Global Initiative
for Economic, Social
& Cultural Rights

KENYA

MULTI-COUNTRY STUDY

REPORT

Prioritising People in Fiscal Policy

Challenging Austerity, Reclaiming Public Services and Upholding Human Rights in Kenya

Public Services

This report was written by Roselyne Onyango, Associate Programme Officer – Africa at the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) and reviewed by Aya Douabou, Programme Officer- Africa, Juana Barragán Diaz, Programme Officer on the Right to Education, Michelle Cañas Comas, Programme Officer on Economic Justice and Camila Barretto Maia, Executive Director (GI-ESCR).

Contributions were also received from Ashina Mtsumi, David Archer, Joan Njoroge and Roos Salbrink (ActionAid International), Linda Oduor-Noah, Edwin Birech, Angela Alu, Eduard Francios Beukman (Oxfam), Carolina Finette (Tax Justice Network), Martin Mulwa and Chafik Ben Rouin (OHCHR) with respect to framing the research questions, providing data and/or enhancing the content of the report.

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Acronyms

CBA: Collective Bargaining Agreement

ECF: Extended Credit Facility

EFF: Extended Fund Facility

FY: fiscal year

HNWIs: High Net Worth Individuals

IBRD: International Bank for Reconstruction and Development

ICESCR: International Covenant on Economic, Social and Cultural Rights

IDA: International Development Association (IDA)

IFC: International Finance Corporation

IMF: International Monetary Fund

KES: Kenyan Shillings

KRA: Kenya Revenue Authority

MIGA: Multilateral Investment Guarantee Agency

NHIF: National Health Insurance Fund

PPP: Public-Private Partnership

RCF: Rapid Credit Facility

SBA: Stand-by Arrangement

SCF: Stand-by Credit Facility

SDR: Special Drawing Rights

SHIA: Social Health Insurance Act

SHIF: Social Health Insurance Fund

SOEs: State-Owned Enterprises

TISA: The Institute of Social Accountability

TSC: Teachers Service Commission

UHC: Universal Health Coverage

Introduction

Kenya's persistent borrowing has led to a debt burden and austerity-driven fiscal policies that have undermined the delivery of public services and failed to achieve sustainable debt reduction. These policies, often influenced by conditionalities from international financial institutions, prioritise debt servicing over human rights obligations, eroding public trust and deepening inequalities.

Over the past five years, budget allocations to health have remained far below international commitments, with severe cuts to critical programmes such as Universal Health Coverage (UHC) coordination, free maternity services, and reproductive health. Development expenditure has declined sharply, limiting long-term investments in health infrastructure and staffing. In education, although Kenya meets global spending benchmarks as a share of the national budget, funds are skewed towards recurrent costs, leaving infrastructure gaps and hidden costs that undermine the constitutional guarantee of free quality education.

The shrinking role of the state in financing public services has accelerated privatisation trends, further restricting access for low-income and marginalised communities. Public- Private Partnerships (PPPs) and proposed privatisation of state-owned enterprises (SOEs) linked to health and education risk deepening commercialisation without adequate safeguards.

The human rights impact is stark: women and children face growing barriers to maternal health, students walk long distances to overcrowded schools and households shoulder rising out-of-pocket costs for these essential services. These realities highlight the urgent need to abandon austerity in favour of progressive rights-based fiscal policies and reforms.

This report calls for a shift towards progressive domestic resource mobilisation guided by the 4Rs framework: Revenue, Redistribution, Repricing, Representation, and the 4S framework: Size, Share, Scrutiny, Sensitivity. Measures include curbing illicit financial flows, eliminating wasteful tax incentives, implementing progressive income and wealth taxes, and earmarking 'sin tax' revenues for health sector allocations. Ultimately, rights-based debt management is essential to ensure that repayment obligations do not undermine social spending.

Key national actors from the National Treasury and Economic Planning, parliament, ministries of education and health, oversight institutions, county governments, civil society, and the public must each play a coordinated role in equitably expanding the fiscal space, regulating revenue leakages, protecting public services, and upholding Kenya's constitutional and international human rights obligations.

What Narratives Have Pushed Kenya into Austerity?

Kenya's journey into austerity and debt did not occur by chance. Rather, it is the outcome of a long-standing trajectory shaped by economic policy choices, political shifts, and an increasing dependency on external loans. While once framed as technical or fiscal strategies, austerity and debt have now become central to debt management and underinvestment decisions, with direct and far-reaching implications. To understand the present situation, it is critical to reflect on the historical trajectory that entrenched austerity as a governance norm.

The History of Debt and Austerity

Kenya's economic history reveals that the implementation of austerity measures is not something new. The first decade after independence (1964-1973) saw a robust economic growth, with GDP expanding by an average of 6.5% per year.[1] However, this momentum was disrupted by the 1973 oil shock, a devastating drought, and a global economic deterioration.[2] These events exposed underlying structural vulnerabilities, including Kenya's overreliance on commodity exports.[3]

In response to these pressures, Kenya began running large fiscal deficits and increasingly turned to external borrowing. The first World Bank loan after independence was approved in August 1964,[4] while the first agreement with the International Monetary Fund (IMF), an Extended Fund Facility, was signed in July 1975.[5] As public finances deteriorated, Kenya deepened its reliance on these institutions to manage fiscal and balance-of-payment challenges.

This growing dependency was ushered in the era of Structural Adjustment Programmes (SAPs) in the 1980s, imposed through

1 Ng'eno, N. K. (2000) 'Chapter 5: the External Debt Problem' in Kang, M. S. and Ajayo, S. I. (2000) *External Debt and Capital Flight in Sub-Saharan Africa,* International Monetary Fund: see also Economic Survey (1974) Kenya National Bureau of Statistics (KNBS).
2 Ibid.; See also Kenya National Bureau of Statistics (KNBS) Economic Survey (1979 and 1980)
3 Kenya National Bureau of Statistics (KNBS) Economic Survey (1975 to 1980)
4 World Bank Group (n.d). *Projects.*
5 International Monetary Fund (IMF) (2013) *Kenya: History of Lending Commitments as of November 2013.*

conditional lending by the IMF and World Bank.[6] The programmes spurred the introduction of user fees to access health and education, the privatisation of SOEs, and public workforce retrenchment.[7] They also eroded gains in public services, particularly the free public education policies implemented between 1970 and 1980,[8] as well as deepening poverty and inequality in the country.

As a result, Kenya's external debt jumped from under USD 0.5 billion in 1971 to USD 7.5 billion by 1991.[9] Furthermore, by the early 1990s, the country was officially classified as a 'severely indebted low-income country,' with a debt export ratio exceeding 300%, a debt service ratio above 25%, and a rising dependence on concessional and multilateral loans.[10] This period laid the foundation for entrenched austerity, which continues to shape public policy and resource allocation in Kenya today.

Kenya's Current Debt Profile

> In April of 2025, President William Ruto's state visit to China concluded with the signing of new infrastructure and manufacturing deals worth KES 137 billion (approximately USD 1.06 billion).[11] While government officials celebrated the agreements as signs of deepening Kenya-China relations and a boost for national developments, many raised concerns about the country's growing debt burden.[12]

Kenya's debt stands at critical levels,[13] growing from KES 1.9 trillion in 2013 to KES 10.6 trillion as of July 2024.[14] According to the Annual Debt Report for the Fiscal Year (FY) 2022/23, Kenya's public debt rose from 62% in FY 2018/19 to 70.8% of GDP by the end of June 2023.[15] A 2024 breakdown of the debt shows that by mid-2024, domestic borrowing,

6 Ng'eno, N. K. (2000) 'Chapter 5: the External Debt Problem' in Kang, M. S. and Ajayo, S. I. (2000) *External Debt and Capital Flight in Sub-Saharan Africa,* International Monetary Fund.

7 The Institute of Social Accountability (TISA) (2024) *The Impact of the IMF Fiscal Consolidation Programme in Kenya: An Economic and Human Rights Analysis*.

8 GI-ESCR (2024) *The Conceptualisation and Regulation of APBET Schools in Kenya: Applying the Abidjan Principles on the Right to education in Kenya.* DOI: #10.53110/EZQX6224

9 Ng'eno, N. K. (2000) 'Chapter 5: the External Debt Problem' in Kang, M. S. and Ajayo, S. I. (2000) *External Debt and Capital Flight in Sub-Saharan Africa,* International Monetary Fund

Ibid.

10 Ibid.

11 State House Kenya (2025) Ruto's China Visit Ends With Major Infrastructure Deals. [X formerly twitter] 25 April.

12 Africa Uncensored (2025) *Trapped in Debt: Ruto's China Visit Renews Focus on Kenya's Borrowing Binge.*

13 The Global Sovereign Debt Monitor (2024), p.14. Fig 6.

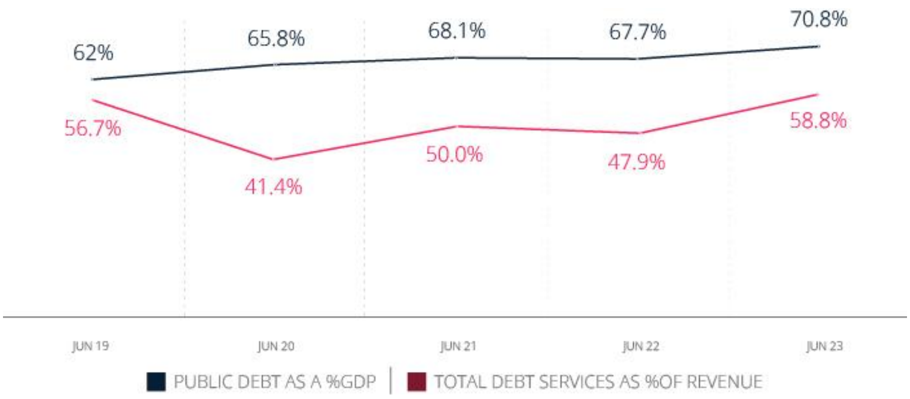
14 Africa Uncensored (2025) *Trapped in Debt: Ruto's China Visit Renews Focus on Kenya's Borrowing Binge*

15 The National Treasury and Economic Planning (2023) *Annual Public Debt Management Report for Financial Year 2022/2023*, p.16.

which includes treasury bills, bonds, and loans from commercial banks, accounted for 51.2% of Kenya's total debt, equivalent to KES 5.4 trillion.[16] While the other 48.8% accounted for external debt with China as Kenya's top bilateral lender at KES 755.9 billion and the World bank as the largest multilateral lender at KES 1.5 trillion.[17]

Thus, despite the Public Finance Management (PFM) Act, requiring the national government to borrow only for development purposes and maintain debt at sustainable levels,[18] Kenya's growing debt burden has seen debt servicing consuming a large share of public revenue. In the FY 2023/24 budget, 58.8% of government revenue was allocated to debt repayment, up from 56.7% in FY 2019/20 (see figure 1). Meaning that for every KES 100 revenue collection, the government spends approximately KES 58.8 on servicing public debt. This leaves only KES 42.2 for all other areas of government spending.[19]

Figure 1: Kenya's Growth in Public Debt



Source: The National Treasury and Economic Planning, Annual Debt Management Report

16 Africa Uncensored (2025) *Trapped in Debt: Ruto's China Visit Renews Focus on Kenya's Borrowing Binge*.

17 Ibid.

18 Kenya Law Reports (KLR), Public Finance Management Act. 2012.

19 The Institute of Social Accountability (TISA) (2024) *The Impact of the IMF Fiscal Consolidation Programme in Kenya: An Economic and Human Rights Analysis*. p.14.

