

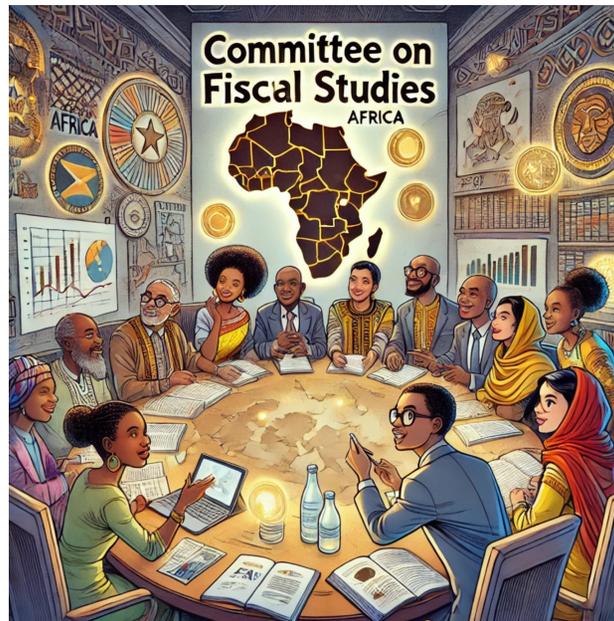
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**WRITTEN SUBMISSIONS  
ON THE  
2026 BUDGET POLICY STATEMENT  
AND  
2026 MEDIUM TERM DEBT MANAGEMENT STRATEGY**

*Submitted to*

**The Clerk of the Senate of the Republic of Kenya**

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## I. INTRODUCTION

These submissions are made in response to the invitation by the National Assembly for public memoranda on the 2026 Budget Policy Statement and the Medium Term Debt Management Strategy (2026/27–2028/29), tabled on 11 February 2026 pursuant to Sections 25 and 33 of the Public Finance Management Act, Cap. 412A. The two instruments are assessed together because they jointly constitute the fiscal framework within which Kenya’s revenue, expenditure, borrowing, and debt service obligations are determined over the medium term. Section 33(3) of the PFM Act requires that the MTDS be aligned to the broad strategic priorities and policy goals set out in the BPS. These submissions test whether such alignment has been achieved, whether the commitments in both documents are internally consistent and mutually achievable, and where structural gaps undermine the credibility of the medium-term fiscal path.

The analysis proceeds from the premise that debt management is not a technocratic exercise separable from the broader political economy of public finance. The composition, cost, and risk profile of the public debt portfolio bears directly upon the fiscal space available for development expenditure, the progressive realisation of socio-economic rights guaranteed under Article 43 of the Constitution, and the intergenerational equity obligations that the MTDS itself identifies as a strategic objective. The memorandum therefore examines both documents through a lens that integrates technical fiscal analysis with constitutional obligations, political economy considerations, and the practical question of whether Kenya can finance its stated commitments within the resource envelope disclosed.

## II. MACROECONOMIC ASSUMPTIONS: CONSISTENCY AND REALISM

Both documents operate on the same macroeconomic baseline, which is structurally necessary given the PFM Act’s alignment requirement, but also means that any fragility in the assumptions cascades through both frameworks simultaneously.

Indicator	BPS Position	MTDS Position	Assessment
<b>GDP Growth</b>	5.3% medium-term average; BETA transformation pillars	Adopts BPS baseline for cost-risk modelling	Consistent but ambitious. No stress test against lower growth.
<b>CBR / Interest Rates</b>	Eased 13.0% to 9.25% (Aug 2024–Oct 2025); further easing expected	Weighted average IR 8.8%; projects implied rate rising to 9.5% by 2029	Contradiction: BPS expects easing; MTDS projects rising implied rate.
<b>Exchange Rate</b>	KSh depreciation risk acknowledged; reserves 4.1 months import cover	FX debt 47% of total; projects reduction to 39.9% by 2029	Consistent direction but no joint stress test of depreciation on both revenue and debt.
<b>Global Growth</b>	3.2% (2025), 3.1% (2026); deceleration	Acknowledges external demand risk but no scenario analysis	Both note risk; neither quantifies the fiscal impact.

The most consequential inconsistency lies in the interest rate trajectory. The BPS presents the monetary easing cycle as a positive development supporting economic recovery and private sector credit growth. The MTDS, however, projects the implied interest rate on the debt portfolio rising from 8.8 per cent to 9.5 per cent by 2029. The likely explanation is that the shift toward longer-duration fixed-rate instruments carries a term premium that offsets the policy rate reduction, but this interaction is nowhere analysed in either document. Neither document subjects the 5.3 per cent growth assumption to a downside scenario, despite both acknowledging climate risk, global deceleration, and domestic uncertainties. A one percentage point shortfall in growth would raise the debt-to-GDP ratio by approximately two to three percentage points over the medium term and reduce revenue collections proportionally.

