impact of public debt on Kenyan economic growth* 4.

¹⁹⁵ Burman L, Gale W, Gault S, Kim B, Nunns J and Rosenthal S, 'Financial Transaction Taxes in Theory and Practice' 69 *National Tax Journal Issue 1*, 2016, 174.

¹⁹⁶ Hope R, 'Kenya's Corruption Problem: Causes and Consequences' 52 *Commonwealth & Comparative Politics* 4, 2014, 497.

¹⁹⁷ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study' 15.

¹⁹⁸ Arisa G, *Impact of external debt on inflation and exchange rate in Kenya* 35.

¹⁹⁹ Fazio M, Silva C, Tabak M and Cajueiro O, 'Inflation Targeting and Financial Stability: Does the Quality of Institutions Matter?' 71 *Economic Modelling*, 2018, 9.

4.3 Legal and Institutional Gaps in Public Debt Management in Kenya

Legal and institutional challenges in Kenya's debt management have significantly hindered effective public finance oversight and service delivery.²⁰⁰ A major legislative gap lies in the constitutional threshold for parliamentary approval for external borrowing, currently set at Ksh. 500 billion.²⁰¹ Through consistent borrowing below this threshold, the government has circumvented parliamentary scrutiny, evading accountability.²⁰² This loophole worsens issues of financial transparency as evidenced by scandals such as the Eurobond.²⁰³ The Auditor General revealed that Ksh. 215 billion sourced from the sovereign bond could not be accounted for two years after borrowing.²⁰⁴ Moreover, funds were not deposited into the Consolidated Fund as required by the Constitution, with investigations revealing no documentation for Ksh. 11.6 billion allegedly allocated to the Ministry of Water.²⁰⁵ Such irregularities erode public trust, perpetuate corruption and ultimately saddle taxpayers with a lot of liabilities.

Another challenge stems from institutional weaknesses in tax administration and public expenditure oversight.²⁰⁶ The KRA frequently fails to meet revenue collection targets due to high rates of tax non-compliance and insufficient enforcement measures.²⁰⁷ This shortfall necessitates additional borrowing which compounds the country's budget deficit.²⁰⁸ Kenya's poor economic performance attributed to corruption and the misallocation of resources further worsens the fiscal imbalance.²⁰⁹ According to the Auditor General, more than 60% of the budget remains unaccounted for annually.²¹⁰ Political instability and protracted election cycles deter investment,

²⁰⁰ Ndalila N, 'Strengthening the Management of Devolved Funds in Kenya: Bridging the Gap Between Law and Practice at the Counties' Unpublished Doctoral dissertation, University of Nairobi, Nairobi, 2016, 36.

²⁰¹ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework' 4.

²⁰² Waga P, 'Legal Reforms on External Public Debt Law in Kenya' Unpublished Doctoral dissertation, University of Nairobi, Nairobi, 2019, 40.

²⁰³ Kegoro G., 'Eurobond scandal puts Jubilee in a difficult situation' 3.

²⁰⁴ Wafula P, 'Audit: Sh215b Eurobond Cash Unaccounted for' 2.

²⁰⁵ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study' 19.

²⁰⁶ Ochieng' J, 'Public Debt in Kenya: Management and Sustainability' Kenya Institute for Public Policy Research and Analysis, KIPPRA Working Paper No. 33, 2023, 45 [WP33 \(4\).pdf](#) on 19 January 2025.

²⁰⁷ Ndirangu A, 'Taxation Policy Implementation Costs, Macroeconomic Factors and Revenue Collection in Kenya' Published Doctoral dissertation, JKUAT-COHRED, 2022, 46.

²⁰⁸ Arisa G, 'Impact of external debt on inflation and exchange rate in Kenya' 37.

²⁰⁹ Mathenge M, Shavulimo P and Kiama M, 'Financial factors influencing budget implementation in counties (A survey of selected counties in Kenya)' 9 *Research Journal of Finance and Accounting* 1, 2018, 54.

