The Institute for Social Accountability

REVIEW OF BUDGET POLICY STATEMENT AND MEDIUM TERM DEBT STRATEGY

Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021 Report and 2022 BPS & MTDS

THE INSTITUTE FOR SOCIAL ACCOUNTABILITY

Executive Summary

Okoa Uchumi Debt Campaign by a civil society platform commissioned this study that reviewed debts situation in the country, the tax policy and, the IMF fiscal consolidation and gave recommendations. The platform then prepared a report entitled, Kenya Debt Crisis: Unpacking Fiscal Consolidation, 2021, that identifies significant asymmetries in the IMF supported fiscal consolidation and structural adjustment program that are already having dire consequences on the economy. The report made it findings which included: The rebasing of the economy that was not informed by the real economy; Kenyans being overtaxed; Monetary policy effectively subsidizing imports; The rapid build-up of public debt; and the fiscal consolidation policies and structural adjustment programs. The study then made recommendations which included: Kenya needs to adopt increased domestic borrowing in its debt mix ratio away from commercial debt; There is a need to hold public officers who have mis-handled debt proceeds to account.

Based on the findings the platform then has reviewed the extent to which the 2022 BPS responds to the concerns raised in the study. The 2022 BPS review was guided by objectives of: reviewing the extent to which the 2022 BPS responds to the concerns raised in the study on Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021; identifying other concerns in 2022 BPS arising from non-compliance with public finance management legal requirements and economic impacts beyond the issues flagged in the report; giving advisory on how to ensure projects in the budget have been evaluated and costed prior to their inclusion in the budget and on why parliament is still not able to get projects status of public debt financed projects. The study also looked at how 2021 Medium Term Debt Management Strategy Draft Report, by Public Debt Management Office, addresses Kenya's debt distress. The following is the study conclusion and recommendations

In line with the Constitution, the Public Finance Management (PFM) Act, 2012, the PFM National Government Regulations, 2015 and in keeping with prudent and transparent management of public resources, the Government has not adhered to the fiscal responsibility principles as set out in the statute as follows:

a) A minimum of 30 percent of the national government's budget allocated to the development expenditure over the medium term. It however uses ministerial budget allocation to force compliance.
b) Over the medium term, the National Government's borrowings shall be used only for the purpose of financing development expenditure and not for recurrent expenditure. Out Ksh 846.1 billion projected borrowing, Ksh 667.7 billion will be allocated to development thus implying that Kshs. 178.4 will be used for recurrent purposes which is against the law
c) Public debt and obligations shall be maintained at a sustainable level as approved by Parliament for National Government. The PFM Act also requires that public debt and obligations remain at sustainable levels. The debt growth rate continues to be above the GDP growth rate as estimated by 2022 BPS and the commercial borrowing of Ksh.105.6 billion for the FY2022/23 add to debt unsustainability. This is also against the principle of prudent fiscal risks management.
d) The Government will continue to maintain stable tax rates and build confidence in the Kenyan tax system, enhance compliance and improve predictability while improving tax administration. The Government will also use tax policy initiatives to address areas

where the tax base has been eroded, to strengthen revenue mobilization. This needs to bring the tax expenditure into focus

e) There is need for strengthening the Ministry of education and provide enough time and requisite resources to implement the CBC fully.
f) There is need to have one harmonised cash transfer program to avoid duplication and double benefit for same households from different social programs.
g) The County Governments' Compliance with Fiscal Responsibility is very low and there is need for National Treasury to come up with measures to ensure compliance and come up with technical support programs to support counties whose capacity is low and sanction those that violate the law willingly.

Despite the huge allocation to the education sector, mainly for implementing CBC, employment of teachers has not been well addressed since majority of teachers are jobless. Additionally, some Public Universities including Nairobi, Moi, JKUAT among others are struggling with huge debts. According to the Education sector report of education University pending bills amount over Ksh. 40 billion. The ministry of Education needs to institute reforms that will enable the Universities remain afloat. Additionally, the sector has not stated how it will address the pressures likely to come up due to double intake which will be occasioned by the CBC.

National Treasury does not have capacity to analyse projects in all aspects. This is not addressed in 2022 BPS despite numerous petitions on project identification, appraisal and costing. MDAs are expected by treasury to carry feasibility studies which accompany requests to such projects as part of the requirement for their approval. Depending on the type of the project and the materiality there may be need to set up an independent project evaluation team on a project-by-project basis because different projects will require different skills and expertise.

The optimal strategy, in MTDS, that is said to minimize costs and risks of public debt suggests borrowing in the ratio of 63:37 in net external and net domestic borrowing to finance the government over the medium-term. This strategy is is said to be underpinned by the need to move away from high interest cost of domestic debt. However, the MTDS is emphasizing on reforms in the domestic market as a condition for long-term financing domestically.

On the external financing, concessional and semi-concessional is proposed at 15 per cent and commercial borrowing at 13 per cent. In terms of the Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021Report, this is considered unsustainable due to overreliance with foreign supply and risky because it expands on the already unsustainable commercial debts. The 2022 MTDS claim of minimizing costs and risk through a net financing 32 percent from external sources and 68 percent from domestic market.