### III. THE REVENUE–FINANCING NEXUS

Dimension	BPS States	MTDS Assumes	Coherence Assessment
<b>Ordinary Revenue/GDP</b>	13.9%, declined from 18.1%	Adopts BPS revenue baseline for financing gap computation	Consistent but alarming. No revenue recovery strategy in either document.
<b>Tax Expenditure</b>	No tax expenditure statement published	Silent; financing need computed on gross deficit	Critical gap: borrowing may be financing foregone revenue. Neither quantifies the problem.
<b>HNWI Taxation</b>	No dedicated HNWI unit or strategy	Silent	Missed revenue mobilisation opportunity in both documents.
<b>Digital Economy Tax</b>	1.5% DST mentioned; no comprehensive framework	Silent	Both fail to address a fast-growing tax base.
<b>IFF Recovery</b>	FATF grey-listing noted; no quantified programme	Silent; no IFF recovery factored into financing	BPS acknowledges the problem; MTDS ignores its financing implications.
<b>Natural Resources Revenue</b>	Mining Strategic Plan 2023–2027 referenced; mineral mapping of 970 occurrences across 15 counties	Silent on extractive revenue potential	IEA estimates potential mining revenue at USD 3 billion annually; current yield KSh 35.23 billion (2022). Neither document integrates extractive fiscal potential into revenue strategy.
<b>ISDS Award Proceeds</b>	Not mentioned	Not mentioned	Kenya has successfully defended multiple ISDS claims (Cortec Mining, World Duty Free). Costs incurred in defence and any costs awards recovered are not disclosed or allocated in either document.

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The central tension in the fiscal framework is that the BPS discloses a revenue base that has contracted to 13.9 per cent of GDP, one of the lowest ratios in the East African Community, while the MTDS must finance a deficit generated in part by that very contraction. If ordinary revenue had been maintained at the 18.1 per cent ratio, approximately KSh 730 billion per annum in additional revenue would be available, reducing the borrowing requirement correspondingly. Neither document confronts this arithmetic. The BPS contains no explicit revenue recovery strategy with quantified targets and timelines, and the MTDS proceeds as though the revenue trajectory is an exogenous parameter.

This disconnection is compounded by the absence of a tax expenditure statement. Until the fiscal cost of exemptions, incentives, and preferential regimes is quantified and disclosed, it is impossible to determine whether the deficit that the MTDS finances reflects a genuine revenue capacity constraint or a policy choice to substitute borrowing for taxation. The IMF Fiscal Transparency Code, which Kenya has committed to in principle, requires the publication of tax expenditure data. Both documents are silent on this obligation.

### **A. Natural Resources: An Uncosted Revenue Frontier**

Kenya's mineral endowment represents a significant but largely unintegrated revenue source. The BPS references the Mining Strategic Plan 2023–2027 and notes the comprehensive geophysical survey that identified 970 mineral occurrences across 15 counties, including titanium in Kwale, rare earths at Mrima Hill, gold in western Kenya, and soda ash in the Rift Valley. The Institute of Economic Affairs estimates that annual revenues from mining, excluding oil and gas, could reach approximately USD 3 billion through royalties, taxes, and fees. Against this potential, actual mineral production revenue stood at KSh 35.23 billion in 2022, with titanium ore accounting for 80 per cent. This gap between potential and realised revenue is one of the most consequential omissions in the fiscal framework.

Neither the BPS nor the MTDS integrates extractive sector revenue projections into the medium-term fiscal path. The MTDS's financing strategy calculates the borrowing requirement against current revenue baselines without accounting for the revenue uplift that a structured minerals fiscal regime could deliver. The BPS references value addition initiatives, including a gold refinery in Kakamega County, but provides no fiscal impact assessment, royalty revenue projections, or analysis of how mining receipts would be allocated between national and county governments under the Mining Act 2016. A fiscal framework that borrows at 67.8 per cent of GDP whilst leaving a potential USD 3 billion annual revenue source substantially undeveloped warrants explanation.

### **B. ISDS Awards: Fiscal Transparency on Litigation Outcomes**

Kenya has been involved in several investor-state disputes, two of which have concluded in the State's favour. In **Cortec Mining Kenya Limited v. Republic of Kenya** (ICSID Case No. ARB/15/29), the tribunal dismissed all claims in October 2018, finding that the mining licence had been issued contrary to Kenyan law and did not qualify as a protected investment under the UK-Kenya BIT. The claimants were ordered to pay Kenya half of its legal costs plus all ICSID arbitration costs. The annulment application was dismissed in March 2021. In **World Duty Free Company Limited v. Republic of Kenya** (ICSID Case No. ARB/00/7), the tribunal dismissed the USD 500 million claim in October

2006, holding that the underlying contract had been procured through bribery and was therefore unenforceable as a matter of international public policy.

Neither the BPS nor the MTDS discloses the costs incurred by the Government in defending these proceedings, the costs awards recovered, or how any recovered amounts have been or will be applied. This is a transparency deficit. The defence of sovereign regulatory authority in ISDS proceedings is a legitimate public expenditure, but the fiscal framework should account for it. More importantly, the outcomes of these cases, particularly the Cortec Mining decision, which affirmed the primacy of environmental impact assessment requirements and the State’s right to revoke irregularly issued licences, carry fiscal implications for the mining sector’s investment climate that should inform the BPS’s approach to extractive sector governance and revenue projections.