Kenya's Engagements with International Financial Institutions

Over the years, Kenya has engaged in numerous financial arrangements with International Financial Institutions (IFIs) to address fiscal deficits, implement economic reforms, and manage external shocks. These arrangements have significantly influenced the country's macroeconomic direction, public finance management, and debt sustainability framework dynamics. However, while these agreements have provided much needed financing, they have also attracted scrutiny due to stringent fiscal conditions, questions of sovereignty, and increasing long-term payment obligations. For the purposes of this report, we will refer to agreements that are publicly available.

IMF Lending to Kenya: A Historical Overview

Since July 1975, Kenya has entered into approximately 18 formal agreements with the IMF (Table 1). However, not all arrangements have led to disbursements. Most notably, the 2015-2018 Standby Arrangement (SBA) and Standby Credit Facility (SCF) expired without disbursements.

Table 1: History of IMF and Kenya Lending Agreements

Facility	Date of Arrangement	Key Details
Resilience and Sustainability Facility (RSF)	July 2023	An arrangement of Special Drawing Right (SDR) 407.1 million (approximately USD 551.4 million) was approved to support Kenya's efforts in building resilience to climate change.
Extended Credit Facility (ECF) and Extended Fund Facility (EFF)	April 2021	A 38-month Financial Support programme under the ECF and the EFF, totalling SDR 1.655 billion (about USD 2.34 billion) was approved. The programme was

		extended from 38 to 48 months to give Kenya more time to carry out its planned fiscal consolidation reforms during its fifth review.
Rapid Credit Facility (RCF)	May 2020	IMF approved emergency funds of SDR 542.8 million (about USD 739 million) under the RCF to help Kenya handle urgent financial needs caused by the COVID-19 pandemic.
Stand-by Arrangement (SBA) and Stand-by Credit Facility (SCF)	Between 2015 and 2018	Kenya also entered precautionary loan arrangements with the IMF under the Stand-by Arrangement (SBA) and Stand-by Credit (SCF). Although the programmes were approved and extended, no funds were actually disbursed, and the arrangements eventually expired in 2018.
Extended Credit Facility	Jan 2011	Extended Credit Facility (ECF) arrangements with the IMF totalling SDR 488,520,000 that was fully disbursed and repayment completed in December 2023.[20]
13 Other historical SBA's and ECFs and Extended Credit Facility	Jul 1975-2003	Included Structural Adjustments in 1988 and Extended Fund Facility in 1975.

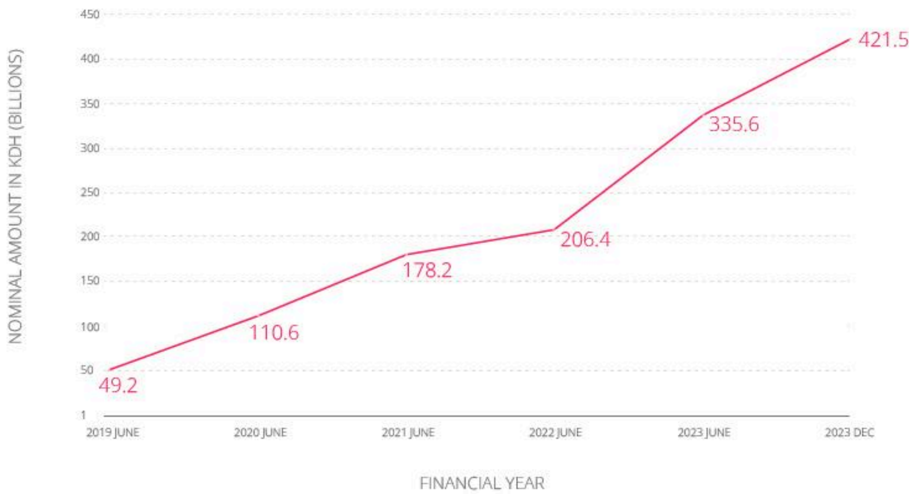
Source: Table created by authors with data from IMF.[21]

In recent years, this engagement has deepened, with the government increasingly relying on IMF financing to manage fiscal gaps, accompanied by the implementation of structural reforms. As a result, the outstanding debt owed to the IMF grew from KES 49.2 billion in June 2019 to KES 421.5 billion in December 2023 (see figure 2).

20 International Monetary Fund (IMF) (n.d) Kenya: History of Lending Commitments as of December 31, 2015.

21 Ibid. See also IMF Press Release No. 23/265 and IMF Press Release No. 21/98

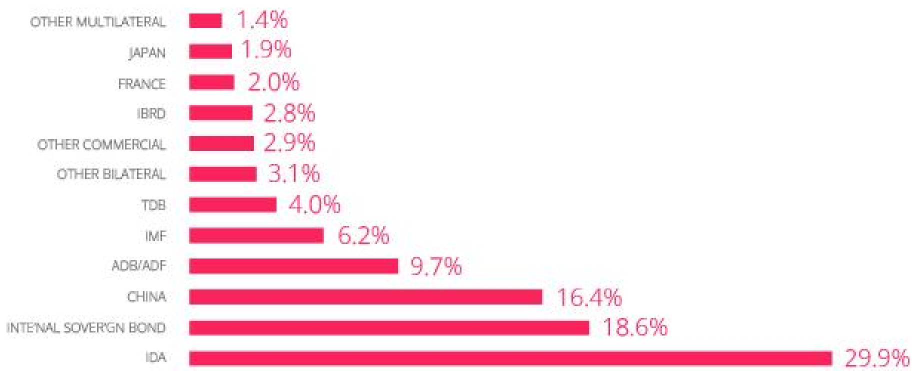
Figure 2: Growth in Kenya's External Debt Owed to the IMF



Source: The National Treasury and Economic Planning, Annual Debt Management Report. [22]

Despite this growth, it is important to note that IMF loans account for a relatively modest share of Kenya's external debt compared to obligations to the International Development Association (IDA) and China as of FY 2022/2023 (see figure 3 below).

Figure 3: External Debt by Major Creditors



Source: National Treasury and Economic Planning, Annual Debt Management Report. [23]

[22] The National Treasury And Economic Planning (2023) *Annual Public Debt Management Report for Financial Year 2022/2023.*; See also The Institute of Social Accountability TISA (2024) *The Impact of the IMF Fiscal Consolidation Programme in Kenya: An Economic and Human Rights Analysis*. p. 15.

[23] Ibid. p. 32

In March 2025, the IMF and the Kenyan government reached a mutual understanding to terminate the Extended Fund Facility (EFF) and Extended Credit Facility (ECF) programmes originally scheduled to end in April 2025. This decision was driven by Kenya's failure to meet agreed conditions, that included raising revenue, promoting debt sustainability by managing public expenditure, and addressing revenue leakages in Kenyan SOEs.[24] The termination resulted in the loss of USD 850 million disbursement and cancellation of a scheduled IMF review, following nationwide protests that disrupted the implementation of tax measures proposed in the Finance Bill 2024.[25]

Going forward, Kenya is projected to allocate approximately 0.4% of its GDP annually to service IMF debt, with repayments expected to peak in 2029 due to earlier borrowing arrangements.[26] This obligation persists despite the IMF restructuring Kenya's loan terms, including a reduction on the overall borrowing ceiling from exceptional[27] to a more standard level and a shift toward zero-interest free ECF arrangement to ease repayment pressures.[28]

World Bank Involvement in Kenya:[29]

The World Bank Group is Kenya's largest multilateral lender (see figure 3) and a significant development partner in the energy, agriculture, education, and the health sector. As of March 2025, the bank had over USD 8.89 billion invested through the International Development Association (IDA), International Bank for Reconstruction and Development (IBRD), International Finance Corporation (IFC), and Multilateral Investment Guarantee Agency (MIGA). Additionally, its latest project, approved in October 2024, allocated USD 250 million to improve equitable access and quality of secondary education in Kenya.

24 Muiruri, K. (2025) 'Kenya to forego sh63bn in IMF Funding' *Business Daily,* 17 March.
25 Ibid.
26 International Monetary Fund, African Dept (2024) *Kenya: Assessment of Financial Risks to the Fund,* p.3.

27 The IMF approved Kenya's access to an exceptional access level during its sixth review allowing Kenya to borrow above their normal standard, even after the review of the country's level of debt under the *Assessment of Financial Risks to the Fund.*
28 International Monetary Fund (IMF) (2024) 'IMF Executive Board Concludes the Seventh and Eighth Reviews Under the Extended Fund Facility and Extended Credit Facility and Review Under the Resilience and Sustainability Facility Arrangement with Kenya,' 30 October [Press Release] 30 October 2024.

29 World Bank Group in Kenya (Last updated April 2025) *The World Bank in Kenya.*

Conditionalities, Coercive Policy Advice and Austerity Measures in Kenya

Kenya's current borrowing arrangements continue a pattern of austerity-linked conditionalities similar to the structural adjustment era of the 1980-1990s, despite its harmful legacy on access to public services and deepening inequality.

