One Hundred and Twenty-First Sovereign Debt News Update: Kenya: Early Dividends of the Gen-Z Revolution

By:

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Kenya is at high risk of debt distress. Kenya's total public debt stands at an estimated 68% of GDP for fiscal 2023/24. This huge debt is the result of extensive borrowing by the Government of President William Ruto and predecessor governments. Kenya's economy has also been stretched further by irresponsible expenditure by the governing class. Kenyan Gen-Z's have rejected the ostentatious and extravagant government funded lifestyle of its ruling elites while they impose harmful austerity measures on its citizens. The Gen-Z revolution in Kenya that started in June 2024 prompted President William Ruto to concede to demands to decline signing the 2024 austerity laden Finance Bill into law. This revolution has also led to the complete dismissal of the entire cabinet of the Government of Kenya by President William Ruto on July 11, 2024.

Kenya's Finance Bill 2024

Kenya's Finance Bill 2024 was aimed at raising an additional Ksh346.7 billion in its budget, and to reduce the budget deficit from 5.7 per cent to 3.3 per cent. The Bill proposed tax increases on various goods and services, that its critics led by Gen-Z's argued could cripple some sectors, including financial and internet services, transport, manufacturing and retail. The now dismissed Finance Cabinet Secretary argued that the measures in the bill would have brought in an extra 346.7 billion Kenyan Shillings in additional revenues. The proposals drew strong resistance from the public, bankers and manufacturers, as well as from the Law Society of Kenya. These and many other stakeholders presented their views to a parliamentary committee reviewing the measures.

Led by Gen-Z's, Kenyans took to the streets to protest the Bill. The peaceful protests took place over several days before they were met with a militarized response on June 25th 2024. At least 39 people were killed in the protests over tax hike proposals according to Kenya National Commission on Human Rights (KNCHR). Afronomicslaw's Submission on the proposed tax reforms in the Kenya Finance Bill 2024 detailed specific provisions of the Bill and recommended the removal of several measures to ensure the Bill would not choke the economy and raise the cost of living for Kenyans who are already struggling to make ends meet.

The Fate of Kenya's Finance Bill 2024

The Kenya Finance Bill 2024 proposed numerous progressive taxation and administrative reforms across the different taxation laws, some of the proposals raise a range of concerns; particularly with regard to the imposing of an Eco levy on specified goods, penalties for failure to comply with tax procedures, specific Value Added Tax (VAT) reforms, and specific excise duty reforms. One of Afronomicslaw's Submissions on the Kenyan Finance Bill 2024 included *the rejection of the harsh and unnecessary penalty of KSh. 2 million a month for failure to comply with the requirement to integrate the electronic tax system into the KRA data management and reporting system because this is primarily going to affect the informal sector individuals and enterprises.* The Gen Z-led protests in Kenya began on June 18, 2024. These demonstrations were sparked by the proposed Finance Bill 2024, which aimed to increase taxes on essential goods and services, affecting working-class citizens and young people. In response to the protests, Members of Parliament and Senators made some token amendments to the Finance Bill 2024. However, the changes were not enough as the nationwide protests intensified.

On Tuesday, June 25, the protests increased as the controversial Finance Bill 2024 was initially approved by the National Assembly, with 195 MPs allied to the Kenya Kwanza Alliance voting in favour of the Bill against 106 who opposed it, while three MPs abstained. The Bill was presented to President William Ruto for assent on the 26th of June, and he declined to sign it following the massive opposition to the Bill followed the Gen-Z led revolution. Speaking during a during a television address, President said "[h]aving reflected on the continuing conversation regarding the content of the finance bill 2024, and listening keenly to the people of Kenya who have said loudly that they want nothing to do with this Finance Bill 2024, I concede, and therefore I will not sign the 2024 finance bill." It is clear that Ruto backed down in the face of the Gen-Z-led mass protests that swept the country.

On the 5th of July, President Ruto made further major concessions, including an announcement of a task force to conduct a forensic audit of Kenya's national debt. However, Ruto maintained that the rejection of the Finance Bill 2024 is not without consequences, noting that Kenya will need to borrow at least Sh1.2 trillion this year to keep the government operational. Even more, on July 11, 2024, President Ruto dismissed all cabinet secretaries from his cabinet except the Prime Cabinet Secretary who is also Foreign Affairs Minister. He announced more changes were to be expected.

Duplication of Institutions and Usurping of Powers

Through a gazette notice published on the 5th of July 2024, President Ruto unilaterally appointed a task force to conduct a forensic audit of Kenya's national debt. This task force, proposed to be chaired by economist Nancy Onyango, was a crucial 3-month long mission within which to scrutinize the country's debt records and assess the value for money of loans and projects financed. Other members announced include President of the Law Society of Kenya Faith Odhiambo, Institute of Certified Public Accountants of Kenya (ICPAK) chairperson Phillip Kaikai, Institution of Engineers of Kenya President

Shammah Kiteme, and Policy & Governance Specialist Vincent Kimosop. On the 7th of July 2024, the appointment of the taskforce had already been challenged in court by Dr Magare Gikenyi and Eliud Matindi on the grounds that it is unconstitutional, illegal, null and void. On Monday the 8th of July, the High Court of Kenya issued a conservatory order temporarily suspending the operation of the taskforce, with further directions to be provided on the 23rd of July 2024.