#### IV. FINANCING STRATEGY: TARGETS, OUTTURNS, AND CREDIBILITY

FY	MTDS Ext. Target	Actual External	Deviation	Concessional Target	Concessional Actual	BPS Link
2020/21	28%	19%	-9pp	—	—	—
2021/22	27%	15%	-12pp	—	—	—
2022/23	25%	22%	-3pp	—	—	—
2023/24	50%	27%	-23pp	—	—	—
2024/25	45%	17%	-28pp	15%	5.6%	Revenue shortfall noted
2026 MTDS	22%	?	?	10%	?	No contingency framework

The five-year record of systematic and widening deviation between MTDS external financing targets and actual outturns is the single most significant credibility challenge facing the 2026 Strategy. The deviation has widened from 9 percentage points in FY2020/21 to 28 percentage points in FY2024/25. The MTDS attributes this to delays in external disbursements, but the BPS provides no complementary analysis of why these delays recur or what institutional reforms address them. The 2026 MTDS targets 22 per cent external gross borrowing; a belated acknowledgment of the structural constraint. But the absence of a contingency framework means that when external financing falls short, the domestic market must absorb the shortfall without pre-authorized limits, market capacity assessment, or T-bill ceiling constraints.

The concessional financing paradox compounds this concern. Both documents express a preference for concessional financing, but neither establishes a credible pathway to achieving it. The MTDS targets 10 per cent concessional external borrowing; the 2024 MTDS targeted 15 per cent and achieved 5.6 per cent. The BPS references Kenya’s IDA graduation trajectory, which means the pool of concessional financing is

shrinking, not expanding. The MTDS’s concessional targets should reflect this structural reality, and the BPS should articulate the alternative concessional or quasi-concessional sources—climate finance, green bonds, blended finance—that would substitute for declining IDA access.

## V. SECTORAL FINANCING: CAN THE CONSTITUTIONAL ENTITLEMENTS BE DELIVERED?

Article 43 of the Constitution guarantees every person the right to the highest attainable standard of health, accessible and adequate housing, reasonable standards of sanitation, freedom from hunger, clean and safe water, social security, and education. The BPS articulates expenditure priorities across these sectors, but the question that neither document answers is whether the fiscal envelope constrained by debt service consuming 48.5 per cent of ordinary revenue can credibly deliver these entitlements over the medium term.

Sector	BPS Allocation / Commitment	International Benchmark	Financing Gap Analysis	MTDS Implication
<b>Education</b>	KSh 658.5B (15.7% of budget); 30,000 teachers; 20,000 classrooms; school meals for 3 million	UNESCO: 4–6% GDP or 15–20% of public expenditure	Meets the 15% expenditure share but no analysis of per-pupil spending adequacy, infrastructure backlog, or transition to competency-based curriculum costs.	Debt service of 5.9% GDP exceeds education’s share. No ring-fencing of education from fiscal consolidation.
<b>Health</b>	UHC: 27 million enrolled in Social Health Authority; community health promoters 107,831; facility construction	Abuja Declaration: 15% of national budget to health. WHO: USD 86 per capita for essential package	Health allocation not separately quantified in BPS as % of budget. Per-capita health spending not disclosed. No progressive realisation framework.	Interest payments crowd out health investment. MTDS does not assess how borrowing for health infrastructure generates fiscal returns.
<b>Social Protection</b>	2.49 million vulnerable households sponsored; school meals programme	ILO Social Protection Floor: basic income security for children, working age, elderly	No comprehensive social protection budget line. Programmes scattered across ministries. No costed floor.	Fiscal consolidation targets in MTDS may compress social protection transfers. No expenditure floor mechanism.
<b>Housing</b>	BETA priority; affordable housing programme referenced	250,000 units annual target (government stated objective)	No costed financing plan for housing programme. PPP structure unclear. Tax incentive framework for housing not quantified in tax expenditure.	Housing bonds mentioned in BPS but not integrated into MTDS financing instrument assessment.

The most significant gap is the absence of a progressive realisation framework connecting constitutional entitlements with fiscal allocations. Article 21(2) of the Constitution requires the State to take legislative, policy, and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under Article 43. Neither the BPS nor the MTDS establishes a framework that quantifies the minimum core obligations for each entitlement, identifies the fiscal resources required to meet them, and demonstrates how the borrowing programme contributes to (rather than detracts from) their realisation. The Supreme Court’s jurisprudence in the context of socio-economic rights demands evidence that the State is making measurable progress toward full realisation; the BPS provides programme descriptions but not a costed progressive realisation framework, and the MTDS is entirely silent on the relationship between its financing strategy and service delivery outcomes.

The health sector illustrates this gap most acutely. The BPS discloses the establishment of the Social Health Authority and the enrolment of 27 million persons, the deployment of over 107,000 community health promoters, and facility construction. But it does not disclose the total health allocation as a proportion of the national budget, precluding assessment against the Abuja Declaration benchmark of 15 per cent. The MTDS, for its part, does not assess how health infrastructure borrowing generates returns sufficient to service the debt, a critical question for intergenerational equity, since health investment yields productivity gains over decades, not fiscal years.