A closer look at the May 2020 arrangement to disburse USD 739 million to address the impact of the COVID-19 pandemic shows that for the disbursement of these funds, the Kenyan government agreed to resume fiscal consolidation post the pandemic, by raising revenues as a share of GDP and reducing debt vulnerabilities. The follow-up 2021 EFF and ECF arrangements further formalised these commitments as they were conditioned on reducing fiscal deficit, promoting debt sustainability, and mobilising domestic revenue.[30] In line with these objectives, the government introduced a series of austerity and structural reform measures:

A. Cuts to Public Sector Wages:[31] Between July 2021 and January 2023 the IMF advised Kenya to reduce its Public Sector Wage Bill from 4.0% to 3.6% of the GDP through its current and future projections of the country[32] with exemptions to priority areas like health and education.[33] To comply, the government froze KES 82 billion in salary increases for civil servants for two consecutive years, with the freeze expected to last until 2025.[34] This advice was provided by the IMF and was implemented by the Kenyan government despite the fact that Kenya was already spending less than the regional average on public wages.[35]

B. Privatisation of State-Owned Enterprises (SOEs): To reduce fiscal pressures and raise revenue, the government enacted the Privatisation Act 2023, repealing the Privatisation Act of 2005.

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30 International Monetary Fund (IMF) (2021) *2021 Article IV Consultation; Second Reviews Under the Extended Fund Facility and Under the Arrangement Under the Extended Credit Facility; and Requests for Modifications on Performance Criteria and Structural Conditionality. IMF Country Report No.21/275.*

31 Action Aid (2023) *Fifty Years of Failure- The IMF, Debt and Austerity in Africa,* p.13. Table 4; See also As stipulated un the IMF loan documents and Article IV Reports policy advice published between July 2021 and January 2023.

32 Ibid.

33 Ibid. p.13.

34 Business Daily (2021) 'IMF deal that froze Kenya Government workers 82bn pay rise,' 18 June; See also Teachers Arena (2021) 'IMF Deal Behind Salary Freeze for Teachers and Civil Servants Till 2025' 18 June.

35 Action Aid (2021) *The Public vs Austerity,* p. 19. Table 1. From this report, Kenya's wage bill as percentage of GDP is already low, at 4.4% of GDP, compared to peers such as Ghana (8.7%) and Zambia (9.1%). Raising the question of whether there should be a standard benchmark to guide decisions on the percentage of GDP a country spends on the public sector wage bill in different contexts.

C. Fuel Subsidy Removal: In late 2022, under the IMF lending terms, the government withdrew fuel subsidies, leading to a significant increase in fuel prices and the cost of goods and services.[36] President Ruto defended the move during his inaugural speech, arguing that the subsidies would have cost USD 2.3 billion, equivalent to the entire national development budget, and had failed to reduce living costs as intended. However, this decision contradicted his campaign pledges to reduce the cost of living and sparked public discontent.[37]

D. Regressive Tax Measures to Boost Revenue:[38] Kenya's tax system is grounded in the constitutional principle that taxation should be shared fairly (Article 201). However, in practice, the tax structure places a disproportionate burden on low- and middle- income households.[39] Between FY 2018 and 2023, income tax accounted for approximately 45% of total revenue, followed by Value Added Tax (VAT) at 26.5%, excise duty at 13%, import duty at 9%, and other taxes accounting for approximately 6.4% of total revenue.[40] Despite the unequal tax burden, pressure from the IMF to increase and expand its domestic revenue led Kenya to introduce a raft of new regressive taxes and levies under its Finance Act 2023 and Finance Bill 2024. For instance, it proposed a 16% VAT on bread.[41] Moreover, the VAT on petroleum products and imported raw materials was doubled from 8% to 16%, taking a toll on the manufacturing sector and thus affecting the prices of several basic goods. A mandatory housing levy was also introduced, requiring employers to contribute 1.5% of their employees' gross salaries to the National Housing Development Fund.[42]

E. Public services reforms:[43] As part of structural adjustments and cost-cutting measures, the government also implemented several policy reforms targeting public services. In health, the Social Health Insurance

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36 Musambi, E. and Gitonga, C. (2022) '*William Ruto: New Kenya president's bold move to scrap subsidies,' BBC,* 15 September.

37 Ibid.

38 IMF CR No. 24/13 (January 2024) outlining the context of the Staff Report 2023 Article IV Consultations, Sixth Reviews under ECF/EFF, requests for augmentations of access, modification of performance criteria, waiver of non-observance of performance criteria, waiver of applicability of performance criteria, and first review under the RSF arrangement; see also The Institute of Social Accountability (TISA) (2024) *The Impact of the IMF Fiscal Consolidation Programme in Kenya: An Economic and Human Rights Analysis*. p.4..

39 Institute of Economic Affairs (2024) *Is Kenya's Tax System Efficient, Optimal, and Equitable?;* These are the mean average calculated from the author's graphs.

40 Ibid.

41 Liverseed, C. (2025) 'Kenya Finance Bill Protests' *The Nonviolence Project University of Wisconsin-Madison*, 29 April.

42 The housing levy was criticised because it lacked a clear regulation framework and was seen to unfairly singe out Kenyans in the formal sector who get a regular monthly salary. See Muia, W. (2024) 'Kenya housing levy: President Ruto signs controversial law paving way for monthly deductions' *BBC,* 19 March.

43 The Institute of Social Accountability (TISA) (2024) *The Impact of the IMF Fiscal Consolidation Programme in Kenya: An Economic and Human Rights Analysis.*

Act 2023 repealed the National Health Insurance Fund Act of 1989, creating the Social Health Authority (SHA) and introducing new funding and contribution rules. In education, a new higher education funding model was introduced, shifting institutional block funding to mean-tested student support. Service fees[44] for essential government services such as access to national identification cards (IDs) and birth and death certificates, were also increased.

On another note, Kenya's bilateral loans have also raised red flags about sovereignty and self-determination.[45] For instance, the April 2024 bilateral loan agreement with China for infrastructure projects mandated that the government of Kenya should use Chinese equipment, labour, and other resources as part of the lending terms,[46] although details of the agreement have not been made public. Such conditions illustrate how some financing arrangements can go beyond financial terms to shape domestic decision-making and procurement.

While these reforms and policies are presented as essential for development and economic stability, they often contradict Kenya's constitutional and international obligations to uphold economic and social rights. The Guiding Principles on Foreign Debt and Human Rights stress that lending should not impair a country's ability to fulfil its human rights obligations.[47] Similarly, the Guiding Principles on Human Rights Impact Assessment of Economic Reforms discourage creditors from attaching harmful conditionalities to loans.[48] In practice, these safeguards have been ignored. The IMF-advised reforms have increased the cost of living, restricted access to public services, and deepened inequality, that led to widespread protests in 2024.

44 The increase in these fees meant that obtaining a national identification card (ID) would no longer be free, with a proposed fee of KES 1,000 and replacement costs rising from KES 100 to KES 2,000- a 1900% increase. Fees for birth and death certificates also rose from KES 50 to KES 200, marking a 300% increase. These changes led to a constitutional challenge in the High Court and a partial revision of the fees for new ID applications. Kenya Law Reports (2023) *Kenya Gazette*, Vol. CXXV-241 of 14 November 2023, Gazette Notice No. 15495.

45 Africa Uncensored (2025) *Trapped in Debt: Ruto's China Visit Renews Focus on Kenya's Borrowing Binge.*

46 Ibid

47 Lumina, C. (2011) *Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: Guiding Principles on Foreign Debt and Human Rights (A/HRC/20/23)*. United Nations Human Rights Council, 10 April. Principles 48-50.

48 United Nations Human Rights Council (2018) *Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights: Guiding Principles on Human Rights Impact Assessments of Economic Reforms (A/HRC/40/57)*, 19 December. Principles 15-16.

The Social Cost of Austerity: Impact on Health and Education

Kenya has ratified[49] key international and regional human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the African Charter on Human and Peoples' Rights (African Charter), among others. These treaties provide a solid legal foundation for the state's obligation to mobilise, allocate, and use its maximum available resources to guarantee the realisation of economic, social, and cultural rights, particularly education and health.[50] In Kenya, this obligation is shared between national and county governments: the national level sets policies and financing frameworks, while the counties, under the devolved government, are responsible for the direct delivery of health services and aspects of education, such as early childhood education and vocational training.

However, the gap between obligations and outcomes remains significant. In practice, loan conditionalities coupled with austerity-driven policy decisions have severely constrained the financing, and therefore delivery of public services such as health and education, translating into tangible human rights impacts and disproportionately affecting the most vulnerable populations.

Impacts of Austerity Measures on the Provision of Public Healthcare

The introduction of the Social Health Insurance Fund (SHIF), through the Social Health Insurance Act (SHIA) 2023, marked a major shift in public healthcare access and financing.[51] It replaced the National Health Insurance Fund (NHIF), with the government presenting it as the solution to long standing challenges in the health sector, ensuring equity and access for all persons and households previously excluded from NHIF

49 Constitution of Kenya (2010) Article 2(6)

50 For more information on States' human rights obligations to finance public services, consult GI-ESCR (2025) *States' Human Rights Obligations to Finance Public Services: a Focus on Education and Health*.

51 See Chapter 2 on Conditionalities, Coercive Policy Advice and Austerity Measures in Kenya.

coverage.[52] Under this new system, employed Kenyans must contribute 2.75% of their gross salaries, while those in the informal sector are to contribute according to the results of their means testing.[53] However, accurately assessing the financial situation of persons and households in the largely informal economy is extremely difficult. This has led to concerns on the means testing failing to capture real needs, as income alone does not account for factors like family size, chronic illness, or the disparities in the cost of living in certain regions across Kenya.[54] In addition, uncertainty remains over the exact range and scope of benefits that SHIF will provide.[55]

Despite these reforms, the overall budget trajectory over the past five years has been under severe strain. Although allocations have remained between KES 100-136 billion (see figure 4), Kenya's health spending continues to fall far below the Abuja Declaration's 15% of the national budget target[56] and the World Health's Organisation (WHO) 5-6% of GDP[57] recommendation.

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[52] The Institute of Social Accountability (TISA) (2024) *The Impact of the IMF Fiscal Consolidation Programme in Kenya: An Economic and Human Rights Analysis*. p. 36.

[53] *Means Testing* is a method that used the Means Testing Instrument to determine whether an individual or a household has the ability to pay for their social health insurance premium; *Means Testing Instrument:* a set of indicators that capture various socio-economic aspects of an individual or a household for purposes of conducting a means testing.

