STUDY

African Debt Series Vol. 1

DEBT MANAGEMENT AND GOVERNANCE IN AFRICA

Bopelokgale Soko
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Public debt has been increasing in Africa since the 2000s. Africa's total external debt amounted to 775 billion USD in 2020, compared to 300 billion USD in 2010. In parallel, the average debt to GDP ratio increased from around 40 per cent to 57 per cent during the same period.

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There has also been a notable deterioration of the debt sustainability levels as more and more countries reach critical debt levels. Between 2012 and 2022 the number of countries in high risk of debt distress increased from 9 to 23.

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Most African countries have deployed and utilized prudent public debt management frameworks. However, these frameworks are neither comprehensive nor are they adequately implemented.

FRIEDRICH EBERT STIFTUNG

African Debt Series Vol.1

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LIST OF ACRONYMS

AFDB	African Development Bank
AFRODAD	African Forum and Network on Debt and Development
AMCP	African Monetary Corporation Program
CPIA	Country Policy and Institutional Assessment
DeMPA	Debt Management Performance Assessment
DMO	Debt Management Office
DSAF	Debt Sustainability Analysis Framework
EAC	East African Community
GDP	Gross Domestic Product
IDS	International Debt Statistic
IMF	International Monetary Fund
MEFMI	Macroeconomic and Financial Management Institute of East and Southern Africa
MTDS	Medium Term Debt Strategy
RISP	Regional Indicative Strategic Development Plan
SADC	Southern African Development Community
SSA	Sub-Saharan Africa
WAEMU	West African Economic and Monetary Union

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INTRODUCTION

Africa's Agenda 2063, the continental strategic development framework, envisions Africa as a dominant player in the global economic arena. However, the pace with which African states have accumulated public debt in recent years raises concerns about debt sustainability, which may affect the continent's ability to achieve the goals of Agenda 2063. Africa's total external debt amounted to 775 billion USD in 2020, compared to 300 billion USD in 2010. In parallel, the average debt to GDP ratio increased from around 40 per cent to 57 per cent during the same period. In 2020, fourteen African countries,[1] compared to 6[2] in 2010, exceeded the debt benchmark ratio of 60 per cent of GDP prescribed by the African Monetary Co-operation Programme (AMCP). This indicates that more countries have accumulated unsustainable levels of debt. This observation is confirmed by looking at the number of African states that the IMF/World Bank's Debt Sustainability Framework (DSF) has classified as being in distress, or as having a high risk of distress. It rose from nine in 2012[3], to twenty three in 2022[4]. These debt levels are expected to rise even further in 2021 as countries continue to borrow to cover costs related to the COVID-19 pandemic. The International Debt Statistics (IDS) report of 2021 predicted that many poor countries will emerge from the COVID-19 crisis with a large debt overhang, which could take a long time to resolve.

The increasing levels of debt of most African states may be attributed to several causes. Chief among them are weak public debt management and governance. Several African countries assessed by the World Bank's Debt Management Performance Assessment (DeMPA) performed below average, indicating that their public debt management and governance systems are ineffective. The objective of this study is to assess the adequacy of public debt management systems in African countries to determine their effectiveness in developing prudent borrowing and debt sustainability measures.

The IMF (2001) has defined public debt management as "the process of establishing and executing a strategy for managing the government's debt in order to raise the required amount, achieve its risk and cost objectives and to meet any other sovereign debt management goals the government may have set…." The goal of public debt management, therefore, should be to ensure that both the level of public debt, and the rate at which it accumulates, are sustainable over time and can be maintained under a wide range of circumstances, while meeting the state's cost/risk objectives (Boothe, 1992). Debt is viewed as sustainable when a country is able to meet its payment obligations in full, without requesting future debt rescheduling, or relief, or accumulating arrears over the medium or long term.

International institutions have, over the years, provided guidance on prudent public debt management. These include the IMF Guidelines of Public Debt Management, the MEFMI Public Debt Management Procedure Manual, the AFRODAD Borrowing Charter, and the IMF publication on Designing Legal Frameworks for Public Debt Management (Awadzi 2015). These documents highlight key public debt management principles and suggest prudent administrative, legal, and institutional procedures for public borrowing. This study assesses public debt management practices based on the principles set out in these documents. It does so by examining the debt management laws and other relevant debt management documents of African states, such as their public debt management manuals, medium term debt management strategies, debt reports, DeMPA reports, etc. As far as possible, the study discusses cases from all of the five geopolitical regions of the AU, i.e. West Africa, Southern Africa, East Africa, North Africa and Central Africa. In addition, it concentrates on countries that are currently in debt distress or at the risk of debt distress. Addressing this topic is highly relevant given that African states currently face even higher risks of debt distress due to the ongoing COVID-19 pandemic and Russia's invasion of Ukraine, which reinforce the need for effective public debt management.