## VI. DIGITAL TRANSFORMATION: INFRASTRUCTURE, DATA CENTRES, AND FISCAL IMPLICATIONS

Digital Component	BPS/Non-Financial Indicators	MTDS Implication	Assessment
<b>Fibre Infrastructure</b>	37,645 km to be installed; 27,516 Wi-Fi hotspots targeted	Silent	Massive capital programme with no financing source identified in either document.
<b>Data Centres</b>	Naivasha: 0% operationalised (target 131%); Ruaraka: 30% expansion; Konza: 80% e-Gov onboarding	Silent	Three concurrent data centre programmes at different stages; no consolidated costing, no PPP framework, no revenue model.
<b>Konza Smart City</b>	Conference facilities 80% complete; core utilities maintenance 100/300	Silent	Infrastructure advancing but no fiscal sustainability analysis or revenue generation projections.
<b>Digital Hubs</b>	100 digital hubs targeted; 0/300 managed and maintained currently	Silent	Scale of ambition (300 hubs) vastly exceeds current management capacity (0).
<b>Youth Digital Skills</b>	1 million youth; 155,000 online jobs linked; 34,000 digital devices	Silent	Employment-linked training at scale; no unit cost analysis or return-on-investment assessment.

<b>Cybersecurity</b>	SOC 30% complete; 20,000 data controllers to be registered; 700 officers to train	Silent	Regulatory infrastructure incomplete whilst data centre expansion accelerates—sequencing risk.
<b>Energy Implications</b>	Not addressed	Not addressed	Data centres are energy-intensive. No assessment of power supply adequacy, cost, or carbon footprint.
<b>Revenue Model</b>	Not addressed	Not addressed	Neither document articulates how data centre and digital infrastructure investments will generate fiscal returns to service associated debt.

The digital transformation programme disclosed in the BPS and the Non-Financial Indicators is among the most capital-intensive commitments in the fiscal framework, yet it is entirely absent from the MTDS’s financing analysis. Three data centre programmes: Naivasha (0 per cent operationalised), Ruaraka (30 per cent expansion), and Konza (80 per cent e-Government onboarding) are proceeding simultaneously without a consolidated cost analysis, public-private partnership framework, or revenue generation model. The 37,645 kilometres of fibre optic cable, 300 digital hubs, and 27,516 Wi-Fi hotspots represent transformative infrastructure, but neither document addresses the capital expenditure requirements, the operational expenditure for maintenance, or the fiscal returns that would justify borrowing to finance these programmes.

Several critical questions remain unanswered. First, what is the total capital cost of the data centre programme and what proportion is to be financed through borrowing versus private investment or PPP structures? Second, what are the energy requirements of the planned data centres, and has the BPS accounted for the associated power generation and transmission costs within the energy sector allocations? The Non-Financial Indicators disclose that the 200MWh Battery Energy Storage System is only 4 per cent installed and the 80.3MW Olkaria VII geothermal plant is at 8 per cent completion, suggesting that the energy infrastructure needed to support data centre operations is itself at an early stage. Third, what revenue model underpins the data centre investments—will they generate user fees, attract private colocation tenants, or serve exclusively government functions? Without this analysis, neither the BPS nor the MTDS can demonstrate that the digital transformation programme is fiscally sustainable or that the associated borrowing satisfies the intergenerational equity test.

The National Treasury allocated KSh 12.7 billion to the ICT sector under the digital superhighway initiative in FY2025/26, with an additional KSh 3.1 billion for the Konza Data Centre and Smart City. The Kenya Digital Economy Acceleration Project (KDEAP), a USD 390 million World Bank-funded programme, provides additional financing alongside an estimated USD 100 million in private capital mobilisation. However, the fiscal framework raises several concerns that neither the BPS nor the MTDS adequately addresses.

Dimension	BPS Position	Gaps Identified	Fiscal Implication
<b>Data Centre Strategy</b>	Konza Data Centre: KSh 3.1B allocation. Private sector investment growing (Digital Realty, IXAfrica, PAIX, AWS Edge).	No comprehensive data centre policy. No analysis of sovereign data hosting requirements, energy costs, or water consumption. No assessment of data sovereignty implications.	Capital-intensive infrastructure requires long-term financing the MTDS does not specifically provision. Recurrent costs (energy, maintenance, security) not projected.
<b>Fibre Infrastructure</b>	Target 100,000 km fibre under Digital Masterplan. 13,590 km achieved by 2025.	86,410 km gap. No costed implementation plan. No analysis of per-km deployment cost in underserved areas vs. urban corridors.	Substantial capital expenditure requirement over medium term. Neither BPS nor MTDS quantifies the total financing need or identifies the borrowing component.
<b>Energy Requirements</b>	Kenya's geothermal advantage noted for data centres. Renewable energy at 60% of generation.	No analysis of incremental energy demand from data centres and digital infrastructure. No assessment of grid capacity constraints.	Energy infrastructure investment to support digital transformation not integrated into either document's expenditure or financing framework.
<b>Revenue Generation</b>	Digital economy projected to contribute 9.24% of GDP. DST at 1.5% of gross transactional value.	No comprehensive digital economy taxation framework. DST is unilateral measure subject to OECD/G20 Inclusive Framework negotiations. No assessment of digital economy's contribution to the tax base.	Revenue potential from digital economy taxation could reduce borrowing requirements, but neither document quantifies this.
<b>Environmental Impact</b>	Not assessed	Data centres are water and energy-intensive. Environmental impact assessment requirements (affirmed in Cortec Mining) apply equally to large-scale digital infrastructure.	Climate-fiscal integration absent from both documents extends to digital infrastructure. Green bond eligibility of digital projects not assessed.