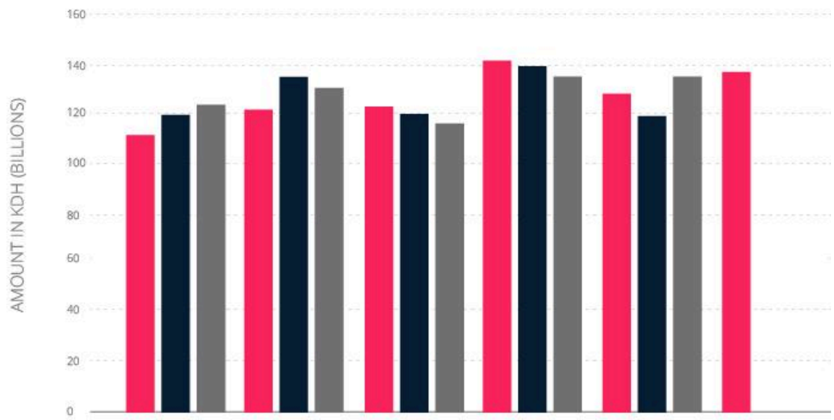
[54] Masibo, C. (2024) 'FIDA Kenya and KELIN Kenya Raise Concerns Over Social Health Insurance Fund Implementation,' *The Mount Kenya Times,* 19 November.

[55] Baraza, E. (2023) 'The good, bad of social health insurance bill', *Business Daily,* 03 October.

[56] *Abuja Declaration on HIV/AIDs, Tuberculosis and Other Related Infectious Diseases* (2001) OAU/SPS/ABUJA/3. See also African Commission on Human and Peoples' Rights (ACHPR) (2011) Principles and Guidelines on Economic, Social and Cultural Rights in the African Charter on Human and People's Rights. Para 66 (g)

[57] World Health Organisation (2010) *The World Health Report Health Systems Financing: The Path to Universal Coverage*.p. 53.

Figure 4: Health Budget Allocations from FY 2020-25



	2020/2021	2021/2022	2022/2023	2023/2024	2024/2025	2025/2026
PROGRAM BASED BUDGET	111.7	121.09	122.52	141.19	127.17	136.79
SUPPLEMENTARY BUDGET I	119.2	134.24	122.52	138.84	118.85	
SUPPLEMENTARY BUDGET II	122.86	130.47	119.37	134.76	135.08	

Source: Data compiled by the author from the National Treasury and Economic Planning Budget Books.

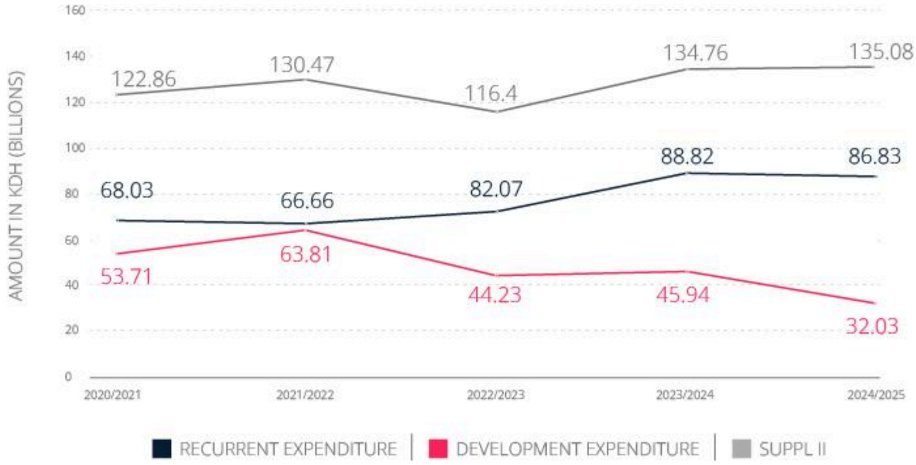
Taking a deeper look at the health budget programmatic allocations, the FY 2024/25 supplementary budget saw budget cuts to the Universal Health Coverage (UHC) coordination programme, dropping from KES 18.4 billion to KES 4.2 billion.[58] Free maternity healthcare was also cut from KES 4.1 billion to KES 2 billion, and spending on medical equipment fell from KES 5.9 billion to KES 3.6 billion.[59] The FY 2025/26 budget deepened this trend, with the Curative & Reproductive Maternal New Born Child Adolescent Health (RMNCAH) programme receiving the highest budget cut of about 18%, dropping from KES 20.28 billion in FY 2024/25 to KES 16.8 billion.[60] The changes to budget allocations tend to disproportionately affect women's and girl's access to essential health services.

Development expenditure, vital for building health infrastructure and procuring equipment, steadily decreased by 49.79% between FY 2021/22 and FY 2024/25, from KES 63.81 billion to KES 32.03 billion.[61] In contrast, recurrent spending rose by 27.63% over the same period, indicating a prioritisation of short-term operational costs over long-term health investments (see figure 5). Both short and long-term investments in

58 Okoa Uchumi (2024) *Proposals for Kenya's Austerity in FY 2024/24*.
59 Ibid.
60 Institute of Public Finance (2025) *Highlights from the proposed FY 2025/26 Budget*.
61 The National Treasury and Economic Planning (n.d) Budget Books (2020-2024). Available at: https://www.treasury.go.ke/budgets/ (Accessed 13 August 2025)

healthcare are essential, yet the current budget allocation patterns reflect austerity's imprint, with debt servicing now absorbing a far greater share of the national budget than health spending year after year.[62]

Figure 5: Recurrent vs. Development Spending in the Health Sector



Source: Office of the Controller of Budget and The National Treasury and Economic Planning.

The shrinking government spending on health is not only a clear indicator of austerity, but also a deliberate political choice. Kenya's health sector has also long depended on external aid; for example, USAID-Kenya allocated USD 2.5 billion under its 2020-2025 strategic plan, averaging about USD 471 million annually.[63] The suspension of these funds in 2025[64] threatens a critical gap in public health sector financing, given that the 2025/26 budget made no commitment to bridging it. Without urgent investment, essential health services risk being further compromised, leaving vulnerable populations, such as people living with HIV/AIDs, at a greater risk.

62 See Figure 1 on Kenya's debt spending.

63 Kenya Healthcare Federation (2025) *From Aid to Ownership: Why we Must act Now!*

64 As of July 2025, USAID aid had been officially cancelled. Lesnes, C. (2025) 'Billions of USAID aid have been officially canceled,' *Le Monde*, 22 July.

Impacts of Austerity Measures on the Provision of Public Education

The introduction of the New Higher Education Funding (NHEF) model also marked another significant shift in Kenya's higher education financing. The model moves away from the Differentiated Unit Cost (DUC) previously used to finance universities and prioritises students' financial needs based on means testing.[65] While the government framed this as a way to ensure accessibility and equity while improving its revenue base, it risks excluding students from low-income and informal sector backgrounds and may force families to make education choices based on affordability rather than ability or aspirations.

At the same time, while the overall education budget has grown nominally from KES 505.09 billion in FY 2020/21 to KES 671.42 billion in FY 2025/26, representing 29% of the national budget[66], thus meeting or exceeding international benchmarks of 4-6% of GDP and 15-20% of public expenditure (see figure 6),[67]the increase has not kept pace with sectoral needs matching the rising demands of the growing school-age population, the rising cost of living and the resources needed to fully transition to Competency Based Education (CBE). This uncertainty is further supported by the unsustainability of the allocations. For instance, while the FY 2025/26 allocation noted an increase, the approved FY 2024/25 budget reflected a 5% reduction (equivalent to KES 33 billion) from the FY 2023/24 supplementary budget allocation.[68] Furthermore for the FY 2024/25 education budget allocation, the State Department for Basic Education, housing both primary and secondary education programmes, saw its approved budget slashed by 10% affecting the infrastructure development for new public primary, secondary and junior secondary classrooms from 320 to zero, despite an expected enrolment of over 6.45 million learners in 2025.[69]

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65 The funding framework replaces the Differentiated Unit Cost (DUC) previously used to finance universities. The model prioritises a student's financial need and separates placement from funding. Under this model, universities and TVET institutions will no longer receive block funding in the form of capitation. Instead, funding for students will be provided through scholarships, loans, and household contributions. Following the introduction of the new model, students will have access to scholarships and loans to finance their higher education. What this means is that previously, under the DUC, universities received direct support from the government to subsidise education costs with the new funding model, there is no more automatic capitation to institutions, Placement and funding are separated Whereby you can be placed in a public university, but whether you receive financial aid depends on your household means test.

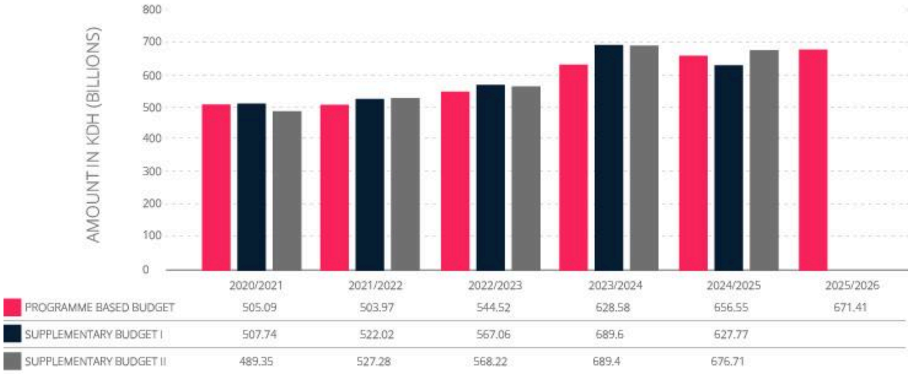
66 Institute of Public Finance (2025) *Highlights from the proposed FY 2025/26 Budget*.

67 *Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4* (2016) ED-2016/WS/28, para. 105.

68 Okoa Uchumi (2024) *Proposals for Kenya's Austerity in FY 2024/24*.

69 Ibid.

Figure 6: Education Budget Allocation FY 2020-25



Source: Data compiled by the author from the National Treasury and Economic Planning Budget Books.

Additionally, a large portion of the budget, rising from KES 469.53 billion in FY 2020/21 to KES 606.68 billion in FY 2024/25, is directed towards recurrent expenditures such as teacher salaries and administrative costs. In contrast, development expenditure, critical for building and upgrading school infrastructure, has declined by 38%, from KES 34.02 billion in FY 2022/23 to KES 21.09 billion in FY 2024/25 (see figure 7). This decline in development expenditure, limits the sector's ability to expand school infrastructure and improve learning environments, particularly in undeserved regions.[70]

Figure 7: Education Sector Spending

Source: Office of the Controller of Budget and The National Treasury and Economic Planning.