²¹⁰ Office of the Auditor General, Auditor-General's Report on National Government 2022/2023, 2023,32.

while ineffective economic policies, such as the lack of a comprehensive food security framework, hinder development in major sectors like agriculture.²¹¹

Furthermore, the lack of public participation in financial decision-making is a major problem.²¹² Although the Constitution mandates public participation in public finance matters, the Public Finance Management Act of 2012 contradicts this principle by exempting supplementary budgets from undergoing public consultation.²¹³ This provision allows the government to deviate from priorities identified during budget formulation which compromises service delivery.²¹⁴ The Eurobond scandal illustrates how non-involvement of citizens in borrowing decisions can lead to mismanagement of public funds.²¹⁵ Additionally, unwarranted public expenditure, including high wage bills for public servants and parliamentarians, strains the economy.²¹⁶ Every five years, wage demands increase which contributes to the fiscal burden and slowing economic progress.²¹⁷

Finally, Kenya's failure to address systemic economic challenges heightens the debt crisis.²¹⁸ The weakening Kenyan shilling, driven by inflation and poor fiscal policies, has increased the cost of essential commodities which strains household incomes.²¹⁹ Coupled with unchecked public expenditure and corruption, these factors widen the budget deficit which forces the government to rely on external borrowing.²²⁰ This reliance perpetuates a vicious cycle of debt accumulation and economic stagnation.²²¹

²¹¹ Mugwanja C, 'Effect of Country Risk on Yield Spreads in Kenyan Eurobonds'46.

²¹² Hope R, 'Kenya's Corruption Problem: Causes and Consequences'498.

²¹³ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study'25.

²¹⁴ Muriithi M, 'The relationship between government revenue and economic growth in Kenya' Unpublished Doctoral dissertation, University of Nairobi, Nairobi, 2013, 46.

²¹⁵ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework'4.

²¹⁶ Murimi L, Weda C, and Matanda J, '*Influence of government borrowing on economic growth in Kenya*'13.

²¹⁷ Odhiambo O, Momanyi G, Othuo L and Aila O, 'The relationship between fiscal deficits and economic growth in Kenya: An empirical investigation' 3 *Greener Journal of Social Sciences* 6, 2013, 312.

²¹⁸ Kaplinsky R and Kraemer-Mbula E, 'Innovation and uneven development: The challenge for low-and middle-income economies' 51 *Research Policy* 2, 2022, 5.

²¹⁹ Nyakoe C, '*The impact of public debt on Kenyan economic growth*'4.

²²⁰ Murimi L, Weda C, and Matanda J, '*Influence of government borrowing on economic growth in Kenya*'14.

²²¹ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework'5.

4.4 Potential Legal and Institutional Reforms Towards Effective Debt Management in Kenya

Kenya must prioritize the adoption of sound sovereign debt management practices.²²² A potential solution would involve establishing a credible framework for balancing public debt with economic growth.²²³ It would require the government to achieve cost and risk objectives while maintaining fiscal requirements for development and recurrent expenditure.²²⁴ Striking a balance between debt and growth necessitates the formulation and sharing of monetary and fiscal policies to encourage consensus on sustainable levels of indebtedness.²²⁵ Instituting a debt ceiling tied to Kenya's GDP would ensure that borrowing remains proportionate to the country's economic output.²²⁶ Moreover, introducing quarterly parliamentary reviews on debt sustainability would influence continuous oversight and mitigate risks of unsustainable borrowing practices.²²⁷

Additionally, amendments to the PFMA 2012 are necessary to strengthen the legal framework for public debt management in Kenya.²²⁸ The Constitution of Kenya and the PFMA should be amended to specifically demand that borrowings exclusively fund development expenditure, with explicit provisions to prevent the use of debt for recurrent spending.²²⁹ Additionally, it is essential that debt management objectives be mandated for public disclosure, accompanied by thorough and clear explanations of the cost and risk measures implemented by the government.²³⁰ This transparency would enhance accountability and align public debt management with constitutional principles of prudent fiscal stewardship, thereby making debt accumulation more traceable.²³¹ Amendments may include a requirement for explicit approval of public debt and obligations by

²²² Nyakoe C, 'The impact of public debt on Kenyan economic growth' 18.

