

KEY FINDINGS IN THE FORENSIC INVESTIGATION OF THE PUBLIC DEBT.

INTRODUCTION

- **Public debt** and the state of the economy:

	2013/2014	2021/2022
Poverty Level	38%	63%
National Debt	2.4 Trillion	8.4 Trillion

Play clip – Madaraka Day Speech 2022

- The situation triggered serious concerns, resulting in the initiation of a forensic investigation into the national debt
- The investigation was conducted by Bernard Muchere and team – an experienced forensics professional who worked for Government as an internal auditor for 40 years

WHAT IS PUBLIC DEBT?

Public debt as provided under Article 214(2) of the Constitution of Kenya means all financial obligations attendant to loans raised or guaranteed and securities issued or guaranteed by the national government.



DEBT

Q: WHY DO WE INCUR PUBLIC DEBT?

A: TO FINANCE DEVELOPMENT PROJECTS



It is provisioned in the National budget in 2 forms;

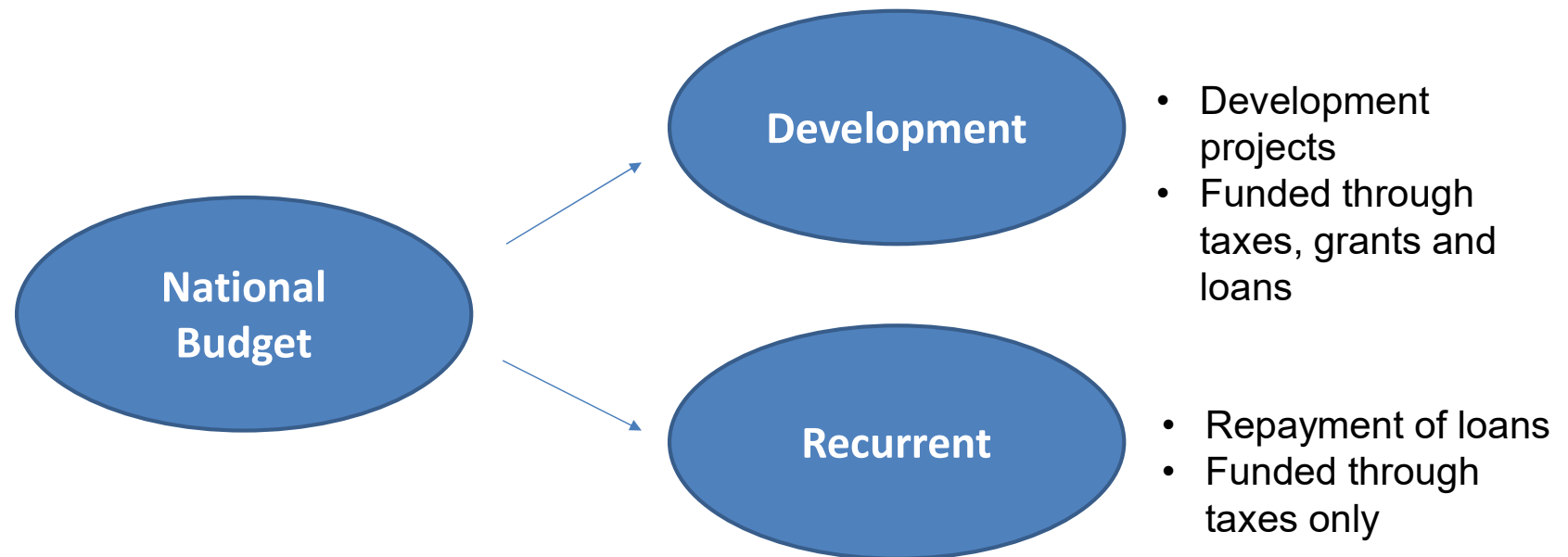
1

Recurrent
For Repayment of loans
Funded through taxes only

2

Development projects
Funded through taxes, grants and loans

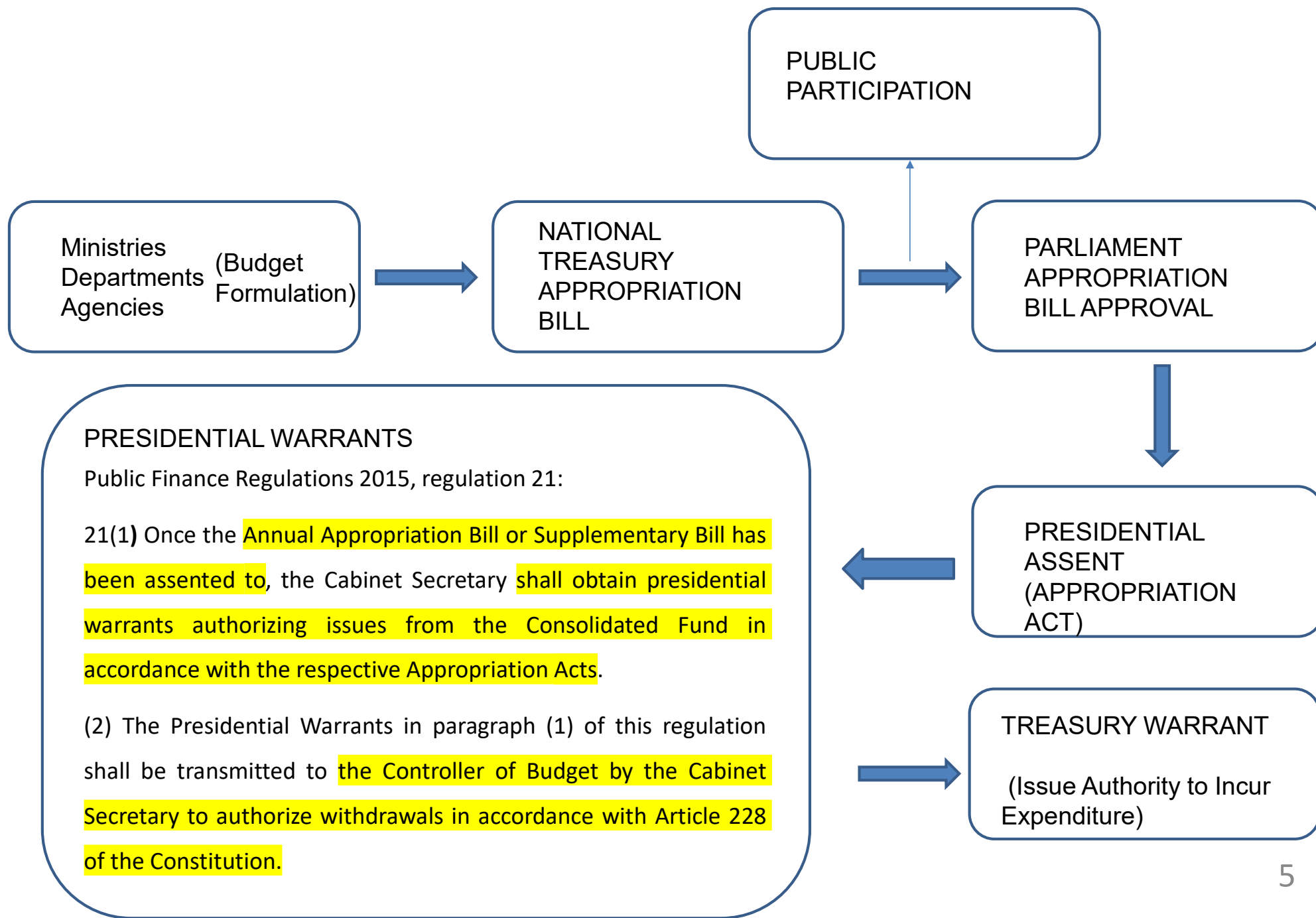
WHERE IS OUR PUBLIC DEBT ANCHORED?



Key Constitutional Provisions:

- Articles 206, 214 and 220 of the Constitution govern the Consolidated Fund, national debt and budget
- *National government borrowings **shall be used only for financing development expenditure and not recurrent expenditure*** (PFM Act 2012 section 15(2))
- *The national government may borrow money **only for the budget as approved by Parliament and the allocation of loans as approved by Parliament*** (PFM Act 2012 section 50(3))

HOW DOES THE BUDGET BECOME LAW?