The absence of a comprehensive data centre strategy is particularly consequential given the convergence of several developments. Kenya is positioning itself as East Africa's data centre hub, with multiple private operators expanding capacity in Nairobi and the government investing in the Konza Smart City. Hyperscale operators including Amazon Web Services are establishing regional presence. Yet the fiscal framework does not address the sovereign data hosting implications (where government data is stored and under whose jurisdiction), the energy infrastructure investments required to power an expanding data centre ecosystem (despite Kenya's geothermal advantage, grid stability remains a constraint), or the water consumption requirements of cooling systems in a country that experiences periodic drought.

The environmental dimension is particularly relevant in light of the BPS’s own Q-CRAFT climate modelling. Data centres are energy- and water-intensive facilities whose environmental footprint must be assessed consistently with the environmental regulatory framework that Kenya successfully defended in the Cortec Mining ICSID proceedings. If Kenya’s right to enforce environmental impact assessment requirements was upheld at the international level as a basis for revoking a mining licence, it follows that equivalent rigour should apply to data centre developments, particularly those with significant energy and water consumption profiles. Neither document addresses this regulatory coherence question.

## VII. DEBT SUSTAINABILITY: DO THE TWO DOCUMENTS TELL THE SAME STORY?

Indicator	Threshold	BPS Disclosure	MTDS Disclosure	Verdict
<b>PV Debt/GDP</b>	55%	65.3% (2025); trajectory declining	65.3% (2025); projects 58.2% (2029)	Aligned but remains above benchmark throughout medium term.
<b>Debt Svc/Revenue</b>	18%	CFS 48.5% of revenue; revenue 13.9% GDP	20.6% (2025); projects below 18% from 2026	Tension: MTDS improvement assumes revenue growth BPS does not credibly project.
<b>Debt Svc/Exports</b>	15%	Current account deficit widening; no export strategy	22.5% (2025); projects below 15% from 2026	MTDS denominator (exports) depends on trade outcomes BPS does not address.
<b>Interest/GDP</b>	-	CFS dominates expenditure	5.9%; projects 5.4% (2029)	BPS confirms crowding-out but does not quantify the constraint.
<b>Refinancing Risk</b>	-	Not addressed	Debt maturing <1yr: 13.3% total, 10.0% GDP; deteriorated from 7.5%	MTDS identifies deterioration; BPS provides no complementary response.

The debt sustainability indicators present a superficially consistent picture, both documents cite the September 2025 DSA, but the underlying logic is circular. The MTDS projects improvements in the debt service-to-revenue and debt service-to-exports ratios that depend upon revenue growth and export earnings growth, both of which are contingent upon macroeconomic outcomes the BPS does not credibly underwrite. The BPS discloses a declining revenue-to-GDP ratio, a widening current account deficit, and no specific strategy for either revenue recovery or export diversification. The MTDS’s projected return to sustainability therefore rests on assumptions that the BPS’s own data contradict.

This circularity is most acute in the debt service-to-revenue ratio. The MTDS projects this ratio declining below 18 per cent from 2026, but this requires the revenue denominator to grow at rates that the BPS’s 13.9 per cent of GDP baseline does not support. In the absence of explicit revenue enhancement measures, such as an HNWI taxation programme, a comprehensive digital economy framework, tax expenditure

rationalisation, extractive sector revenue mobilisation, or IFF recovery, the projected improvement is aspirational rather than evidence-based. The two documents, read together, reveal a gap between what debt sustainability requires and what the revenue framework can deliver.

## VIII. EXPENDITURE FRAMEWORK: DEBT SERVICE VERSUS DEVELOPMENT

Dimension	BPS Position	MTDS Implication	Achievability
<b>Development Expenditure</b>	3.6% GDP; actual ministerial 25.1% (below 30% floor)	Not addressed; interest 5.9% GDP crowding out development	Incompatible: debt service consumes nearly half of revenue, leaving insufficient room for the 30% development floor.
<b>CFS Ratio</b>	48.5% of ordinary revenue	Projects interest declining to 5.4% GDP by 2029	Even at 5.4%, CFS will exceed 40% of revenue given BPS revenue trajectory. Development remains squeezed.
<b>BETA Transformation</b>	Five pillars: agriculture, MSMEs, housing, healthcare, digital	No mapping of borrowing to BETA expenditure priorities	Critical gap: MTDS cannot demonstrate that borrowed funds generate returns sufficient to service the debt.
<b>Intergenerational Equity</b>	Article 201(a); equitable burden across generations	Stated as strategic objective of MTDS	Verbally aligned but operationally hollow: no framework linking borrowing to productive investment outcomes.

The constitutional test is straightforward: borrowing that imposes repayment obligations on future taxpayers without corresponding productive capital formation violates Article 201(a)'s principle that the burden of taxation shall be shared equitably between present and future generations. The BPS's development expenditure data suggest that the bulk of borrowed resources are absorbed by recurrent expenditure and debt service, a consumption pattern that transfers costs to future generations without transferring benefits. The MTDS's intergenerational equity claim cannot be sustained without evidence that the debt is financing investment rather than consumption.