The paradox is clear: Kenya is meeting international spending benchmarks for education, yet adequate classroom infrastructure and access to quality public learning for all remain a dream for many. If the

70 Republic of Kenya (2024) *Education Sector: Medium Term Expenditure Framework 2025/26-2027/28*.

benchmarks are being met, why does the sector still fall short of delivering equitable, quality public education for all? A large part of the answer might be related to the overall size of the budget and, therefore, how the share, even when respecting international benchmarks, is still not enough. This is a question that policymakers, the Budget and Appropriations Committee, Civil Society, and the public must confront to ensure that the constitutional right to education is more than a budgetary checkbox.

The Shrinking Role of the State in Financing Public Services and the Rise of Privatisation in Public Services

Austerity-driven fiscal policy decisions have also significantly contributed to the increasing privatisation and commercialisation of education and health services in Kenya. Budget cuts, wage bill freezes, and limited public development spending have continuously strained the public provision of these services, leaving critical gaps increasingly filled by private actors.

This shift has led to well-documented human rights concerns about the commercialisation and commodification of education and health. These include economic discrimination and segregation; lower quality and unequal access for marginalised groups; frequent disregard for labour laws and standards; the reinforcement of unbalanced power relations; and a lack of transparency and unequal participation in the governance of institutions.

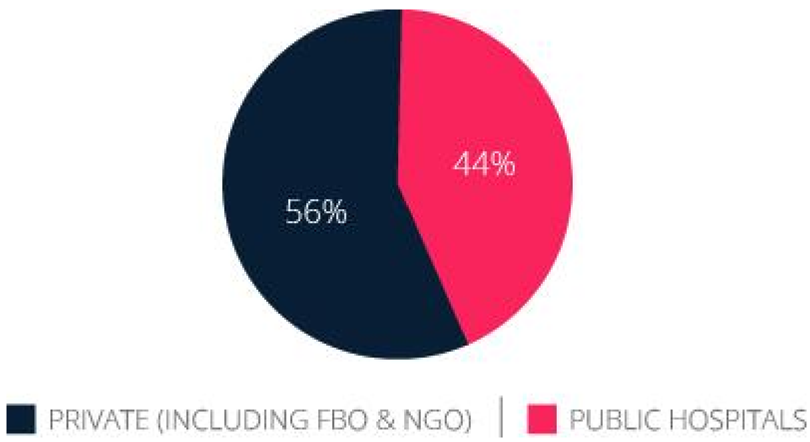
Growing Privatisation and Commercialisation Trend in the Health Sector

Kenya's health system has historically included a mix of public, private and not-for-profit actors.[71] However, austerity-induced policies in government spending have created gaps increasingly filled by for-profit actors. Between 2013 and 2021, the share of health facilities operating on a for-profit basis increased significantly from 33% to 43%.[72] Currently, the number of operational health facilities rest at 44% public hospitals versus 56% private hospitals (including Faith-Based and Non-Governmental Organisations).[73]

[71] GI-ESCR (2022) *Patients or customers? The impact of commercialised healthcare on the right to health in Kenya during the COVID-19 pandemic.*
[72] Ministry of Health (2013) *Kenya Service Availability Readiness Assessment Mapping (SARAM) Report*. p.12.
[73] Kenya National Bureau of Statistics (KNBS) (2025) *Popular Version: Economic Survey 2025*.

This rapid increase reflects a retreat of the state and a deliberate policy shift towards market-based solutions, as outlined in the Kenya Health Policy 2014-2030.[74] The policy actively encourages private sector participation through tax incentives and legal frameworks encouraging Public-Private Partnerships (PPPs).[75]

Figure 8: Number of Operational Hospitals in Kenya



Source: Kenya National Bureau of Standards 2025 Economic Survey.

Additionally, international development partners and private actors have played a role in expanding private sector engagement by funding several healthcare initiatives led by private entities across multiple service areas.[76] As private health providers grow in influence, the accessibility, affordability and equity components of social service delivery are compromised especially for low-income and rural populations.[77]

Growing Privatisation and Commercialisation Trend in the Education Sector

Kenya's education system has similarly experienced increased privatisation, dating back to the 1980s and the 1990s, following the adoption of the SAPs.[78] These reforms, heavily promoted by the IMF, ushered in widespread cuts to public expenditure on social services and

74 Ministry of Health (2014) *Kenya Health Policy 2014-2030: Towards Attaining the Highest standards of Health*.

75 Ibid.

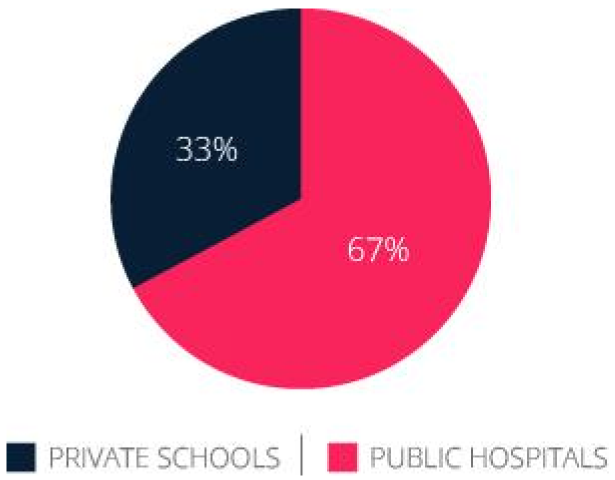
76 BEAM Exchange, (2016) *PSP4H: Private Sector Innovation Programme for Health*.

77 GI-ESCR (2022) *Patients or customers? The impact of commercialised healthcare on the right to health in Kenya during the COVID-19 pandemic.*

78 Wawira, M, and Ochieng', A. (2017), *Low-Cost Private Schools: School Choice for the poor at the expense of Quality,* Right to Education Initiative.

the introduction of cost-sharing policies, fundamentally altering the landscape of public education.[79] This vacuum allowed private education actors, particularly low-cost private schools, to expand rapidly, often targeting low-income households and out-of-school children in urban informal settlements.[80] The Kenya National Bureau of Standards 2025 Economy report found that in 2024, 33% of schools registered in Kenya were private schools.

Figure 9: Number of registered schools in Kenya 2024



Source: Kenya National Bureau of Standards 2025 Economy Report.

However, when looking at accessibility and availability on the ground, a 2019 government mapping of basic learning institutions operating in the informal settlements of Nairobi revealed that 41.4% schools were owned by local individuals, while 38.8% schools were community-owned, 11.2% schools were owned by local faith-based organisations, (FBOs) and 2.5% schools were owned by foreign non-governmental organisations (NGOs).[81]

Furthermore, our own 2023 research in Mathare, Nairobi's second largest informal settlement, found that only 6% of the 185 primary schools mapped were public, with the remaining 94% being private.[82] This stark imbalance underscores how the gradual withdrawal of the

[79] Ibid.

[80] Namboya, W.M and Matiko, C. (2021) *How will low-cost private schools survive COVID-19*? Financial Sector Deepening Kenya; See also Wawira, M, and Ochieng', A. (2017), *Low-Cost Private Schools: School Choice for the poor at the expense of Quality,* Right to Education Initiative. p.10.

[81] Ministry of Education, National Council for Nomadic Education in Kenya (NACONEK) (2020) *Mapping of Basic Learning Institutions Operating in the Informal Settlements of Nairobi County Report*. p.13.

[82] GI-ESCR (2024) *Build us More Schools! The Quest for Quality Free Education in Mabatini and Ngei Wards of Mathare Nairobi, p.14*.

state from sufficiently financing public education, often due to austerity constraints, has created a fertile ground for unregulated private sector growth in education. This shift raises concerns about equitable access to quality education, especially for marginalised communities.[83]

Contemporary human rights law prescribes an obligation on states to provide public education, and therefore enshrines a corresponding right to public education, regardless of the role of private providers and the extent to which education is also offered by these providers.[84] Therefore, even when private provision exists, States such as Kenya must ensure that public education is prioritised so that the right to education is progressively realised, particularly by mobilising the maximum available resources,[85] and ensuring that private provision does not undermine the principles of equity, equality, or state accountability.

The Expanding Role of Public-Private Partnership (PPPs) and Privatisation of State-Owned Enterprises (SOEs)

Following the 2021 IMF-Kenya agreement, Kenya was advised to privatise its SOEs to 'reduce wastages' and 'increase revenue'.[86] Kenya embraced these recommendations by repealing the Privatisation Act 2005 and enacting the Privatisation Act 2023, which controversially removed the requirement for parliamentary oversight in the privatisation process.[87] Under this framework, the Privatisation Authority proposed[88] the sale of 11 SOEs, including the Kenya Literature Bureau, a key publisher for government-approved educational materials.[89] In September 2024, the High Court declared the Privatisation Act 2023 unconstitutional,[90] halting the privatisation of the 11 SOEs. However, the Privatisation Bill 2025, tabled in Parliament in August 2025,[91] was signed into law in October 2025,[92] reigniting debate and public concern over the

83 Ibid.

84 Mowbray, J. (2021) 'Chapter 3: Is there a right to public education?', in *Realizing the Abidjan Principles on the Right to Education*. Cheltenham, UK: Edward Elgar Publishing.

85 *Convention on the Rights of the Child* (1989) Treaty no. 27531. *United Nations* Treaty Series, vol. 1577, p. 3. Article 28 read together with Article 4; *International Covenant on Economic, Social and Cultural Rights* (1966) Treaty no. 14531. United Nations Treaty Series, vol. 993, p. 3. Article 2

86 International Monetary Fund. African Dept (2024) *Kenya: Assessment of Financial Risks to the Fund,* p.3.

87 Kenya Law Reports (2023) Privatisation Act No 11 of 2023 Section 19 gives the Cabinet Secretary to the National Treasury to formulate the privatisation programme. Section 22 gives parliament the duty to ratify but no oversight in the whole process. As mentioned in the main text, the Act was declared unconstitutional in September 2024.

88 This privatisation programme earmarked the companies for sale and begun the process of selling off stakes worth 35% and 100% of 11 companies in the first batch, but in December 2023, following a court challenge blocked the sale of the companies pending further legal review and was legally blocked in September 2024, when the court declared the Act unconstitutional.