WE INCUR DEBT TO FINANCE DEVELOPMENT PROJECTS

Amounts Approved by Respective Appropriations Acts and Sources of Finance

TABLE 1

No.	Financial Years F/YR	Approved development budget expenditure estimates (projects)	Amount financed by Tax Revenue and grants	Amount financed by Debt
1.	2014/2015	494,892,120,733.00	358,507,118,798.00	136,385,001,935.00
2.	2015/2016	721,288,541,960.00	440,418,948,724.00	280,869,593,236.00
3.	2016/2017	820,161,449,551.00	471,905,309,201.00	348,256,140,350.00
4.	2017/2018	642,897,327,706.00	438,630,011,332.00	204,267,316,374.00
1st Term		2,679,239,439,950.00	1,709,461,388,055.00	969,778,051,895.00
1.	2018/2019	677,225,634,213.00	430,408,353,462.00	246,817,280,751.00
2.	2019/2020	704,213,809,308.00	443,517,981,026.00	260,695,828,282.00
3.	2020/2021	633,308,563,243.00	382,969,235,979.00	250,339,327,264.00
4	2021/2022	668,378,861,891.00	394,847,691,251.00	273,531,170,640.00
2nd Term		2,683,126,868,655.00	1,651,743,261,718.00	1,031,383,606,937.00
Total		5,362,366,308,605.00	3,361,204,649,773.00	2,001,161,658,832.00

* Tax Revenue totalled Ksh. 2,978,611,786, 799

* Grants totalled Ksh. 382,592,862,974

* **All Authorized Debt is External**

AUTHORIZED DEBT

SAMPLE OF APPROPRIATIONS ACT

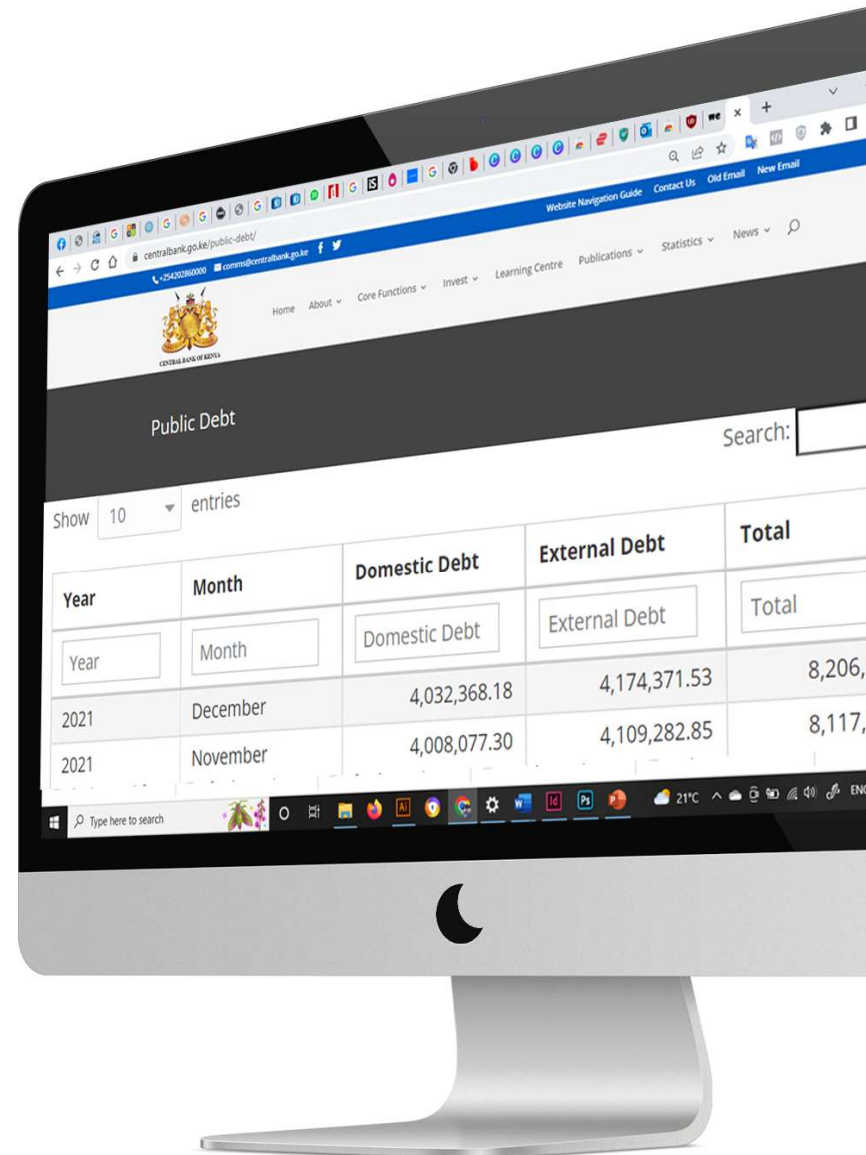
Vote Title	Net Approved	Gross Estimates	Appropriations in Aid	Net Estimates	Composition of Appropriations in Aid 2020/2021			External Revenue 2020/2021	
	2019/2020	2020/2021	2020/2021	2020/2021	Grants	Loans	Local	Grants	Loans
	KShs.	KShs.		KShs.	KShs.	KShs.	KShs.	KShs.	KShs.
1213 State Department for Public Service	797,810,000	1,254,060,000	-	1,254,060,000	-	-	-	-	-
1214 State Department for Youth Affairs	7,953,550,000	2,352,490,000	-	2,352,490,000	-	-	-	7,000,000	2,237,000,000
1222 State Department for Regional and Northern Corridor Development	3,489,750,000	1,087,450,000	250,000,000	837,450,000	-	250,000,000	-	-	-
1252 State Law Office and Department of Justice	172,000,000	185,000,000	-	185,000,000	-	-	-	67,000,000	-
1261 The Judiciary	2,066,400,000	2,701,000,000	-	2,701,000,000	-	-	-	-	906,390,000
1271 Ethics and Anti-Corruption Commission		40,800,000	-	40,800,000	-	-	-	-	-
1291 Office of the Director of Public Prosecutions	14,000,000	129,000,000	-	129,000,000	-	-	-	4,000,000	-
2091 Teachers Service Commission	400,000,000	600,000,000	-	600,000,000	-	-	-	-	600,000,000
2111 Auditor General	142,876,470	146,670,000	-	146,670,000	-	-	-	-	-
2141 National Gender and Equality Commission	2,809,300	5,000,000	-	5,000,000	-	-	-	5,000,000	-
	465,816,807,497	633,308,563,243	245,379,249,226	387,929,314,017	19,958,034,468	169,018,064,758	56,403,150,000	12,781,078,177	81,321,262,506