The Public Finance Management Act, 2012 sets the statutory debt ceiling at Kshs 9.0 trillion. To accommodate the fiscal deficits in FY2021/22 and into the medium term, the statutory debt limit is proposed in MTDS to be expanded. This is against the spirit of lowering the debt.

Contents

Acronyms and Abbreviations

BPS	Budget Policy Statement
CBC	Competency Based Caliculus
CBK	Central Bank of Kenya
ERS	Economic Recovery Strategy
GDP	Gross Domestic Product
GIS	Geographic Information System
HNWI	High-Net-Worth Individuals
ICT	Information Communication and Technology
IFMIS	Integrated Financial Management and Information System
IMF	International Monetary Fund
ISI	Import Substitution Industrialization
JKUAT	Jomo Kenyatta University of Agriculture and Technology
Ksh	Kenya Shilling
MDAs	Ministries, Departments and Agencies
MTDS	Medium-Term Debt Management Strategy
MTP	Medium Term Plan
PFM	Public Finance Management
PPP	Purchasing Power Parity/ Public Private Partnerships
REER	Real Effective Exchange Rate
SOEs	state owned enterprises
TISA	The Institute of Social Accountability

1.0 Introduction

The Institute of Social Accountability (TISA) is spearheading the Okoa Uchumi Campaign that seeks to build citizen voice and demand into critical national monetary and fiscal prioritization areas where citizen voice is presently missing. The campaign aims to link public debt/ national revenue decisions to every-day lives of citizens as a basis for building citizen demand. The campaign will bolster civil society campaigns for political accountability in public debt management, towards the sustainable resolution of Kenya's debt crisis, and the attainment of balanced budgets which support socio economic inclusion.

Okoa Uchumi Debt Campaign platform commissioned a study to redress Kenya's public debt crisis. Specific concerns were whether the enlarging public debt has been directed towards the development of unproductive projects; whether the government has imprudently accepted large, costly, and risky investments (unnecessary project financing), without transparency in decision-making and as a result, Kenya is drowning in debt and in risk of debt distress. The platform then prepared a report entitled, Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021 that identifies significant asymmetries in the IMF supported fiscal consolidation and structural adjustment program that are already having dire consequences on the economy. The report made it findings which some of them include:

1. The rebasing of the economy was not informed by the real economy, which is far less the nominal GDP. The rebasing was simply the withdrawal of price effects on the data. The real economy considers the country's purchasing power, under which public debt stood at 144.2 percent of the real GDP. Thus, the National Treasury is using overstated data to inform its macroeconomic and public debt policy.
2. Kenyans are overtaxed and any fiscal measure leading to the increase of taxes/tax rate will have no effect on tax revenue and will most likely lead to adverse effects on the economy due to overburdening taxpayers.
3. Monetary policy is effectively subsidizing imports. Money supply increases in Kenya have been used to support the exchange rate leading to an overvaluation of the Kenyan currency. As a result, exports are not stimulated, and imports keep on rising resulting in a sustained and growing trade deficit. This deficit is in turn being financed through borrowing.

4. The rapid build-up of public debt has driven the country into a full-blown economic crisis. Countries such as Mexico and Greece that have experienced economic crises have experienced a combination of unmanageable fiscal, monetary, and financial sector policies coupled with structural and institutional weaknesses. Kenya demonstrates most of these.
5. The present fiscal consolidation policies and structural adjustment programs of the 90's have several similarities: Budget rationalization, institutional reform, restructuring state owned enterprises (SOEs) and monetary policy intervention to control inflation. It is of great concern that the proposal to prop up the shilling has found its way into the current IMF proposal. Whereas it made the Kenya shilling remain strong amongst the trading partners, it caused Kenya to lose competitiveness and contributed to the failure of the Import Substitution Industrialization (ISI) program.
6. Kenya needs to adopt increased domestic borrowing in its debt mix ratio away from commercial debt. Kenya has been losing market share since 2015. With the loss in competitiveness and reducing foreign reserves, debt management policies that include an overreliance on foreign currency are very risky. Hence, Kenya's strategy of debt mixes of 60:40 (External to Domestic) is risky.
7. Kenya's debt crisis has been precipitated by non-compliance and outright violation of public finance management requirements. Several of these have been documented by oversight agencies. There is a need to hold public officers who have mis handled debt proceeds to account.

With the campaign seeking to push for political accountability and bolster constitutional safeguards in public debt management as a means to debt sustainability through a balanced and equitable budget, The platformm seeks to review the extent to which the BPS responds to the concerns raised in the study on Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021, identify inconsistencies and give recommendations as well as identify other concerns arising from non-compliance with public finance management legal requirements and economic impacts beyond the issues flagged in the report.