89 Mizner, A., (2024) 'Kenyan privatisation programme hangs in the balance,' *African Law and Business*, 20 November.

90 Katiba institute (2024) *The High Court of Kenya declares the Privatisation Act 2023 Unconstitutional*.

91 National Assembly Bills (2025) The Privatisation Bill, 2025.

92 Mwita, M. (2025) 'Investors eye state entities as all systems go for privatisation,' *The Star*, 22 October.

inclusion of SOEs supporting education and other essential public services in the programme.[93]

In parallel, the Public-Private Partnership Act, 2021 repealed the 2013 legislation and expanded the framework to include both national and county level projects. Since then, seven projects have been reported in FY 2023/24.[94] While no PPPs in health or education have been implemented yet, several are at advanced stages of planning with proposed bids.[95]

Although framed as 'solutions' to fiscal limitations, research shows that, PPPs often exacerbate inequity in public services provision, incur hidden costs making them more expensive in the end, and compromise long-term sustainability.[96] This can also imply a broader shift toward the commercialisation of public services, one that risks undermining the public nature of social services. Without adequate regulation, such arrangements may reinforce inequality and limit access to quality education and healthcare.

Human Rights Impacts of Austerity: Deteriorating Access to Health and Education.

As previously demonstrated, austerity involves cutting spending on public services, thus significantly reshaping their provisions. The push for increased domestic revenue through regressive taxes such as increasing VAT and reduced public spending, has translated into real-life consequences, leading to wage bill restrictions, a rise in cost of these essential public services, and a retreat of the state in the investment of public services.[97] These changes have had a disproportionate impact on women, children, persons with disabilities, and low-income households.

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93 Fake Woke With Justine (2025) '11 State firms up for sale as the privatisation bill 2025 was assented to law.' [Instagram]22 October.

94 The National Treasury and Economic Planning (2024) *The 3rd Annual Report on the State of Public Private Partnerships in Kenya for the Financial Year 2023/24.*

95 Ibid. Additionally for Healthcare PPPs: Proposals include a 300-bed Kenyatta National Hospital, a 2,000 bed at Pwani Teaching and Referral Hospital, the Meru Cancer Center, and the University of Nairobi Cancer Care Center. While for Education PPPs: Initiatives include a 4,000-bed student housing project at the University of Nairobi, expansion of the Moi Teaching and Referral Hospital College of Health Sciences, and a privately initiated proposal to print national examination papers.

96 Adamson, F. and Taneja, A. (2025) *Demystifying Education Public-Private Partnerships: What Every Policymaker Should Know (Policy Brief).* Privatisation in Education and Human Rights Consortium.

97 The Institute of Social Accountability (TISA) (2024) *The Impact of the IMF Fiscal Consolidation Programme in Kenya: An Economic and Human Rights Analysis*. p.vi.

The Right to Health

Regarding the health sector, austerity measures have had significant human rights impacts, from critical staff shortages and deteriorating labour conditions to inadequate infrastructure and rising out-of-pocket costs. Instead of strengthening universal public provision, the system has increasingly shifted the burden onto individuals, undermining the right to health, particularly among low-income households and women.

A. Staff shortages, low pay, and overburdened health workers: Despite the recurrent expenditure in health consistently outweighing development spending, the prolonged wage freeze between 2016-2025, implemented by the government as part of austerity measures, has severely constrained recruitment and retention of health workers. Between 2017 and 2021 alone, the sector lost approximately 45,101 nurses, leading to increased workloads, burnout, and high attrition rates among existing staff.[98]

Kenya currently has 10,045 registered medical doctors, which represents 19 physicians per 100,000 people[99], and 81,564 registered nurses[100] equivalent to 161 registered nurses per 100,000 people. Both ratios are still below WHO recommendations that advise a minimum of 21.7 doctors and 228 nurses per 100,000 of the population.[101] Furthermore, only 12 of the 47 counties met the minimum recommended threshold of 23 health workers per 10,000 people, leaving a majority of counties with chronic shortages, long waiting times and deteriorating quality of care, thus undermining both the availability and accessibility of the right to health.[102]

Furthermore, compounding the crisis, the government's repeated failure to honour collective bargaining agreements (CBAs) with the medical unions has left healthcare workers with no option but to take industrial action, often in the form of protests or go-slows. In 2024 alone, over 4,000 public sector doctors,[103] clinical officers[104] and more than 3,000

98 Action Aid (2021) *The Public vs Austerity*.

99 Kenya National Bureau of Statistics Kenya National Bureau of Statistics (KNBS) (2025) *Popular Version: Economic Survey 2025.*

100 Ibid.

101 Masibo, R., Kiarie, H. and Bartilol, P. (n.d) *Human Resources for Health: Gaps and opportunities for strengthening*. See also World Health Organisation (2006*) The World Health Report 2006: Working together for health.* p. 11.

102 Ministry of health (2023) *'Kenya Health Facility Census'* p. 70.

103 Siele, M.K.N. (2024) 'Doctors' strike reveals unemployment crisis for Kenyan medics', *Semafor,* 02 April.

104 Muganda, M. (2024) 'Clinical officers begin strike as crisis in health sector worsens', *The Standard,* 01 June.

medical interns[105] participated in such actions to demand fair pay and better working conditions. These disputes, rooted in government inaction, have at times forced public hospitals to scale back services or temporarily suspend operations, leaving patients with little choice but to seek costly private care, traditional healers, or resort to self-medication.

B. Gaps in the Social Health Insurance Fund (SHIF):[106] While the State claimed SHIF as a means to advance Universal Health Coverage (UHC), low enrolment, especially among informal workers, has had mixed public perceptions and unclear benefits that risk excluding millions from affordable healthcare.[107] Delays in implementation, unsustainability of the health budget, and uncertainty over what is covered, with some essential treatments and medications excluded, have fuelled public frustrations with the fund.[108]

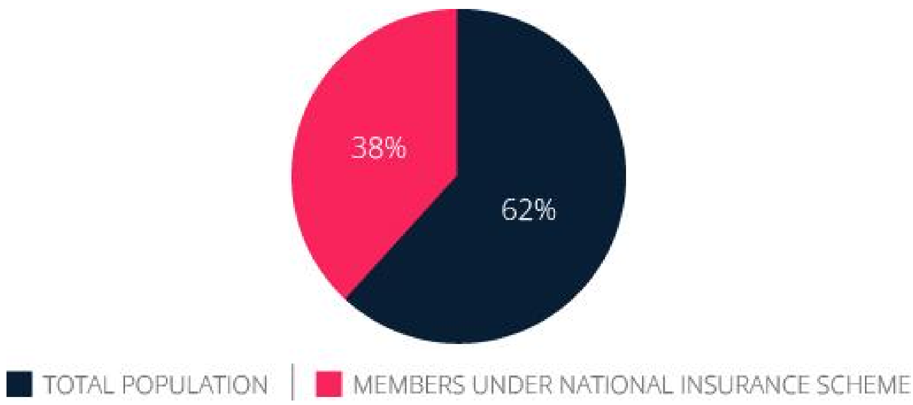
C. A Shift to Out-of-Pocket Payments: Austerity has increasingly shifted healthcare costs onto Kenyan households, turning access to healthcare into a matter of personal means rather than a guaranteed public right. With chronic underfunding leaving public hospitals poorly equipped, patients are often forced to buy their own medicines and basic supplies, or delay and forgo treatment altogether, disproportionately affecting low-income households and women.

> 'Consider the contrast between Fred and Mercy: Fred, whose wife accidentally ran over his toe, received timely treatment worth KES 60,000 because he works for a company that provides medical cover. In contrast, Mercy, who needed a mastectomy, delayed her biopsy for three years due to financial constraints. She only returned to the hospital when her condition had severely worsened, because by then it was a question of how long she had left. She had to fundraise for her treatment.'[109]

105 Siele, M.K.N. (2024) 'Doctors' strike reveals unemployment crisis for Kenyan medics', *Semafor,* 02 April.
106 Ogejo, W. (2025) *The Irony of SHIF: A Hinderance to Universal Health Coverage in Kenya*, Institute of Economic Affairs.
107 Ibid.
108 Kilei, C. (2025) 'Confusion and concerns persist as Kenyans struggle with new social health insurance', *The Eastleigh Voice*.
109 Dr. Wangari, D. (2023) 'Most Kenyans a sickness away from poverty', *The Standard Media.*

Furthermore, annual out-of-pocket spending stood at about KES 150 billion in 2023,[110] exceeding the government's allocation to the health sector and undermining the goal of Universal Health Coverage. Even national insurance schemes, old and new, have failed to close this gap, with only 38% of Kenyans registered under the NHIF/SHIF cover in FY 2023/24, leaving a majority vulnerable to catastrophic health costs (see figure 10).[111]

Figure 10: Percentage of Population Registered Under the National Insurance Scheme



Source: Kenya National Bureau of Statistics- Popular Version: Economic Survey 2025.

The Right to Education

Austerity measures have also had significant human rights impacts in the education sector. Indeed, budget constraints and wage freezes have resulted in severe teacher shortages, underinvestment in school infrastructure, and a growing shift of education costs onto families.

A. Teacher shortages undermining learning outcomes: While recurrent spending between FY 2020/21 and FY 2024/25 has grown substantially,[112] much of this growth reflects rising costs for existing staff, leaving behind new recruitment. Austerity measures, such as the public wage freeze of 2017-2021, led to the sector losing 51,230 teachers[113] and in 2025 the Teachers Service Commission reported that

110 International Commission of Jurists (ICJ) Kenyan Section (2025*) Soaring Healthcare Costs in Kenya Hinder Access to Vital Services.*

111 Kenya National Bureau of Statistics (KNBS) (2025) *Popular Version: Economic Survey 2025*.

112 See information under 'Impacts of Austerity Measures in the Provision of Public Education.'

113 Ibid.

the sector has a shortage of approximately 98,281 teachers.[114] The current situation undermines the right to quality education as the teacher-to-student ratio remains imbalanced and teachers' pay remains too low, leading to informal cost-shifting practices. As highlighted in our Build us More Schools! report, a parent with a child in a public school explained:

> 'If you do not pay motivation fees, your child suffers. The teachers pay attention to students whose parents "pay motivation fees." They have renamed/baptised fees into different names such as motivation fees, etc.'[115]

B. Infrastructure deficits and physical inaccessibility: Years of austerity and shifting government priorities have significantly slowed the expansion and upgrading of public-school infrastructure, particularly in underserved areas such as informal settlements and arid and semi-arid regions. This underinvestment has created a widening gap in physical access to education forcing children to travel long distances or learn in overcrowded, unsafe classrooms.[116]In our report, Build us More Schools!, an interview with a parent revealed that: 'My child goes to school in Kiboro, and I live next to the DC, which is quite a distance from Kiboro. My child walks an average of 35-40 minutes to and from school every day. By the time she gets home she is very tired to even do her homework.'[117]

Such realities violate the State's constitutional and international obligation to ensure physically accessible education for every child.[118]

C. The hidden costs in 'free' education: Declining budget allocations to the Free Primary Education programme, have shifted the financial burden onto households, with parents increasingly expected to pay school-related costs, such as meals, uniforms, textbooks, firewood, remedial classes, and school trips.[119] For low-income families, these

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114 Thiong'o, J. (2025) 'Looming crisis as TSC facing a shortage of 98,281 teachers,' *The Standard*.