AS A KENYAN WHERE DO I GO TO FIND OUT ABOUT KENYAS PUBLIC DEBT?

Article 206. (1) of the Constitution of Kenya state that there is established the **Consolidated Fund** into which shall be paid all money raised or received by or on behalf of the national government.

The CBK publicises the public debts on their website monthly.

The National Treasury maintain the consolidated fund in an account known as the national exchequer account



The image shows a computer monitor displaying the Central Bank of Kenya's Public Debt website. The website has a header with the Central Bank of Kenya logo and navigation links. Below the header, there is a section titled "Public Debt" with a search bar. A table is displayed showing public debt data for December 2021 and November 2021. The table has columns for Year, Month, Domestic Debt, External Debt, and Total. The data for December 2021 shows a Domestic Debt of 4,032,368.18, an External Debt of 4,174,371.53, and a Total of 8,206. The data for November 2021 shows a Domestic Debt of 4,008,077.30, an External Debt of 4,109,282.85, and a Total of 8,117.

Year	Month	Domestic Debt	External Debt	Total
2021	December	4,032,368.18	4,174,371.53	8,206
2021	November	4,008,077.30	4,109,282.85	8,117

DOES THE CBK PUBLICIZED DEBT DATA CORRESPOND WITH AUTHORIZED DEBT?

Public Debt Data by CBK vs Authorized Public Debt by the Appropriations Acts

TABLE 2

Financial Years	Public Debt as per CBK Data	Public Debt authorised by Appropriation Act	The amount of Public Debt not authorised by the Appropriation Act
2014/2015	458,802,150,000.00	136,385,001,935.00	322,417,148,065.00
2015/2016	789,668,830,000.00	280,869,593,236.00	508,799,236,764.00
2016/2017	787,719,520,000.00	348,256,140,350.00	439,463,379,650.00
2017/2018	632,588,200,000.00	204,267,316,374.00	428,320,883,626.00
1st Term	2,668,778,700,000.00	969,778,051,895.00	1,699,000,648,105.00
2018/2019	769,588,080,000.00	246,817,280,751.00	522,770,799,249.00
2019/2020	885,609,460,000.00	260,695,828,282.00	624,913,631,718.00
2020/2021	1,018,160,510,000.00	250,339,327,264.00	767,821,182,736.00
2021/2022	757,985,276,000.00	273,531,170,640.00	484,454,105,360.00
2nd Term	3,431,343,326,000.00	1,031,383,606,937.00	2,399,959,719,063.00
Total	6,100,122,026,000.00	2,001,161,658,832.00	4,098,960,367,168.00

UNAUTHORIZED DEBT



WERE DOMESTIC DEBTS AUTHORIZED UNDER THE APPROPRIATION ACTS?