The BPS is a government policy document that sets out the broad strategic priorities and policy goals to guide the National Government and the County Governments in preparing their budgets for the subsequent financial year and over the medium term. Additionally, the BPS is an important document in public debt management, and the Cabinet Secretary should ensure that the medium-term debt management strategy (MTDS) is aligned to the broad strategic priorities and policy goals set out in the BPS. The BPS contains:

- An assessment of the current state of the economy including macroeconomic forecasts.
- The financial outlook with respect to Government revenue, expenditures and borrowing for the next financial year and over the medium term.
- The proposed expenditure ceilings for the National Government, including those of Parliament and the Judiciary and indicative transfers to County Governments.
- The fiscal responsibility principles and financial objectives over the medium-term including limits on total annual debt.
- Statement of specific fiscal risks.

The preparation of the BPS is a consultative process that involves seeking and taking into account the views of: The Commission on Revenue Allocation; County Governments; Controller of Budget; Parliamentary Service Commission; Judicial Service Commission; Ministries, Departments and Agencies; the public; and any other interested persons or groups by the National Treasury. Similarly, in adoption of the BPS, Parliament should facilitate public participation and involvement in accordance with the Constitution Article 10 and 118.

The National Treasury has prepared the 2022 BPS, subjected it to public participation and approval by the Cabinet. In view of the revised budget calendar to accommodate the General Elections scheduled for August 2022, the 2022 BPS was to be submitted to Parliament by 30th November 2021. According to the PFM Act 2012 Parliament should not later than 14 days after the BPS is submitted, table and discuss a report containing its recommendations and pass a resolution to adopt it with or without amendments. Whereas the 2022 BPS contains an outline of the current state of the economy, provides macro fiscal outlook over the medium term and specifies the set strategic priorities and policy goals together with a government borrowing and spending plans as a basis for the FY 2022/23 budget. The publication of the 2022 BPS aims to improve the public’s understanding of Kenya’s public finance management and guide debate on economic and development matters. The 2022 BPS together with the MTDS is being prepared when the Kenyan government is in the throes of the International Monetary Fund (IMF) supported fiscal consolidation program that the country was forced into following the rapid accumulation of expensive commercial and bilateral debt that has resulted in high public debt repayments.

The current study therefore, aims at attaining the following objectives:

a) Review the extent to which the BPS responds to the concerns raised in the study on Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021, identify inconsistencies and give recommendations.
b) Identify other concerns in 2022 BPS arising from non-compliance with public finance management legal requirements and economic impacts beyond the issues flagged in the report.
c) Give advisory on how to ensure projects in the budget have been evaluated and costed prior to their inclusion in the budget
d) Give advisory on why parliament is still not able to get projects status of public debt financed projects

In attaining these objectives, the study reviewed the 2022 BPS and MTDS with the aim finding out the extent to which the concerns raised in the Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021, report are addressed. The review also identified other concerns arising from non-compliance with public finance management legal requirements and economic impacts beyond the issues flagged in the report. In order to give advisory on how to ensure projects in the budget have been appraised and costed prior to their inclusion in the budget, the study looked at legal and process requirements, how the National Treasury handle the project appraisal and costing and the existing gaps, and how to avoid the over costing. The study also established the availability of information on projects status of public debt financed projects by looking at existence of such information to the parliament, how the information is and should be connected to IFMIS and how best to avail the information to the public.

2.0 Study Findings

This section gives the study analysis and findings based on the objectives

2.1 BPS and the concerns raised in Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021

The Budget Policy Statement (BPS) is a government policy document that sets out the broad strategic priorities and policy goals to guide the National Government and the County Governments in preparing their budgets for the subsequent financial year and over the medium term. Table 2.1 gives a summary of the issues raised by Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021 Report, related issues, the proposals in the 2022 BPS on the issues and the observations

Table 2.1: 2021 Report Findings, Issues on the Findings and 2022 BPS Proposal

Report Findings	Issues	BPS Proposal	Comments and Recommendations
The rebasing of the economy was not informed by the real economy, which is far less than the nominal GDP.	The National Treasury is using overstated data to inform its macroeconomic and public debt policy	In 2022 BPS, Nominal GDP is 13759.9 which will give 11.2 percent growth while that of real GDP is 6 percent growth	The real GDP and Nominal GDP seems not to be consistent. This is because real GDP should be equal Nominal GDP deflated with a GDP Deflator. Their growth rates therefore should be equal. This problem, therefore, persists in the 2022 BPS
Kenyans are overtaxed and any fiscal measure leading to the increase of taxes/tax rate will have no effect on tax revenue	There is need to focus on ensuring tax compliance and collection, tax evasion, tax expenditures and corruption	The Government is in the process of developing National Tax Policy. Some of the tax reforms in the policy and 2022 BPS are: modernizing and simplifying tax laws.	Revenue performance will be underpinned by the on-going reforms in tax policy and revenue administration. Expected economic growth is to boost revenue. No attempt however, to address tax expenditures and the powers by CS in giving tax exemptions. KRA has cited tax expenditures as a major impediment to its ability to meet revenue targets. Tax expenditures are estimated at over Ksh 500 billion in annually.
Monetary policy is effectively subsidizing imports.	Money supply increases in Kenya have been used to support the exchange rate leading to an overvaluation of the Kenyan currency. As a result, exports are not stimulated, and imports keep on rising resulting in a sustained and growing trade	The official reserves requirement will continue to maintain reserves at minimum of 4.0 months of import cover. This is supported and expected to increase 4.8 as per the BPS. There is no attempt in the current BPS to attain equilibrium REER.	The overall balance of payment position will be expected to decline to a further deficit. The capital account balance will continue to be supported by external debt. Direct investment continues to record a net financial outflow.