## IX. RISK MANAGEMENT: PARALLEL OMISSIONS

Risk Category	BPS Treatment	MTDS Treatment	Gap Analysis
<b>County Fiscal Risk</b>	Pending bills KSh 176.9B; wage 41.4% (vs 35%); pension arrears	Silent on county risks; mentions only SOE contingent liabilities	Major gap: county distress can transmit to national level. MTDS analytical framework incomplete.

<b>Climate Fiscal Risk</b>	Q-CRAFT: 4.2pp GDP loss by 2100; debt-to-GDP rises under non-Paris scenarios	Green bonds mentioned as frontier instrument; no climate-adjusted DSA	BPS models the risk; MTDS ignores it entirely.
<b>Private Sector Crowding Out</b>	Credit growth recovering (-1.4% to 5.9%); monetary easing supporting	82% domestic financing assumed; no absorptive capacity analysis	Directly contradictory: BPS wants credit-led recovery; MTDS plans to absorb domestic savings through government securities.
<b>FATF Grey-Listing</b>	Acknowledged; compliance timeline noted	Silent on implications for external market access	BPS flags the risk; MTDS does not assess how grey-listing affects external borrowing costs or access.
<b>Natural Resource Governance</b>	Mining Strategic Plan referenced; geophysical survey completed	Silent on extractive sector risks or revenue	Neither document assesses the fiscal risk of under-governed extractive sector or the opportunity cost of delayed monetisation.
<b>Digital Infrastructure Risk</b>	Digital Superhighway targets ambitious; cybersecurity threats noted	Silent on digital infrastructure financing or risk	Substantial capital commitments without integrated financing plan. Technology obsolescence risk not assessed.

The risk management comparison reveals a pattern of parallel but disconnected acknowledgments. The BPS identifies risks that the MTDS does not incorporate into its analytical framework, and the MTDS identifies portfolio risks that the BPS does not address in its fiscal projections. The most consequential disconnections concern county fiscal risks, climate-fiscal integration, and the emerging risks associated with large-scale digital infrastructure investment.

On county fiscal risks, the BPS provides detailed data on the distress indicators—pending bills, wage bill breaches, pension contribution arrears—but the MTDS excludes county fiscal dynamics entirely from its debt sustainability analysis. In a devolved system where counties account for approximately 18 per cent of the national budget, this exclusion is analytically indefensible.

## X. FINANCING INSTRUMENTS AND NATURAL RESOURCE MOBILISATION: WHAT BOTH DOCUMENTS MISS

Instrument	BPS Reference	MTDS Reference	Assessment
<b>Sovereign Sukuk</b>	Islamic banking acknowledged as growing sector	Absent from financing source assessment	Omission unjustified given CMA regulatory framework, growing domestic Islamic finance sector, and global sovereign Sukuk market.

<b>Green/SLB Bonds</b>	Q-CRAFT modelling; NDC commitments	Listed as frontier diversification instrument	Aspiration without infrastructure. No verification framework, pricing mechanism, or institutional roadmap.
<b>Diaspora Bonds</b>	Diaspora remittances acknowledged as significant inflow	Listed as diversification option	Neither provides market assessment, pricing structure, or regulatory pathway.
<b>Digital Retail Bonds</b>	Digital economy discussed; mobile money penetration high	Listed as frontier (domestic retail via mobile money)	Promising but undeveloped. No assessment of retail investor appetite or M-Pesa integration.
<b>Mining Revenue Bonds</b>	Mining Strategic Plan; 970 mineral occurrences mapped	Not referenced	Revenue-backed bonds against future extractive receipts could diversify financing without increasing sovereign credit risk.
<b>ISDS Cost Recovery</b>	Not referenced	Not referenced	Costs awards from successful ISDS defence should be disclosed and allocated transparently.

The omission of Sukuk is the most conspicuous gap. Kenya's Capital Markets Authority has established a regulatory framework for Islamic capital market instruments. The BPS acknowledges that Islamic banking is a growing segment of the financial sector. The global sovereign Sukuk market has expanded substantially, with issuances by both Muslim-majority and non-Muslim-majority sovereigns. A sovereign Sukuk programme would access investor pools not currently participating in Kenya's conventional government securities market, diversify the domestic creditor base, and align with the MTDS's own objective of deepening the domestic capital market.

Resource Sector	BPS/Non-Financial Indicators	MTDS Implication	Assessment
<b>Petroleum Exploration</b>	Blocks in Lamu and Kilifi Counties (L8); Kenya-Tanzania gas pipeline 50% preliminary activities; Lokichar Basin development	Silent	Active exploration and pipeline development with no fiscal regime for revenue capture articulated. No sovereign wealth fund or stabilisation mechanism discussed.
<b>Mining Sector</b>	Not substantively addressed; agricultural minerals mentioned	Silent	Mining Act 2016 provides fiscal framework but BPS does not quantify projected mining revenues or articulate a mining fiscal strategy.
<b>Rare Earths</b>	Not addressed despite Mrima Hill deposits (Cortec case)	Silent	Kenya has confirmed rare earth deposits of strategic global significance but no extraction or revenue strategy is disclosed.

<b>Geothermal</b>	KenGen geothermal training centre 98%; Olkaria rehabilitation 90%; 200MWh battery 4%	KenGen guaranteed debt KSh 83.24B included in MTDS	Geothermal as energy asset well-developed; but not monetised beyond electricity generation. No geothermal-linked green bond framework.
<b>Blue Economy</b>	BPS mentions maritime sector peripherally	Silent	Coastal and oceanic resources unquantified despite Kenya-Somalia maritime boundary resolution at ICJ conferring expanded exclusive economic zone.