Domestic Debt as per CBK Data vs Domestic Debt as per Appropriations Acts

TABLE 3

Financial year	Unauthorised Domestic debt as per CBK data	Domestic debt as per the Appropriation Act	Public Debt authorised by Appropriation Act External debt (Table 1)
2014/2015	136,117,130,000.00	0.00	136,385,001,935.00
2015/2016	395,026,120,000.00	0.00	280,869,593,236.00
2016/2017	296,239,940,000.00	0.00	348,256,140,350.00
2017/2018	367,124,650,000.00	0.00	204,267,316,374.00
1 st Term	1,194,507,840,000.00	0.00	969,778,051,895.00
2018/2019	306,648,040,000.00	0.00	246,817,280,751.00
2019/2020	392,938,150,000.00	0.00	260,695,828,282.00
2020/2021	518,671,900,000.00	0.00	250,339,327,264.00
2021/2022	528,750,226,000.00	0.00	273,531,170,640.00
2 nd Term	1,747,008,316,000.00	0.00	1,031,383,606,937.00
Total	2,941,516,156,000.00	0.00	2,001,161,658,832.00

UNAUTHORIZED DOMESTIC DEBT



WERE ALL PUBLICIZED CBK EXTERNAL DEBT LINKED TO AUTHORIZED BUDGETED PROJECTS?

External Debt as per CBK Data vs External Debt as per Appropriations Acts

TABLE 4

Financial Years	CBK external public debt	Public Debt authorised by Appropriation Act External debt	Unauthorised External Public Debt
2014/2015	322,685,020,000.00	136,385,001,935.00	186,300,018,065.00
2015/2016	394,642,710,000.00	280,869,593,236.00	113,773,116,764.00
2016/2017	491,479,580,000.00	348,256,140,350.00	143,223,439,650.00
2017/2018	265,463,550,000.00	204,267,316,374.00	61,196,233,626.00
1st Term	1,474,270,860,000.00	969,778,051,895.00	504,492,808,105.00
2018/2019	462,940,040,000.00	246,817,280,751.00	216,122,759,249.00
2019/2020	492,671,310,000.00	260,695,828,282.00	231,975,481,718.00
2020/2021	499,488,600,000.00	250,339,327,264.00	249,149,272,736.00
2021/2022	886,122,290,000.00	273,531,170,640.00	612,591,119,360.00
2nd Term	2,341,222,240,000.00	1,031,383,606,937.00	1,309,838,633,063.00
Total	3,815,493,100,000.00	2,001,161,658,832.00	1,814,331,441,168.00

UNAUTHORIZED EXTERNAL DEBT



DOMESTIC DEBT TAKEN 2014 TO 2022 AS PER CBK DATA

Financial year	Unauthorised Domestic debt as per CBK data	Domestic debt as per the Appropriation Act	Public Debt authorised by Appropriation Act External debt (Table 1)
2014/2015	136,117,130,000.00	0.00	136,385,001,935.00
2015/2016	395,026,120,000.00	0.00	280,869,593,236.00
2016/2017	296,239,940,000.00	0.00	348,256,140,350.00
2017/2018	367,124,650,000.00	0.00	204,267,316,374.00
1 st Term	1,194,507,840,000.00	0.00	969,778,051,895.00
2018/2019	306,648,040,000.00	0.00	246,817,280,751.00
2019/2020	392,938,150,000.00	0.00	260,695,828,282.00
2020/2021	518,671,900,000.00	0.00	250,339,327,264.00
2021/2022	528,750,226,000.00	0.00	273,531,170,640.00
2 nd Term	1,747,008,316,000.00	0.00	1,031,383,606,937.00
Total	2,941,516,156,000.00	0.00	2,001,161,658,832.00

IS THE CBK PUBLICIZED DEBT OF KSH. 8.47 TRILLION FACTUAL?