Report Findings	Issues	BPS Proposal	Comments and Recommendations
	deficit. This deficit is in turn being financed through borrowing.		
Rapid build-up of public debt	There has been rapid build-up of public debt that threatens the country into a full-blown economic crisis.	BPS projects the fiscal deficit (including grants), to be at Ksh 846.1 billion (6.0 percent of GDP) in FY 2022/23. Against 930 for BPS 2021/22	This is conforming to the requirement of fiscal consolidation program that the stock of debt is reduced to reduce the risk of debt exposure. However, from the past experience the target has never been met and therefore National Treasury needs to demonstrate the mechanisms under which the consolidation objective will be achieved
30:70 Development recurrent Expenditure requirement	Kenya's debt crisis has been precipitated by non-compliance and outright violation of public finance management requirements.	overall nominal expenditure and net lending is projected at Ksh 3,324.4 billion. The expenditures comprise of recurrent of Ksh 2,201.0 billion (15.7 percent of GDP) and development of Ksh 711.8 billion (5.1 percent of GDP).	In adherence to fiscal responsibility principles the National Treasury has calculated ratio of recurrent to development expenditure using total ministerial expenditure in order to conform to the PFM Act. According to BPS 2022 the allocation to development expenditure as a percentage of Ministerial total expenditure is 34% however as a percentage of the total national expenditure it is 22% and therefore does not conform to the PFM Act.
Foreign vs Domestic Borrowing. Kenya needs to adopt increased domestic borrowing in its debt mix ratio and away from commercial debt.	The only time a country requires foreign currency is when it requires foreign goods and services. Over reliance on foreign goods, services and currency is very risky. Hence, Kenya's strategy of debt mixes of 60:40 (External to Domestic) is risky.	The fiscal deficit will be financed by net external borrowing of Ksh 275.9 billion and net domestic borrowing of Ksh 570.2 billion This ratio is 32:68	As per the recommendation of the report the BPS proposes 32 percent foreign borrowing against 68 percent domestic borrowing. This is an attempt of the National Treasury to comply with the recommendation of borrowing internally than external
Recurrent expenditure and entire of development expenditure is being financed from debt.	Borrowing should be used only for the purpose of financing development expenditure and not for recurrent expenditure	According to 2022 BPS recurrent expenditure is 2.2 trillion and development expenditure is 0.7 Trillion for the National Government. Out of this 2.1T is ordinary revenue	Accordingly, 2022 BPS indicates that of the recurrent expenditure and the entire government expenditure for the FY2022/23 will be financed through borrowing.
Kenya is going for Expensive Debt	This expensive debt does not only raise cost of debt but	The 2022 BPS proposes a commercial borrowing of	The commercial borrowing of Ksh.105.6 billion for the FY2022/23 is less than Ksh. 475.3 billion

Report Findings	Issues	BPS Proposal	Comments and Recommendations
	snowballs a debt crisis.	Ksh.105.6 billion commercial borrowing	commercial borrowing in 2021n BPS.
Public Debt growth rate to be below the GDP growth rate	Persistent increase in budget deficit has made the debt to rise more rapidly than the GDP growth rate.	The real GDP growth rate projected at 5.7 percent while Fiscal Balance is estimated at 6 percent	The debt growth rate continues to be above the GDP growth rate as estimated by 2022 BPS

The FY2022/23 budget is said to builds on the Governments effort to support economic recovery and mitigate against the adverse effects of the COVID-19 pandemic. According to 2022 BPS, this will be done by prioritizing implementation of programs outlined in the Third Medium Term Plan (MTP III) of the Vision 2030, Economic Recovery Strategy and the "Big Four" Agenda. The Government will also continue with the fiscal consolidation plan by rationalizing expenditures and enhancing revenue mobilization. In this regard, MDAs will be encouraged to adopt efficiency in allocation of resources to reduce non-priority spending. This will be achieved through budget costing (That is, all government activities will be priced and standardized across all MDAs, and for programs and projects, zero based budgeting will be adopted) and reviewing the portfolio of externally funded projects to re-align with the Government policy priorities and macroeconomic policy framework.

From the Table 2.1, the economic decision in Kenya is observed to be based on nominal GDP. These figures were rebased to 2016 prices which ought to have reduced the figures on nominal GDP. However, due to broadening of the data base to bring some sectors initially not in the focus, like informal sectors, the figure increased taking the country into middle income level. This then meant the country can no longer benefit from some of programs accorded to poor economies like debt reliefs and cancellations.