²²³ Onjala J, 'China's development loans and the threat of debt crisis in Kenya' 720.

²²⁴ Liu T and Lee C, 'Testing explosive behaviour of public debt in OECD countries' 27 *The Journal of International Trade & Economic Development* 7, 2018, 763.

²²⁵ Arisa G, 'Impact of external debt on inflation and exchange rate in Kenya' 40.

²²⁶ Herbling D, 'Kenya to Double Debt Ceiling to Almost Match Economy's Size' *Bloomberg*, 16 October 2019 [Kenya to Double Debt Ceiling to Almost Match Economy's Size - Bloomberg](#) on 19 January 2025.

²²⁷ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study' 30.

²²⁸ Ewang A T, 'Reforming Public Finance Management in Kenya: Implementation Challenges on the Principle of Openness and Accountability in Public Finance Management' 56.

²²⁹ Article 206, The Constitution of Kenya (2010).

²³⁰ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework' 12.

²³¹ Shitubi S, 'A Review of the Kenyan Public Debt Management Legal Framework' Unpublished Doctoral dissertation, University of Nairobi, Nairobi, 2018, 87.

Parliament and County Assemblies to enhance accountability for fiscal sustainability at both levels of government.²³²

Furthermore, a more credible legal framework is essential to address ethical issues and enhance governance in public debt management alongside these reforms. The National Treasury ought to be mandated to deliver comprehensive disclosures on debt sustainability analyses.²³³ This is to ensure that all subsequent borrowing aligns with Kenya's long-term economic objectives, including the maintenance of a stable current account deficit and the attainment of sustainable GDP growth.²³⁴ The Public Audit Act of 2015 should be amended to strictly require the Auditor General to perform regular and thorough audits of public debt including non-guaranteed debts and contingent liabilities, as advocated during the 2019 forum.²³⁵ This would ensure the authenticity of debt registers and keep the public informed regarding the utilization of borrowed resources.²³⁶ Moreover, targeted measures must be implemented to fight corruption and support whistleblowing, guaranteeing that individuals responsible for debt management comply with rigorous standards of integrity and transparency.²³⁷

4.5 Conclusion

From the discussion above, legal reforms are essential for reducing borrowing costs, improving credit ratings, and attracting foreign direct investment. Managing Kenya's debt responsibly is necessary for addressing the country's economic challenges as evidenced by the chapter's findings. The increasing public debt poses considerable challenges like poor standards of living and delayed progress for future generations. Nonetheless, various mechanisms can be implemented to effectively address and manage the rising debt burden. Strategic management of debt is essential for the sustainable economic growth of Kenya.

²³² Gibet B, 'Public Debt: How is it managed? A Case Study of Kenya Public Debt Management' *SSRN*, 2015, 23 [Public Debt: How is it managed? A case Study of Kenya Public Debt Management](#) on 27 January 2025.

²³³ [Public-Debt-Management-Brief.pdf](#)

²³⁴ Shitubi S, 'A Review of the Kenyan Public Debt Management Legal Framework' 88.

²³⁵ Kanini M, 'Determinants of Effectiveness of Public Sector Audit in Kenya' Unpublished, KCA University, Nairobi, 2023, 57.

²³⁶ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework' 13.

²³⁷ [Public-Debt-Management-Brief.pdf](#)

5.0 CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

The paper provides a comprehensive analysis of the systemic legal barriers affecting debt financing in Kenya. It illustrates how these impediments significantly inhibit the nation's economic development. The study establishes that existing legal frameworks, such as the Public Finance Management Act of 2012 and the Finance Act of 2022, have substantial deficiencies in transparency and accountability which perpetuate inefficient borrowing practices. Furthermore, there is a clear connection between high taxation policies implemented as a mechanism for debt repayment and the adverse impacts on citizens' economic well-being. This correlation reinforces the hypothesis that legal issues associated with debt financing greatly obstruct Kenya's economic growth.