Neither the BPS nor the MTDS presents a natural resource mobilisation strategy capable of contributing to deficit reduction, revenue diversification, or debt sustainability. The Non-Financial Indicators disclose active petroleum exploration in Lamu and Kilifi Counties and preliminary activities on the Kenya-Tanzania gas pipeline at 50 per cent completion, as well as coal exploration and geological data collection. Yet the BPS does not articulate the fiscal regime that would govern petroleum revenue and as a result there is no mention of production sharing agreements, royalty structures, sovereign wealth fund architecture, or stabilisation mechanisms, nor does the MTDS factor potential petroleum revenues into its medium-term financing projections.

The omission of a mining fiscal strategy is equally consequential. Kenya’s Mining Act 2016 establishes the regulatory framework for mineral extraction, but the BPS does not quantify projected mining revenues or articulate how the fiscal regime interacts with the broader revenue mobilisation agenda. This is particularly notable given that Kenya successfully defended its sovereign regulatory authority over mineral resources in the Cortec Mining ICSID arbitration (discussed in Section VIII below), confirming its right to regulate mining in the public interest. Having vindicated its regulatory sovereignty, the logical next step is to develop a fiscal strategy that monetises that sovereignty through transparent and equitable extraction agreements.

The blue economy represents a further missed opportunity. The ICJ’s 2021 ruling in the Maritime Delimitation in the Indian Ocean (Somalia v. Kenya) case, whilst politically contentious, confirmed Kenya’s claims over a substantial maritime zone. The fiscal implications of this expanded exclusive economic zone (fisheries revenue, seabed mineral rights, hydrocarbon exploration licences) are absent from both documents.

## XI. TRANSPARENCY AND CONSTITUTIONAL COMPLIANCE

Dimension	BPS Position	MTDS Position	Constitutional Assessment
<b>Gender Budgeting</b>	No gender-responsive budget statement	Silent	Both fail Article 27 (equality) and Article 201 (equity) obligations.

<b>Geographic Impact</b>	No geographic distribution analysis beyond county allocation formula	Silent	Article 201(b)(ii) requires equitable development; neither provides geographic impact analysis.
<b>Disability Budgeting</b>	No disability-responsive allocations identified	Silent	Article 54 obligations unaddressed in both documents.
<b>Tax Expenditure Disclosure</b>	No statement published	Silent; financing gap assumes zero tax expenditure visibility	IMF Fiscal Transparency Code breach. Both documents operate with incomplete fiscal picture.
<b>ISDS Expenditure Disclosure</b>	No disclosure of litigation costs or awards recovered	Silent	Public finance transparency requires disclosure of sovereign litigation outcomes with fiscal implications.

## XII. CONSOLIDATED ASSESSMENT

Thematic Area	Coherence Rating	Key Finding
<b>Macroeconomic Assumptions</b>	Partially Aligned	Same baseline but interest rate trajectories contradict; no joint stress tests.
<b>Revenue–Financing Nexus</b>	Misaligned	Revenue decline undermines MTDS sustainability projections. No revenue recovery strategy. Natural resource potential and ISDS outcomes unaddressed.
<b>Sectoral Financing (Art. 43)</b>	Weakly Addressed	Health, education, social protection commitments lack costed progressive realisation framework. Debt service crowds out entitlement delivery.
<b>Digital Transformation</b>	Partially Addressed	Infrastructure targets ambitious but uncoded. Data centre strategy absent. Environmental and energy implications unassessed.
<b>Financing Composition</b>	Weakly Aligned	MTDS adjusts targets downward but provides no contingency for continued external shortfalls.
<b>Debt Sustainability</b>	Superficially Consistent	Circular reasoning: MTDS improvement depends on revenue/export growth BPS cannot credibly deliver.
<b>Natural Resources</b>	Disconnected	970 mineral occurrences mapped but not integrated into fiscal framework. Potential USD 3B annual revenue unexploited.
<b>Risk Management</b>	Fragmented	County, climate, digital, and extractive risks acknowledged in isolation; not integrated across documents.

Transparency	Deficient	No gender budgeting, tax expenditure statement, ISDS disclosure, or geographic impact analysis.
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### XIII. RECOMMENDATIONS

On the basis of this assessment, the following recommendations are respectfully submitted for the Committee’s consideration.