According to Section 77 of the Public Finance Management Act, 2012, powers to waive or vary tax, fees or charges is given to the Cabinet Secretary in charge of finance. The Cabinet Secretary may waive a national tax, a fee or charge imposed by the National Government and its entities in accordance with criteria prescribed in regulations. The National Treasury shall maintain a public record of each waiver together with the reason for the waiver and report on each waiver in accordance with Section 82 of the Act. Such waivers or variation have to be authorized by an Act of Parliament. This data is not readily available even in parliament especially debt financed public projects

Kenya's real effective exchange rate (REER) continues to be on an appreciating trend and Kenya expected to continue with weak export performance. This is as the country uses its monetary policy to manage its exchange rate, arguably to safeguard against the risk of the exchange volatility. This will continue putting the country in a constant borrowing in order to pay for its import of goods and services and maintain the foreign reserves to the level as dictated by the fiscal consolidation program. With no attempt in the current BPS to attain equilibrium REER, exports are expected to decrease and imports to increase and current account deficit estimated by 2022 BPS to worsen to -6.1% of GDP.

In order to adhere to fiscal responsibility principles under the PFM Act, the National Treasury has been calculating the ratio of recurrent to development expenditures using total ministerial expenditure in order to conform to the PFM Act. This is wrong, the National Treasury ought to use the total National government budget which includes net lending. According to BPS 2022 the allocation to development expenditure as a percentage of Ministerial total expenditure is 34 percent however as a percentage of the total national expenditure it is 22 percent and therefore does not conform to the PFM Act.

For 40:60 ratio in reference to domestic vs foreign borrowing, the fiscal deficit (including grants), is projected at Ksh 846.1 billion (6.0 percent of GDP) in FY 2022/23. This fiscal deficit will be financed by net external borrowing of Ksh 275.9 billion (2.0 percent of GDP) and net domestic borrowing of Ksh 570.2 billion (4.0 percent of GDP). Government borrowing needs will be met through external and domestic funding sources.

On external financing, the Government will continue to make access on non-concessional and commercial external borrowing arguably to finance development projects with high financial and economic returns. The Kenyan path is riskier as the current government has demonstrated preference for more expensive commercial loans.

Kenya's debt crisis has been precipitated by non-compliance and outright violation of public finance management requirements. For the 2022 BPS, recurrent expenditure is 2.2 trillion and development expenditure is 0.7 trillion for the National Government. Out of this 2.1Trillion is ordinary revenue implying that part of recurrent expenditure is yet again meant to be financed through borrowing.

Government arguably will continue to restrict growth in recurrent spending and double its effort in domestic resource mobilization. The Government is said also to cut down on non-priority expenditures such as hospitality, training, travel and freezing of employment in non-priority sectors in order to manage the public wage bill. Eexpenditures as a share of GDP are projected to decline from 25.0 percent in the FY 2021/22 to 23.7 percent in the FY 2022/23 and further to 22.2 percent in the FY 2024/25. However, in absolute terms, expected total budget will increase from that of FY 2021/22 pushed by the recurrent expenditure

Revenue performance will be underpinned by the on-going reforms in tax policy and revenue administration. In addition, the economic recovery occasioned by implementation of priority programmes under the Economic Recovery Strategy, the "Big Four" Agenda and other priority programmes outlined in MTP III are expected to boost revenue. The Government continues to minimize tax expenditures and increase predictability in the tax system that will boost revenue performance. However, the growth of tax expenditures has emphasized the importance of transparent disclosures of tax expenditures, especially considering the underperformance of revenues in recent years and the growing pressures on controlling the budget deficit

The Government is in the process of developing a National Tax Policy Framework that is said to enhance administrative efficiency of the tax system, provide consistency and certainty in tax legislation and management of tax expenditure. The administrative reforms will be geared towards tax base expansion, strengthening compliance and enforcement functions, smart intelligence and investigation, and integrated border management. The tax base expansion programmes will be implemented through enhancing compliance from the informal sector, simplifying tax processes, enhancing tax payer education, use of Geographic Information System (GIS) for Block Management System, increase compliance by High-Net-Worth Individuals (HNWI), taxation of the digital economy, and strategic collaboration and partnerships for revenue mobilization. The compliance and enforcement function aims to ensure a holistic approach through centralized command and timely utilization of smart intelligence, which will be paramount in enhancing tax compliance and curbing corruption, fraud and tax evasion. This gives no reference to tax expenditures that is costing the government a forgone revenue of over Ksh. 500 billion annually.

2022 MTDS has noted the need for domestic financial market. Development of domestic market is a necessary condition for accelerating attainment of affordable, sustainable long-term financing domestically. This is through improving efficiency in the functioning and trading of government securities. The MTDS also has noted the need to optimize concessional funding sources and reduce refinancing risk through issuance of medium to long-term bonds in the domestic market. The optimal strategy of 2022 MTDS aims at minimizing costs and risks through a net financing of 32 percent from external sources and 68 percent from domestic market. On the external borrowing, the strategy is to minimize concessional borrowing and reduce commercial borrowing in order to reduce cost of debt. On internal borrowing, the strategy seeks to reduce refinancing risks through maintaining the existing stock of treasury bills at the current levels while issuing medium to long-term debt securities under the benchmark bond program. In this, the MTDS resonates with the Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021 Report recommendations.