115 GI-ESCR and partners (2024) *Build us More Schools! The Quest for Quality Free Education in Mabatini and Ngei Wards of Mathare Nairobi.* p.32. These so-called motivation fees, paid to supplement low teacher salaries by public schools, reflect the failure of adequate government financing to support a professional and adequately staffed education system.

116 Ibid. p.14

117 Ibid. p. 46

118 Committee on Economic, Social and Cultural Rights (CESCR) (1999), *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*. E/C.12/1999/10. Para 6 (b).

119 GI-ESCR (2024) *Build us More Schools! The Quest for Quality Free Education in Mabatini and Ngei Wards of Mathare Nairobi.*

costs are often unaffordable, pushing many children, especially girls, to either drop out or enrol in poor quality low-cost private schools, where flexible fee arrangements can be negotiated directly with school owners.[120] Field interviews from the Build us More Schools! report revealed widespread confusion among parents about what public primary schools are legally permitted to charge, exposing a stark contrast between Kenya's constitutional guarantee of free compulsory education and the reality faced by many families.[121]

D. Barrier to higher education: The Higher Education Funding Model, introduced as part of broader fiscal reforms, was constitutionally challenged and temporarily suspended in October 2024 on the grounds of inadequate public participation.[122] Although the suspension was lifted in April 2025 and the model reinstated, critics argue that it has made university education less accessible for many. For instance, a government-sponsored nursing student who previously paid around KES 43,000 annually now faces a fee increase to KES 300,000 annually, disproportionately affecting many from low-income backgrounds, given the means testing model and the removal of subsidised fee costs.[123]

In conclusion, austerity has weakened the financing, accessibility and quality of public services such as health and education, while shifting the financial burden onto households. This erosion of public provision has left many questioning the value of paying taxes when basic rights remain out of reach. Thus, a rights-based approach to public finance, anchored in equity, participation, and accountability, is urgently needed to restore trust and ensure that fiscal policies uphold, rather than undermine, human dignity.

[120] Ibid
[121] Constitution of Kenya (2010) Article 53 (b)
[122] Universities Fund (2025) *Court of Appeal Reinstates Higher Education Funding Model.*
[123] As shared by Naomi Masai Chebet, student at the Kenya Methodist University during the Kenyan Struggles in the Global Fight Against Inequality - A Peoples' Alternatives Assembly 20 May 2025.

Recommendations to Move Beyond Austerity: Advancing Tax and Debt Justice to Finance Public Services and Realise Human Rights in Kenya

Given the negative impacts of austerity policies, there is an urgent need for the government to replace austerity with progressive, rights-based fiscal reforms that expand the fiscal space, protect public services, with a particular focus on strengthening education and health services and stimulate inclusive economic growth. A key part of this shift lies in progressive domestic resource mobilisation grounded in the 4Rs principles of tax justice[124] (Revenue, Redistribution, Repricing, and Representation) and the 4S framework (Size, Share, Scrutiny, and Sensitivity)[125] alongside rights-based debt management and the transformation of the international financial architecture.

The Case for Tax Justice: Strengthening Domestic Resource Mobilisation as an Alternative to Social Spending Cuts

Tax justice offers Kenya a pathway to break free from the cycle of austerity and debt dependence that continues to erode public service financing and delivery. By adopting progressive, transparent and equitable tax policies, the government of Kenya can mobilise sustainable domestic resources while reducing reliance on external borrowing and regressive taxes that disproportionately burden low-income households.

Achieving this requires coordinated and accountable leadership across the following key State institutions:

[124] Tax Justice Network (2021) *Tax Justice & Human Rights: The 4 Rs and the realisation of rights*.

[125] These principles can help ensure that Kenya not only generates sufficient revenue but also allocates finances equitably and sustainably to public services like education and health care, thereby fostering economic stability and inclusive development.

A. National Treasury and Economic Planning, Parliament (both the National Assembly and the Senate), Kenya Revenue Authority and the Government of Kenya should:

I. Curb revenue leakages by tackling illicit financial flows (IFFs) and wasteful tax incentives: Kenya loses an estimated 2.34% of its GDP (approximately USD 1.06 billion) to tax-related IFFs. These losses significantly affect the size of the budget and the capacity of the state to allocate sufficient funds to provide adequate public services. To illustrate the scale, tax revenue lost in a single year due to tax-related IFFs matches the government's entire healthcare allocation in the 2023/2024 budget.[126] Moreover, according to Tax Justice Network, if 20% of the funds lost to tax abuse were allocated to education, over 124,082 children could be enrolled in primary schools in Kenya, with the number of teachers increasing by 16.7%.[127] This could also result in the construction of new schools, further expanding access to education for children across Kenya.

Additionally, Kenya offers overly generous tax incentives to multinational companies. In 2020, estimates revealed that Kenya lost approximately 2.96% of its GDP, equivalent to KES 318.3 billion due to tax incentives, startlingly, one percentage point less than what was allocated to the education system the same year.[128] Although after the pandemic certain tax incentives were cut, Kenya continued to rely on them to attract foreign investment, fuelling a "race to the bottom" where countries undercut each other by offering even more generous tax breaks to multinationals. In practice, this deprives the state of vital revenue while providing limited economic benefits.

Actions needed:

- The National Treasury should strengthen its collaboration with the Kenya Revenue Authority (KRA) to detect and deter tax evasion, implement automatic exchange of information with other countries, complete the operationalisation of the beneficial ownership register and enforce country-by-country reporting by multinational corporations.

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126 Thomson Reuters Foundation (2024). *Illicit Financial Flows in Kenya, Ghana, and Tanzania: Understanding the Law and Opportunities for Reform.* p.38.

127 Tax Justice Network (2024) *Stolen futures: The impacts of tax injustice on the Right of Education.*

128 Tax Justice Network Africa and OXFAM (2022) *The Kenya Fair Tax Monitor.* p. VII; Trading Economics (n.d.) *Kenya- Public Spending on Education, Total (% of GDP).*

- The Ministry of Finance should review all investment-related tax incentives through a mandatory annual tax expenditure report and regular cost-benefit analyses, phasing out exemptions that yield low social or economic returns.

II. Implement progressive tax policies including wealth tax as a redistributive tool to address poverty and inequality: This would include shifting the burden away from low-income households by lowering taxes on everyday essentials like food and healthcare items,[129] while increasing effective taxation on multinational corporations and high-net-worth individuals (HNWIs). Fewer than 0.1% of Kenyans, approximately 8,300 individuals, own more wealth than the remaining 99.9% of the population, over 44 million individuals.[130] In this context, taxation can play a critical role as a redistributive tool to address poverty and inequality and guarantee sensitivity of the budget, ensuring that allocation of funds considers the needs of the most marginalised.[131]

Action needed:

Include a wealth tax in the Medium-Term Revenue Strategy and lower VAT on basic goods while increasing taxes on luxury consumption.

By curbing IFFs, scrapping wasteful tax incentives and implementing progressive tax policies including wealth tax, Kenya could increase its tax-to GDP ratio by 5 percentage points and generate an estimated additional revenue of USD 5.37 billion.[132] While maintaining the current allocation to the education sector, this increase would enable an additional 1,464,830 students in Kenya to access the education system between 2025 and 2030.[133] These additional funds could also be used to build new hospitals, train more healthcare professionals, ensure better pay, as well as improve access to public healthcare for millions of Kenyans. For women, it would mean 1,965 maternal deaths cumulatively averted

129 Nsenduluka, M. and Etter-Phoya, R. (2023) *The Principles of Tax Justice and the Climate Crisis in Africa's Resource-Rich Nation.*
130 Oxfam International (2025) Kenya: extreme inequality in numbers.
131 ActionAid International (2023) *Transforming Education Financing: A toolkit for activists.*
132 Tax Justice Network (2024) *Stolen futures: The impacts of tax injustice on the Right to Education*, p. 63.
133 Calculations done using the Government Revenue and Development Estimations (GRADE) Tool. The GRADE tool is based on econometric models of the relationship between government revenue, governance quality, and progress on key SDG indicators. Drawing on four decades of data from 196 countries, it translates changes in government revenue into projected impacts on governance and human development-such as increases in child survival, maternal health, school attendance, and access to clean water, sanitation, and electricity.

between 2025 and 2030, and for children, it would mean 17,800 under-5 deaths cumulatively averted over the same period.[134]

III. Reprice harmful products or activities (increasing 'sin tax' and earmarking revenue'): Tax rates on public 'bads' like tobacco, alcohol and extractive industries must be high enough to serve three objectives: strictly controlling them, yielding more revenue and earmarking such revenue towards remedying the damage they cause. For instance, a report by the National Tax Payers Association[135] found that current taxes on tobacco in the country are way below the WHO's recommended baseline of at least 70-75 per cent of the product's retail price.[136] The report recommended that Kenya ensure compliance with the WHO Framework Convention on Tobacco Control (FCTC) by reforming its tiered tax system and adopting a uniform specific tax on all cigarette brands and types.[137] Repricing tobacco products not only reduces tobacco consumption and prevents tobacco related illnesses, which cost the Kenyan economy KES 47 billion (333 million USD)[138] annually, but also offers an opportunity to increase domestic resources for respiratory diseases through earmarking.

Action needed:

Increase excise ("sin") taxes on tobacco to meet WHO's recommended 70-75% retail price threshold and earmark proceeds for preventative health services.

IV. Enhance transparency and accountability in the use of public resources: Guarantee public participation to strengthen democratic processes, including those related to tax and fiscal policy.

Action needed:

Publish comprehensive tax collection data and budget performance reports quarterly for public consumption. Strengthen public participation by facilitating public involvement in the review of tax policies or measures.

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134 Ibid.