It has also been revealed that the Law Society of Kenya will not submit a representative to the task force as it violates article 229 (4) (g) of the Constitution, which responsibility of auditing public debt to the Auditor-General. The Law Society of Kenya released a press statement on 6th of July 2024 declining the appointment based on the Constitutional provision that give such powers to the Auditor General. Indeed, there is a real risk of negating already existing institutions mandated to perform such functionalities and duplicating them instead, thereby causing fears of conflict and mistrust. For instance, through Kenya's Public Debt Management Office, the national debt register is publicly available, and projects are audited by Office of the Auditor General and communicated through audit reports churned out within six months after the end of each financial year. The appointment of such task force would result in the unreasonable and unnecessary duplication of institutions, and further result in the usurping of the Auditor-General's constitutionally granted powers.

US$1.2 billion Secured from the World Bank in DPO VI

The current unrest in Kenya has been a long time coming, considering the irresponsible borrowing practices that have been noted over time. More recently, on the 30th of May 2024, the World Bank approved a new $1.2 billion funding to help Kenya address short-term fiscal pressures and promote long-term, inclusive, and green growth. According to a press release by the World Bank, $1.2 Billion Kenya Fiscal Sustainability and Resilient Growth Development Policy Operation (DPO), the first in a series of three is funded through a combination of financial instruments, including an International Bank for Reconstruction and Development (IBRD) loan of $*850 million*, an International Development Association (IDA) credit of $300 million, and a $50 million IDA grant from the Window for Host Communities and Refugees.

According to one source, the government will use part of US$ 1.2 billion (DPO) loan to settle the remaining part of the Eurobond that was due on 24th June 2024. This is a clear case of contracting a loan to pay off another loan, a trend that has become all too popular.

Borrowing New Loans to Pay Off Old Loans?

According to a report by the National Treasury, the government allegedly borrowed Ksh90 billion in March 2024, to add to the multi-billion loans acquired by the Kenya Kwanza government. The report suggested that the Ksh90 billion was a consolidation of Ksh58 billion acquired through domestic borrowing and Ksh32.77 billion acquired through external lenders. During the same month, the government spent Ksh86 billion in repaying maturing loans acquired by the government in the previous years. Further, Kenya's Central Bank Governor Kamau Thugge said Kenya will use part of the $1.2 billion World Bank budget support loan to make a payment of roughly $500 million on a Eurobond maturing this month. While Kenya's now sacked Finance Minister Njuguna Ndung'u had said the government would slow down on the uptake of new external commercial debt, this has not been the case.

Kenya's 2024/2025 Budget

The 2024 Budget estimates that the country needs Ksh3.9 trillion to finance development projects. According to the now dismissed Finance Minister Njuguna Ndung'u, Kenya's 2024/25 budget will aim to tackle its debt while protecting its fragile economic recovery at the same time. Presenting the budget in parliament, Ndung'u said the fiscal deficit was expected to be 3.3% of gross domestic product (GDP), compared with a revised deficit of 5.7% for 2023/24. With the total spending for the fiscal year 2024/35 pegged at 3.992 trillion Kenyan shillings ($31.19 billion), Kenya aims to borrow 333.8 billion shillings from external sources, and 263.2 billion from the domestic market in order to finance the budget. According to one source, Kenya is set to pay the Export-Import Bank of China Ksh147.9 billion upon the approval of the proposed Ksh4 trillion 2024/2025 Budget.

Conclusion

Kenya's current situation requires urgent redress. The nation's 2031 debt security fell on Wednesday 26 June to its lowest price since being issued in

February, pushing Kenyan bonds as a group to one of the worst performances among emerging and frontier markets since June 18, when the protests began. As highlighted in the One Hundred and Eighteenth Sovereign Debt News Update, regressive taxation is not the solution to Kenya's debt problems. Such austerity measures and proposals that have found framing within the 2024/2025 Budget and the Finance Bill 2024 only lead to the detriment of the Kenyan citizenry, and the 39 lives lost thus far is evidence to this. The AfSDJN encourages responsible borrowing practices which place Kenyans best interests ahead of creditors and recommend the Alternatives to Kenya's Austerity and the Militarized Response to the GenZ Revolution. More importantly, there is need to consider debt cancellation, as well as a new comprehensive, fair and effective sovereign debt restructuring mechanism based in the United Nations that would be binding on all creditors, including commercial creditors, and that would make it difficult for hold-out creditors to prevent sovereign debt workouts.

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