2.2 Other non-compliance in 2022 BPS beyond the issues flagged in the report.

Table 2.2 summarizes the main issues in the 2022 BPS and more so the areas requiring further clarifications or having gaps. The table analyses the various policies the BPS intends to implement in the medium term and their practicability which touches on the credibility to the budget that will be derived from the proposed policies. The policies set an ambitious implementation path without requisite resources to implement in some cases.

Table 2.2: Policies the BPS Intends to Implement in the Medium Term and their Practicability

Paragraph	policy as per BPS	Issues	Suggestion/ Recommendation
98	Construction of 25,965 affordable housing units in Starehe (3,360), Shauri Moyo (4,470), Kibera Zone B (4,435) and Mukuru, Meteorological site (13,700) is set for commencement	There is no significant budget increase to support the construction of the proposed housing units	The BPS need to demonstrate how the policy will be implemented especially showing that the resources to achieve the policy is budgeted for.
112	The Government will fast-track completion of the Nairobi Expressway Project to decongest Nairobi city, reduce the cost of doing business and promote competitiveness	There is need to assess the cost benefit analysis for the expressway project to ascertain the expected benefits.	The expressway in itself will not decongest the city on its own. There need to be a deliberate effort to deal with the whole transport system and corridors serving the city for meaningful decongestion to take place.
118	Government has programmed to boost power generation	Most projects to ensure this is achieved are	The BPS needs to indicate measures the government is

Paragraph	policy as per BPS	Issues	Suggestion/ Recommendation
	from 3,024 MW to over 6,700 MW by end of FY 2024/25	mostly funded through PPP which makes them too expensive thus making the cost of power to remain high	taking to ensure there is progressive reduction of cost power which in turn will ensure reduction in cost of production thus attracting the most needed foreign direct investments for employment creation
134 to 137	Quality and Relevant Education for all Kenyans The BPS has highlighted the measures to be taken to transit to competency based curriculum (CBC).	The BPS has not given details on sensitization to the public for acceptability of the CBC in the spirit of public participation. In addition the BPS has not stated how government will address the issue of double intake to secondary in FY2022/23	There is need to strengthen the Ministry of education and provide requisite resources to implement the CBC fully.
138 & 139	In Strengthening the Social Safety Nets, the government implements several safety net programs through Social Safety Nets Programmes (Inua Jamii), the Hunger Safety Net Programme and the National Council for Persons Living with Disabilities Fund	Social safety net programs are important to caution the vulnerable communities in a country. However, there is likely to be duplication and inefficiencies if different programs are implemented for the same objective	Need to have one harmonised program to avoid duplication and double benefit for same households from different social programs.
222 to 229	County Governments' Compliance with Fiscal Responsibility Principles	Most counties are not adhering to the fiscal responsibility principles	National Treasury need to come up with measures to ensure compliance and come up with technical support programs to support counties whose capacity is low and sanction those that bridge the law willingly.

There is need for strengthening the Ministry of education and provide enough time and requisite resources to implement the CBC fully. There is need to have one harmonised program to avoid duplication and double benefit for same households from different social programs. The County Governments' Compliance with Fiscal Responsibility is very low and there is need for National Treasury to come up with measures to ensure compliance and come up with technical support programs to support counties whose capacity is low and sanction those that bridge the law willingly. In analysing the allocation in the 2022 BPS, Table 2.3 gives the outstanding concerns on the basis of allocation.

Table 2.3: Analysis of Proposed Sector Allocation Vs Current Allocation

SN	Sector	Allocation 2021/22	Proposed Allocation FY2022/23	% Growth	Remarks
1	National Security	162.2	203.1	25.22	The sector will receive the highest increment of funds of approximately 25%. The BPS has not provided sufficient information as to whether there is any expected aggression from outside since this sector has Defence and National Intelligence Service. One would expect an increased allocation to the internal security agents since they will be directly involved in the management of elections.
2	General Economic and Commercial Affairs	20.6	24.9	20.87	The sector's proposed budget is proposed to grow by 20.9 % however the BPS has not indicated which new policies are earmarked for implementation.
3	Environment Protection, Water and Natural Resources	100.6	110.7	10.04	The budget for the sector is growing by 10% however the BPS has not prioritised the Blue economy aspects that are very key
4	Energy, Infrastructure and ICT	335.8	368.3	9.68	This being one of the sectors that is financed through foreign financing including borrowing there is need to provide more information on quantum of resources that will be foreign financed and the cost benefit analysis. Further, massive projects have been proposed for example construction of 38,489 social and affordable houses, 1,550 police and prison houses and 3,150 Civil Servants housing units without demonstrating how they will be financed owing to the fact that the increment is marginal
5	Governance, Justice, Law and Order	217.3	231.9	6.72	This sector is important in ensuring justice law and order in the country. Kenya is scheduled to hold national elections in 2022. However, the sector has not highlighted any policy or programs that will be put in place to ensure that all systems for a credible electoral process will be put in place.
6	Health	121.1	126.4	4.38	The current administration has put a lot of emphasis on development of health care systems in the country. Under the Big Four Agenda the government was expected to provide Universal Health coverage to the entire population but more so to the indigent households. Despite the efforts there is no efforts to harmonize even the various health insurance schemes to enhance efficiency and probably bring more households on board to avoid double benefit. For