135 National Taxpayers Association (2022) *Tobacco Taxation and its Implications on Universal Health Coverage (UHC) Financing in Kenya*.

136 Ibid.

137 Ibid.

138 University of Bath and Tax Justice Network Africa (TJNA) (2025) *Missing Millions- A cross-examination of British American Tobacco Kenya's Tax Bill*, p.10.

V. Leverage the global mobilisation for major shifts in the international financial architecture: Every year, countries lose nearly USD 480 billion due to tax abuse by multinational corporations (MNCs) and HNWIs, facilitated by a skewed international tax architecture.[139] This money could have been used to fund public services, including education and healthcare. In 2023, the UN General Assembly passed a historic resolution, Resolution 78/230, launching a process to create a UN Framework Convention on International Tax Cooperation, recognising the flaws in the current system and advocating for a fairer, more inclusive global tax framework.[140] This marked the beginning of a major shift from global tax rules being shaped by the OECD, a group of wealthy countries, to a more inclusive and democratic process at the UN, where all countries have an equal voice. The discussions around the UN Tax Convention seek to address global tax abuse, which deprives nations like Kenya of essential resources for public services and human rights. Kenya has been actively participating in the UN Tax Convention negotiations as part of the Intergovernmental Negotiating Committee together with Ghana, Nigeria, and Egypt, representing African countries. Through sustained participation in this process, Kenya can advocate for a fairer international financial architecture.

Action needed:

Once the UN Tax Convention is adopted, the government should sign and ratify it without delay and establish a national implementation framework to translate its commitments into practice. This will ensure that the additional revenue generated through a more equitable global tax system are channelled into financing quality public services, particularly education and health.

Additionally, the following actors can implement the recommendations below in their specific capacities:

B. Parliament (National Assembly and Senate):

I. Through the Budget and Appropriations Committee, guarantee that allocations meet or exceed international benchmarks, 15% of total expenditure for the health sector and 6% of GDP for the education sector, even during mid-term reviews. Sustained funding is vital to

139 Tax Justice Network (2024) *Stolen futures: The impacts of tax injustice on the Right to Education.*

140 Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) (2024) *The UN Tax Convention: A Powerful Tool for Equality and Human Rights*.

reversing teacher shortages, improving schools and health centres infrastructure, and health worker strikes.

II. Ensure that parliamentary oversight in privatisation decisions particularly for SOE's tied to health, education and social protection. This requires that the decision to privatise SOE's that provide these essential public services are subject to public hearings and human rights impact assessment before they are privatised.

III. The Senate should promote equity in revenue sharing by ensuring that the County Revenue Allocation Formula prioritises under-resourced counties, thus reducing regional inequalities.

The National Assembly and Senate should go beyond procedural compliance with Article 118 of the Constitution by ensuring inclusive, accessible and transparent public participation in all budgetary, fiscal and legislative processes.

C. Ministries of Health and Education

To strengthen the financing, delivery and access of these essential public services.

The Ministry of health should:

I. Conduct an updated comprehensive health equity and infrastructure assessment, by mapping service and facility gaps across counties and integrate findings into the health sector budget and county allocations. This ensures that the resources are distributed to the most underserved regions, improving fairness and fulfilling the constitutional right to health.

- Through the county governments, scale up investment in primary healthcare and health workforce deployment by prioritising the recruitment, equitable distribution of healthcare workers and fair remuneration of healthcare workers. A strong primary healthcare system advances Universal Health Coverage.
- Develop a transparent, fully costed implementation plan for the Social Health Insurance Fund (SHIF), by clearly defining the coverage levels, benefit packages and services available under the fund. This clarity builds public trust, prevents exclusions, and ensures that SHIF achieves its intended goal of equitable access to healthcare.

- Collaborate with the National Treasury and the Kenyan Revenue Authority (KRA) in earmarking sin-tax revenues from tobacco and alcohol, by allocating these revenues to essential medicines, preventive health and community health initiatives.

The Ministry of Education should:

I. Undertake a national audit of school infrastructure, staffing and access gaps, by identifying and prioritising investment for classrooms, sanitation and teacher deployment in all areas. Data driven planning ensures resources are equitably distributed, reducing inequalities in access and quality of public education.

II. Increase and sustain allocations for inclusive education and social protection programmes, by scaling up funding for school feeding, special needs education and the free primary and free day secondary education schemes. Such measures reduce the financial burden on low-income families and marginalised communities.

III. Reform the higher education funding model to ensure equity, affordability and sustainability, by reviewing the funding model to guarantee a fair and transparent funding model. The purpose is to ensure that all qualified students, regardless of their socio-economic background can access higher education without incurring excessive debt.

D. Oversight institutions

I. Office of Controller of Budget: Flag instances where budget execution deprioritises rights-based spending.

II. Auditor General: Include human rights and social impact criteria in the audit assessments of education and health.

III. Public Procurement Regulatory Authority: Enforce transparent procurement in purchases made for both schools and hospitals in terms of infrastructure and resources needed for quality public service delivery.

IV. Ethics and Anti-Corruption Commission: Prioritise any corruption investigation cases alerted in the health and education sectors.

Strong independent oversight safeguards public funds, ensuring that every shilling raised benefits citizens access to quality public services directly.

F. County Governments

I. Ensure that participatory budgeting on health and education at the county level is well adhered to before the county budgets are approved.

II. Publish quarterly budget implementation reports that details how much was allocated and spent on schools and health facilities managed under the county government.

County governments are the frontline providers of health and early education, therefore accountability at this level ensures the necessary public services reach people at the most grassroot levels.

G. Public & Civil Society

I. Citizens: Actively engage when public participation opportunities arise at the National or County level and demand transparency on education and health spending.

II. Civil Society Organisations: Produce independent budget analyses, track public expenditure, and advocate for equitable allocations and the prioritisation of public service provision.

The Case for Debt Justice: Rights-Based Debt Management Instead of Debt-Driven Austerity

A rights-based debt management would ensure that human rights and people's wellbeing are prioritised over debt repayment, especially when the debt legitimacy is questionable. In the same spirit, states should ensure that their borrowing does not undermine their obligation under international human rights law to respect, protect and fulfil human rights. [141]

International financial Institutions and other creditors also have an obligation to respect international human rights law. This implies a duty to refrain from formulating, adopting, funding and implementing policies and programmes which directly or indirectly contravene the enjoyment of human rights.[142] They must assess how their recommendations affect

[141] Lumina, C. (2011) *Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: Guiding Principles on Foreign Debt and Human Rights (A/HRC/20/23)* . United Nations Human Rights Council, 10 April. Principles 48-50.

[142] Ibid.

states' ability to finance rights, particularly in the context of heavily indebted countries.[143]

In this regard, the following actions are recommended:

A. To the Government of Kenya:

I. The National Treasury should conduct a human rights-based debt sustainability analysis before any major borrowing or refinancing, to ensure that repayments do not undermine education and health funding. This entails prudent strategies focused on debt management as well as progressive fiscal reforms that boost the fiscal space to avoid deeper financial instability, accompanied by a significant shift in the international financial architecture.

II. Enhance transparency in the borrowing process, and by publishing all loan agreements, debt sustainability analyses, and related conditionalities with all lenders to enable public scrutiny and accountability.[144]

III. Ensure inclusive and participatory debt negotiations, drawing on consultation from the public/affected communities, civil society and oversight institutions to ensure that the debt/borrowing process reflects social and human rights priorities.[145]

IV. Adopt sustainable debt management frameworks such as having in place transparent legislation, policies and systems with clear roles and responsibilities for borrowing and lending as well as managing and monitoring debt.[146]

V. Support the calls for a UN Framework Convention on Sovereign Debt to promote a fair and transparent multilateral debt resolution mechanism as well as responsible lending and borrowing guided by human rights principles.[147]

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143 Committee on Economic, Social and Cultural Rights (CESCR) (2025) *Tax policy and the International Covenant on Economic, Social and Cultural Rights* E/C.12/2025/1.

144 Lumina, C. (2011) *Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: Guiding Principles on Foreign Debt and Human Rights (A/HRC/20/23)* . United Nations Human Rights Council, 10 April. Principle 43.

145 Ibid Principle 42.

146 Committee on the Rights of the Child (2016) *General comment No. 19 on public budgeting for the realization of children's rights (art. 4)* CRC/C/GC/19, para. 78.

147 ActionAid (2025) *Who Owes Who,* p.6. Available at https://actionaid.org/publications/2025/who-owes-who (Accessed: 15 March 2025); Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) (2025) *FfD4: GI-ESCR's Position Paper Zero Draft version to be discussed at FfD4 3rd Pre-Com (10-14 February 2025).* Available at: https://gi-escr.org/en/resources/publications/gi-escrs-position-paper-for-the-fourth-international-conference-on-financing-for-development-ffd4 (Accessed 20 May 2025).

B. To International Financial Institutions and other lenders:

I. Integrate human rights obligations into all loan and credit agreements to ensure that fiscal and economic reforms support the realisation of economic, social and cultural rights.[148]

II. Ensure that debt restructuring processes safeguards social spending on health, education and other essential public services, preventing austerity-driven cuts that harm vulnerable populations.[149]

III. Enhance transparency in the borrowing process, and by publishing all loan agreements, debt sustainability analyses, and related conditionalities with Kenya to enable public scrutiny and accountability.[150]

IV. Ensure inclusive and participatory debt negotiations, drawing on consultation from the public/affected communities, civil society and oversight institutions to ensure that the debt/borrowing process reflects social and human rights priorities.[151]

V. Regularly conduct human rights impact assessments for all their lending programmes, ensuring that debt repayment and financial stability do not undermine economic, social and cultural rights. [152]

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148 GI-ESCR (2025) *FfD4: GI-ESCR's Position Paper Zero Draft version to be discussed at FfD4 3rd Pre-Com (10-14 February 2025).*

149 Committee on Economic, Social and Cultural Rights (CESCR) (1999) *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)* E/C.12/1999/10, para. 60

150 Lumina, C. (2011) *Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: Guiding Principles on Foreign Debt and Human Rights (A/HRC/20/23)*. United Nations Human Rights Council, 10 April. Principles 42 and 43.

151 Ibid. Principle 42.

152 Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) (2025) *FfD4: GI-ESCR's Position Paper Zero Draft version to be discussed at FfD4 3rd Pre-Com (10-14 February 2025).*

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ABOUT GI-ESCR:

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental organisation. Together with partners around the world, GI-ESCR works to end social, economic and gender injustice using a human rights approach.

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