Recurrent Appropriation Act Allocations for Repayment of Public Debt vs Public Debt as per CBK Data

TABLE 5

Financial Years	Recurrent expenditure authorised by the Appropriation Act for repayment of public debt	Public Debt as per CBK Data for fy	Balance of Public Debt
2014/2015	399,310,622,509.00	458,802,150,000.00	-59,491,527,491.00
2015/2016	397,035,494,249.00	789,668,830,000.00	-392,633,335,751.00
2016/2017	466,514,040,169.00	787,719,520,000.00	-321,205,479,831.00
2017/2018	649,396,727,245.00	632,588,200,000.00	16,808,527,245.00
1st Term	1,912,256,884,172.00	2,668,778,700,000.00	-756,521,815,828.00
2018/2019	870,615,957,746.00	769,588,080,000.00	101,027,877,746.00
2019/2020	768,847,893,016.00	885,609,460,000.00	-116,761,566,984.00
2020/2021	904,703,671,211.00	1,018,160,510,000.00	-113,456,838,789.00
2021/2022	1,169,165,030,917.00	757,985,276,000.00	674,817,890,917.00
2nd Term	3,713,332,552,890.00	3,431,343,326,000.00	545,627,362,890.00
Total	5,625,589,437,062.00	6,100,122,026,000.00	-474,532,588,938.00
Kibaki's Outstanding public debt brought forward as at 30 th June 2014			-2,370,255,820,000.00
This what should be outstanding debt balance			-2,844,788,408,938.00

WERE TAX REVENUES SUFFICIENT TO FINANCE BUDGETED PROJECTS AND REPAY AUTHORIZED DEBTS?

Recurrent Appropriation Act Allocations for Repayment of Public Debt vs Authorized Public Debt as per Development Appropriation Acts

TABLE 6

Financial Years	Recurrent expenditure authorised by the Appropriation Acts for repayment of public debt	Public Debt authorised by Appropriation Act	Credit Balance
2014/2015	399,310,622,509.00	136,385,001,935.00	262,925,620,574.00
2015/2016	397,035,494,249.00	280,869,593,236.00	116,165,901,013.00
2016/2017	466,514,040,169.00	348,256,140,350.00	118,257,899,819.00
2017/2018	649,396,727,245.00	204,267,316,374.00	445,129,410,871.00
1st Term	1,912,256,884,172.00	969,778,051,895.00	942,478,832,277.00
2018/2019	870,615,957,746.00	246,817,280,751.00	623,798,676,995.00
2019/2020	768,847,893,016.00	260,695,828,282.00	508,152,064,734.00
2020/2021	904,703,671,211.00	250,339,327,264.00	654,364,343,947.00
2021/2022	1,169,165,030,917.00	273,531,170,640.00	895,633,860,277.00
2nd Term	3,713,332,552,890.00	1,031,383,606,937.00	2,681,948,945,953.00
Total	5,625,589,437,062.00	2,001,161,658,832.00	3,624,427,778,230.00
Kibaki's Debt as at June 2014			(2,370,255,820,000.00)
Credit Balance			1,254,171,958,230.00

HOW HAVE THE AUTHORIZED REPAYMENTS TOTALLING KSH. 5.6 TRILLION BEEN SPENT?

Type of Debt	Repayment of principal Ksh.	Interest Ksh.	Total Ksh.
Domestic	1,833,121,856,768.00	2,111,593,520,862.00	3,944,715,377,630.00
External	1,022,063,638,168.00	694,637,208,392.00	1,716,700,846,560.00
Total	2,855,185,494,936.00	2,806,230,729,254.00	5,661,416,224,190.00

According to The National Treasury's program based Budget, the Debt Servicing / Revenue in the year 2021/2022 is 65%

HOW WAS THIS HEIST ENGINEERED AND EXECUTED?



Article 206 of the 2010 Constitution of Kenya

206. (1) There is established the Consolidated Fund into which shall be paid all money raised or received by or on behalf of the national government, except money that—

- (a) Is reasonably excluded from the Fund by an Act of Parliament and payable into another public fund established for a specific purpose: or
- (b) May, under an Act of Parliament, be retained by the State organ that received it for the purpose of defraying the expenses of the State organ.