Moreover, the comparative analysis between Kenya and other countries provides an outline of the need for the reform of the legal and institutional frameworks that govern the management of public debt. The adoption of best practices from these countries has shown a strategic means of managing debt a country can take towards fiscal sustainability and economic resilience. Additionally, the findings of the paper indicate that such insight from the frameworks can assist Kenyan policymakers in revising the existing regulations and instituting transparent and accountable mechanisms for managing debt. This study concludes by stating that the introduction of viable reforms on sustainable borrowing practices and less overtaxation could play a major role in solving Kenya's fiscal problems. Therefore, these strategies might reduce poverty and spur economic development in addition to ensuring equality in taxation.

5.2 Recommendations and Areas of Further Study

To mitigate Kenya's increasing public debt burden an extensive plan is necessary. A common suggestion across all chapters is enhancing transparency and accountability in debt management.²³⁸ This research calls for greater accountability and transparency in the Public Finance Management Act and related laws. It outlines the importance of institutional strengthening through the creation of an independent public debt management agency.²³⁹ This proposal is further

²³⁸ Bett J, 'Public Debt Management in Kenya: A Case for Review of the Legal and Policy Framework' 15.

²³⁹ [Public-Debt-Management-Brief.pdf](#)

backed by Chapter 4, which elaborates on the adverse effects of excessive borrowing and high taxation on economic growth. It suggests an alternate approach that initiates effective legal reforms that guarantee reasonable debt levels.²⁴⁰

Furthermore, the comparative study in Chapter 3 demonstrates efficient debt management approaches used in Rwanda and South Africa. It implies that Kenya can implement strategies that promote economic resilience while minimizing the negative consequences of excessive borrowing.²⁴¹

Reforms in tax administration are essential for decreasing dependence on external borrowing. Adopting contemporary technologies such as artificial intelligence, machine learning, and blockchain will enhance analytics and improve the efficiency of tax collection processes.²⁴² Enhancing platforms such as i-Tax and widening access to both physical and digital tax services in all regions will facilitate compliance and expand the tax base.²⁴³ The proposed simplification of tax laws in the National Tax Policy and Medium-Term Revenue Strategy aims to improve predictability and decrease compliance costs.²⁴⁴ These initiatives will enhance revenue collection and increase Kenya's appeal as a destination for foreign investment, thereby promoting economic growth.

Institutional reforms and stakeholder engagement must be prioritized. Enhancing the operational capacity of debt management institutions, including the National Treasury, and cultivating partnerships with private sector entities, counties, and multilateral organizations will promote a comprehensive approach to fiscal management.²⁴⁵ Strategic partnerships enhance the development of debt policies and ensure their alignment with Kenya's development objectives.²⁴⁶ Overall, the

²⁴⁰ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study' 19.

²⁴¹ Mageo K, 'Resolving The Debt Sustainability Issues from A Legal and Institutional Perspective: A Focus on East Africa' 25.

²⁴² Arunda B., 'The Impacts of Emerging Technologies in the Future of Law and Legal Practice: A Case of Kenya' 6 *Journal of CMSD* 2, 2021.

²⁴³ [Public-Debt-Management-Brief.pdf](#)

²⁴⁴ Kaplinsky R and Kraemer-Mbula E, 'Innovation and uneven development: The challenge for low-and middle-income economies' 7.

²⁴⁵ Nkatha G, 'Resolving the Debt Sustainability Issues from a Legal and Institutional Perspective: A Kenyan Case Study' 24.

²⁴⁶ Shitubi S, 'A Review of the Kenyan Public Debt Management Legal Framework' 89.

cumulative recommendations insist on the need of incorporating best practices into a reformed legislative framework which promotes fiscal sustainability and equitable economic growth.

Further research is needed to evaluate other dimensions of Kenya's debt management framework. What most probably matters are the pressure that public debt places on social sectors, especially education, health, and infrastructure. Research in this context must analyse the extent at which the servicing commitments are crowding out the social sector funds and possible measures to mitigate such adverse effects. Another area of more research is the function of alternative financing mechanisms, including green bonds and diaspora bonds, in diversifying Kenya's borrowing portfolio. Focusing on such areas may offer innovative solutions that enhance traditional fiscal policies and support long-term economic sustainability.



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