SN	Sector	Allocation 2021/22	Proposed Allocation FY2022/23	% Growth	Remarks
					example, Linda Mama, Edu Afya under ministry of education, among other ongoing insurance schemes could be merged to gain from economies of scale. Ministry of Health additionally need to be restructured to align itself with the current constitution and empower the County Government to address the service delivery of health care services being a fully devolved function.
7	Public Administration and International Relations	332.5	347.0	4.36	The sector is expected to benefit from a marginal increment of funds to cover its priorities. The BPS has well covered the key areas.
8	Education	504.0	525.9	4.35	The sector is expected to receive a marginal increase of funds to continue implementing its programs including CBC. Despite huge funding that the sector enjoys, employment of teachers has not been well addressed since majority of teachers are jobless. Additionally, some Public Universities including Nairobi, Moi, JKUAT among others are struggling with huge debts. According to the Education sector report of education University pending bills amount over Ksh. 40 Billion. The ministry of Education needs to institute reforms that will enable the Universities remain afloat. Additionally, the sector has not stated how it will address the pressures likely to come up due to double intake which will be occasioned by the CBC
9	Social Protection, culture and Recreation	72.2	72.9	0.97	This sector plays a key role in ensuring that the Orphans and Vulnerable Children, the Elderly and persons with severe disability are assisted with cash transfers to support their livelihoods. There is need however to harmonise the various cash transfer program to ensure that efficiencies in the sector are achieved.
10	Agriculture, Rural & Urban Development	75.7	63.9	- 15.59	The allocation to the sector has fallen by 15.6% despite the sector being the major in contributing to employment and economic growth. There is need to demonstrate why the shift of policy despite the criticality of the sector.
	Total	**1,942.0**	**2,075.0**		

The security sector continues to have increased allocation of the total budget. The sector will receive the highest increment of funds of approximately 25%. The BPS has not provided sufficient information as to the need of this continuous growth in allocation. This is the same case with General Economic and Commercial Affairs. Lack of project identification in the BPS and especially those to be financed through public borrowing. Equally, some of reduction, especially the economy main sector, Agriculture, Rural & Urban Development, needs justifications before adoption.

2.3 How to ensure Projects Evaluation and Costing Prior to their Inclusion in the Budget

The government implements various development projects through various ministries departments and agencies (MDAs). Each MDA develops concept notes that are guided by Project Implementation Management guidelines developed by the National Treasury. The concept note will detail all aspects of the projects including cost, duration, financing options, beneficiaries, viability among other aspects. Each MDA before starting of any new projects will require approval by National Treasury in writing before it's included in the budget. This is provided for administratively through National Treasury Circulars and guidelines.

National Treasury has a full-fledged department that is involved in day-to-day assessment of new projects and processes in accordance with the PIM guidelines. Of course, National Treasury does not have capacity to analyse projects in all aspects. However, MDAs are expected to carry feasibility studies which accompany requests to such projects as part of the requirement for their approval. Depending on the type of the project and the materiality there may be need to set up an independent project evaluation team but on a project-by-project basis because different projects will require different skills and expertise.

The project evaluation team will ensure that there is value for money for projects especially debt financed projects which have huge capital outlay. The current trend of financing projects through PPP has also been highlighted in the BPS as a possible fiscal risk as the government is the ultimate guarantor if the investor is not able to raise the expected revenue from such projects. For example, such a team will have been very important under the current ongoing Express Way which is financed through PPP in ensuring that the public are well informed on the costs and benefits from the project.

2.4 Parliament and Public Debt Financed Projects

As one resolution that the National Assembly passed on the 2020 BPS was to detail all debt clearly indicating the amount of concessional, semi-concessional and commercial loans, as well as clearly outlining the country's borrowing strategy. This information was to be accompanied by a list of specific projects that will benefit from the debt funds. However, the National Treasury has not provided the details in contravention to section 38(1)(iii) of the PFM Act which requires that the Cabinet Secretary to prepare a memorandum explaining how the resolutions adopted on the BPS have been taken into account.

The information on debt financed projects exists in a standalone system which is plugged to IFMIS. What this means is that it is possible to mine the data for each project by donor and its implementation status. This information can also be found in the respective MDA budget books and in the respective sector reports has some aspects. The system data however is not publicly available. It is my considered opinion that TISA can get this information by placing a request on the same or petition through National Assembly as they are the ones who deal with national government matters.