Section 50 (7) of Public Finance Management (PFM) Act 2012

provided that, “The Cabinet Secretary shall ensure that the proceeds of any loan raised under this Act are paid into the Consolidated

Fund or into any other public fund established by the national government or any of its entities as Cabinet Secretary may determine in accordance with regulations approved by Parliament”



Amended Section 50 (7) Public Finance Management (PFM) Act 2014

The Cabinet Secretary shall ensure that the proceeds of any loan raised under this Act are-

- (a) paid into the Consolidated Fund
- (b) paid into any other public fund established by the national government or any of its entities as the Cabinet Secretary may determine in accordance with regulations approved by Parliament;
- (c) disbursed directly to the suppliers where the loan is a government-to-government loan and is raised for the purpose of financing goods and services provided by a supplier outside Kenya; or
- (d) in the case of an external loan or external government security, applied, in part, to pay at closing, prenegotiated expenses associated solely and exhaustively 'with the borrowing, including but not limited to, the fees, commissions and expenses of lenders, financial arrangers, managers and book runners, fiscal agents, trustees, paying agents, exchange and information agents, syndicate agents, counsel, clearing systems, listing agents, and stock exchanges, rating agencies and other expenses of a similar nature arising from the external loan or external government security."

EPIC HEIST

KEY FINDINGS – THE 10 TRILLION SHILLING HEIST

1

There is no outstanding public debt - the 8.47 Trillion figure publicised by CBK as outstanding debt is fictitious



EPIC

HEIST



KEY FINDINGS – THE 10 TRILLION SHILLING HEIST

2

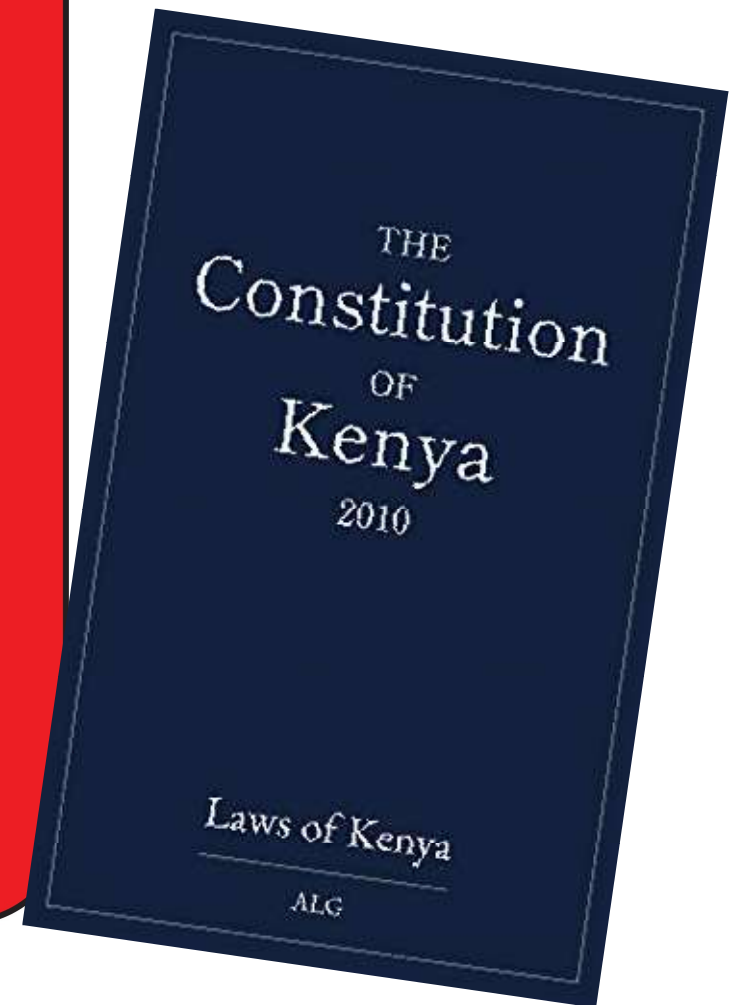
A concealed fraud/heist
of **9.7 Trillion**
(8.47 Trillion + 1.25
Trillion) through public
debt - this is consistent
with Parliament
fraudulently raising the
debt ceiling to 10
Trillion Shillings



KEY FINDINGS – THE 10 TRILLION SHILLING HEIST

3

Unconstitutional amendment of the Constitution (Articles 206(1)) by illegally amending Public Finance Management Act, 2012 Section 50(7) to facilitate and enable the fraud



EPIC

HEIST



KEY FINDINGS – THE 10 TRILLION SHILLING HEIST

4

Domestic debt is borrowed without authority and appropriation by Parliament and there are no projects linked to the debt



ACTIONS

- **Stop** further debt repayments immediately
- **Stop** further borrowing – our tax revenues can finance development projects
- **Recover** illegal debt repayments
- **Expunge** unconstitutional provisions of the Public Finance Management Act