- **First, an integrated revenue-debt sustainability framework.** The National Treasury should produce, as a supplementary annex to the MTDS, an analysis that explicitly links revenue mobilisation with the borrowing programme. This should quantify the borrowing reduction achievable through tax expenditure rationalisation, HNWI taxation, comprehensive digital economy taxation, extractive sector revenue development, and IFF recovery. The MTDS cannot credibly project debt sustainability improvements whilst the BPS discloses a declining revenue-to-GDP ratio.
- **Second, a natural resources revenue integration strategy.** The BPS should be supplemented with a minerals fiscal framework that projects extractive sector revenue over the medium term, identifies the fiscal regime applicable to the 970 mapped mineral occurrences, and integrates these projections into the MTDS’s financing strategy. Given the IEA’s estimate of USD 3 billion in potential annual mining revenue, this represents a material alternative to debt financing that both documents should address.
- **Third, a progressive realisation framework for Article 43 rights.** The BPS should establish minimum core expenditure allocations for health, education, social protection, and housing, benchmarked against international standards (Abuja Declaration for health; UNESCO benchmarks for education; ILO Social Protection Floor). The MTDS should demonstrate how the borrowing programme supports these allocations and assess whether debt service levels are compatible with their progressive realisation.
- **Fourth, a comprehensive digital transformation financing plan.** A consolidated investment plan for data centre development (Naivasha, Ruaraka, Konza) should be prepared, including total capital and operational expenditure, energy requirements and associated costs, revenue generation models (user fees, colocation, PPP structures), cybersecurity infrastructure sequencing, and the return-on-investment analysis necessary to justify borrowing for these programmes. The MTDS should assess whether digital infrastructure bonds or PPP-backed instruments can reduce the sovereign borrowing requirement.
- **Fifth, ISDS transparency.** The Government should disclose the total costs incurred in defending ISDS proceedings (Cortec Mining, World Duty Free, and any pending claims), the costs awards recovered, and how recovered amounts have been applied. The fiscal lessons of these proceedings particularly the environmental regulatory framework affirmed in Cortec Mining should inform both the BPS’s approach to extractive sector and digital infrastructure governance and the MTDS’s assessment of investment climate risks.

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- **Sixth, a contingency financing protocol.** The MTDS should incorporate explicit trigger mechanisms for adjusting the domestic-external financing mix when external disbursements fall short, including T-bill issuance ceilings, private sector credit impact thresholds, and market capacity assessments. The BPS should complement this with an analysis of the structural causes of external disbursement delays.
  - **Seventh, a sub-national fiscal risk annex.** The MTDS should include a county fiscal risk assessment capturing pending bills, wage bill compliance, pension contribution arrears, and contingent liability exposure. The PFM Act's framework for managing the levels and composition of national public debt cannot be operationalised coherently without accounting for intergovernmental fiscal risks.
  - **Eighth, climate-debt integration.** The Q-CRAFT modelling in the BPS should be extended into the MTDS through climate-adjusted debt sustainability scenarios, a costed green fiscal framework linked to NDC commitments, and a credible roadmap for green and sustainability-linked bond issuance including institutional infrastructure.
  - **Ninth, Sukuk inclusion.** The MTDS should include sovereign Sukuk in its financing assessment, consistent with the CMA's regulatory framework and the growing Islamic finance sector.
  - **Tenth, a development expenditure protection mechanism.** Given that debt service consumes 48.5 per cent of ordinary revenue and development expenditure has fallen below constitutional thresholds, the MTDS should include a development expenditure floor: no additional borrowing should be contracted unless the corresponding expenditure allocation meets the 30 per cent development spending threshold.
  - **Eleventh, gender and disability budgeting.** Both documents should include gender-responsive and disability-responsive budget statements, consistent with Articles 27 and 54 of the Constitution.
  - **Twelfth, joint stress testing.** The National Treasury should produce a joint BPS-MTDS stress test subjecting both documents' projections to common adverse scenarios (growth shortfall, revenue underperformance, exchange rate depreciation, external financing failure, climate shock), demonstrating how the combined fiscal framework performs under stress.

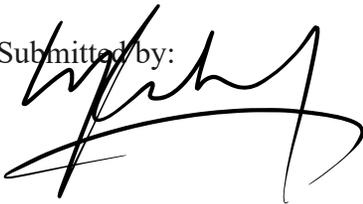
#### XIV. CONCLUSION

Read in isolation, the 2026 BPS and the MTDS each present a plausible fiscal narrative within their respective domains. The BPS articulates the macroeconomic context, revenue and expenditure framework, and sectoral policy priorities with reasonable comprehensiveness. The MTDS applies standard cost-risk optimisation methodology to the debt portfolio and selects a strategy that addresses the most pressing portfolio risks in a technically competent manner.

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Read together, however, the two documents reveal structural disconnections that undermine the credibility of the medium-term fiscal path. The revenue trajectory disclosed in the BPS cannot sustain the debt sustainability improvements projected in the MTDS. Neither document integrates extractive sector revenue potential into the fiscal framework despite a mapped mineral endowment of 970 occurrences and estimated annual revenue potential of USD 3 billion. Constitutional entitlements under Article 43 are committed to in programme terms but lack a costed progressive realisation framework compatible with the fiscal constraints both documents disclose. Digital transformation is prioritised as a BETA pillar but without a comprehensive financing plan, data centre strategy, or environmental assessment. The outcomes of successful ISDS proceedings remain fiscally invisible. County fiscal distress is documented but excluded from the debt sustainability analysis. Climate risks are modelled in the BPS but absent from the MTDS.

Section 33(3) of the PFM Act requires alignment between the MTDS and the BPS. These submissions demonstrate that the alignment is more formal than substantive: the MTDS adopts the BPS's macroeconomic parameters but does not engage with the fiscal realities those parameters disclose. The Committee is respectfully invited to require the National Treasury to address the structural gaps identified herein, so that Kenya's fiscal and debt management framework achieves the internal coherence and external credibility that sustainable public finance demands.

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