2.5 2021 Medium Term Debt Management Strategy, 2022 BPS and Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021Report

Going forward reducing fiscal deficit remains key to stemming debt accumulation and maintaining debt at sustainable levels. This is well recognized in the 2021 Medium Term Debt Management Strategy whose main objective is to reduce the fiscal deficits and public debt vulnerabilities and to guide in lowering Kenya's risk of debt distress from high to moderate in the medium term. To achieve this, the government is said to reduce the fiscal deficit to levels consistent with the GDP growth rate. However, this is not supported by 2022 BPS whose targeted public deficit to expand by 6.1 percent of GDP. The public debt sustainability outlook is expected to improve on the basis of implementation of the Post Covid-19 Economic Recovery Strategy (ERS), commitment to fiscal deficits reduction/consolidation and growth in exports.

The optimal strategy that is said to minimize costs and risks of public debt suggests borrowing in the ratio of 63:37 in net external and net domestic borrowing to finance the government over the medium-term. This strategy is is said to be underpinned by the need to move away from high interest cost of domestic debt. On the external financing, concessional and semi-concessional is proposed at 15 per cent and commercial borrowing at 13 per cent. In terms of the Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021Report, this is considered unsustainable due to overreliance with foreign supply.

The Public Finance Management Act, 2012 sets the statutory debt ceiling at Kshs 9.0 trillion. To accommodate the fiscal deficits in FY2021/22 and into the medium term, the statutory debt limit is proposed in MTDS to be expanded. This is against the spirit of lowering the debt. In terms of foreign borrowing, the government plans to acquire financing options such as private placement and issuance of sovereign green bonds over the medium term to finance climate friendly public projects as outline under 2021 MTDS

3.0 Conclusion and Recommendations

In line with the Constitution, the Public Finance Management (PFM) Act, 2012, the PFM National Government Regulations, 2015 and in keeping with prudent and transparent management of public resources, the Government has not adhered to the fiscal responsibility principles as set out in the statute as follows:

h) A minimum of 30 percent of the national government's budget allocated to the development expenditure over the medium term. It however uses ministerial budget allocation to force compliance.

i) Over the medium term, the National Government's borrowings shall be used only for the purpose of financing development expenditure and not for recurrent expenditure. Out Ksh 846.1 billion projected borrowing, Ksh 667.7 billion will be allocated to development

j) Public debt and obligations shall be maintained at a sustainable level as approved by Parliament for National Government. The PFM Act also requires that public debt and obligations remain at sustainable levels. The debt growth rate continues to be above the GDP growth rate as estimated by 2022 BPS and the commercial borrowing of Ksh.105.6 billion for the FY2022/23 add to debt unsustainability. This is also against the principle of prudent fiscal risks management.

k) The Government will continue to maintain stable tax rates and build confidence in the Kenyan tax system, enhance compliance and improve predictability while improving tax administration. The Government will also use tax policy initiatives to address areas where the tax base has been eroded, to strengthen revenue mobilization. This needs to bring the tax expenditure into focus

l) There is need for strengthening the Ministry of education and provide enough time and requisite resources to implement the CBC fully.

m) There is need to have one harmonised program to avoid duplication and double benefit for same households from different social programs.

n) The County Governments' Compliance with Fiscal Responsibility is very low and there is need for National Treasury to come up with measures to ensure compliance and come up with technical support programs to support counties whose capacity is low and sanction those that bridge the law willingly.

Despite the huge allocation to the education sector, mainly for implementing CBC, employment of teachers has not been well addressed since majority of teachers are jobless. Additionally, some Public Universities including Nairobi, Moi, JKUAT among others are struggling with huge debts. According to the Education sector report of education University pending bills amount over Ksh. 40 billion. The ministry of Education needs to institute reforms that will enable the Universities remain afloat. Additionally, the sector has not stated how it will address the pressures likely to come up due to double intake which will be occasioned by the CBC

National Treasury does not have capacity to analyse projects in all aspects. This is not addressed in 2022 BPS despite numerous petitions on project identification, appraisal and costing. MDAs are expected by treasury to carry feasibility studies which accompany requests to such projects as part of the requirement for their approval. Depending on the type of the project and the materiality there may be need to set up an independent project evaluation team on a project-by-project basis because different projects will require different skills and expertise.

It is important to consider measures to promote the growth of the non-bank institutional sectors such as pension, insurance and mutual funds, to increase the capacity of the domestic market.

The optimal strategy, in MTDS, that is said to minimize costs and risks of public debt suggests borrowing in the ratio of 63:37 in net external and net domestic borrowing to finance the government over the medium-term. This strategy is is said to be underpinned by the need to move away from high interest cost of domestic debt. On the external financing, concessional and semi-concessional is proposed at 15 per cent and commercial borrowing at 13 per cent. In terms of the Kenya Debt Crisis: Unpacking Fiscal Consolidation 2021Report, this is considered unsustainable due to overreliance with foreign supply and risky because it expands on the already unsustainable commercial debts.

The Public Finance Management Act, 2012 sets the statutory debt ceiling at Kshs 9.0 trillion. To accommodate the fiscal deficits in FY2021/22 and into the medium term, the statutory debt limit is proposed in MTDS to be expanded. This is against the spirit of lowering the debt.

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