Most African states have institutionalized public debt management frameworks. However, in some instances, these frameworks are not comprehensive and are not implemented adequately. Based on the findings presented, the author also makes policy recommendations for building effective public debt management frameworks.

This study is organized as follows. Section 2 gives an overview of Africa's total external debt. Section 3 briefly outlines how international public debt management works. In Sections 4 and 5 the author discusses the legal and institutional debt management practices of African states. Section 6 evaluates and discusses how they have implemented key aspects of public debt management and governance. Section 7 examines public debt management challenges in some African countries. Finally, the author concludes the study in Section 8 and provides policy recommendations in Section 9.

1 Angola, Cabo Verde, Djibouti, Mauritania, Mauritius, Mozambique, Rwanda, Sao Tome and Principe, Somalia, Sudan, Tunisia, Zambia and Zimbabwe.

2 Cabo Verde, Eritrea, The Gambia, Mozambique, Sao Tome and Principe, and Seychelles.

3 Burundi, Comoros, Cote Ivories'Democratic Republic of Congo, Djibouti, The Gambia, Sao Tome and Principe, Zimbabwe Sudan, ,

4 Burundi, Cameroon, Cabo Verde, Chad, Central Republic, Comoros, Congo Republic , Djibouti, Ethiopia, The Gambia,, Ghana, Guinea Bissau, Kenya, Malawi, Mauritania, Mozambique, Sao Tome and Principe Sierra Leona, Sudan, South Sudan, Somalia, Zambia, Zimbabwe,

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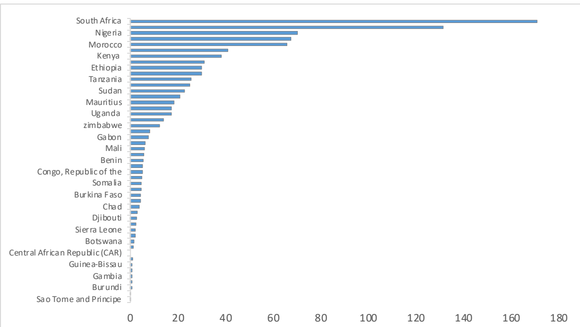
AN OVERVIEW OF AFRICA'S EXTERNAL DEBT

Over the past decade, the external debts of African states have increased notably. In total, external debt rose by over 200 per cent: from 300 billion USD in 2010, to 775 billion USD in 2020 (Figure 2). In the same year, about 80 per cent of Africa's debt could be attributed to just fifteen countries. The main contributors were South Africa and Egypt, whose external debt amounted to over 100 million USD each. They were followed by Nigeria, Morocco, and Angola with debts close to 70 billion USD. About 35 African countries had external debts of less than 20 billion USD. The least indebted among them were Burundi, Comoros, Eswatini, The Gambia, Lesotho, and Sao Tome and Principe, with debts of less than one billion USD each (Figure 1).

Despite the increase in total debt mentioned above, Africa's average ratio of external debt to GDP has declined from 119 per cent of GDP in 2010, to 57.4 percent in 2020. In 2020, six countries (Angola, Cabo Verde, Mauritius, Mozambique, Tunisia, and Zambia) had debt to GDP ratios of more than 100 per cent. Fourteen countries (Angola, Cabo Verde, Djibouti, Mauritania, Mauritius, Mozambique, Rwanda, Sao Tome and Principe, Senegal Somalia, Sudan, Tunisia, Zambia, Zimbabwe) had debt to GDP ratios of more than 60 per cent, contravening both the IMF's and the AMCP's debt to GDP thresholds for prudent debt levels, which are 55 per cent and 60 per cent respectively.

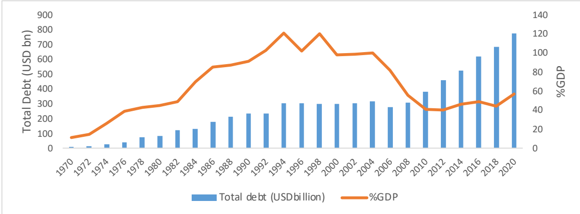
Figure 1: African Countries' Total External Debt (USD billion) in 2020



Source: World Bank International Statistics (2020)

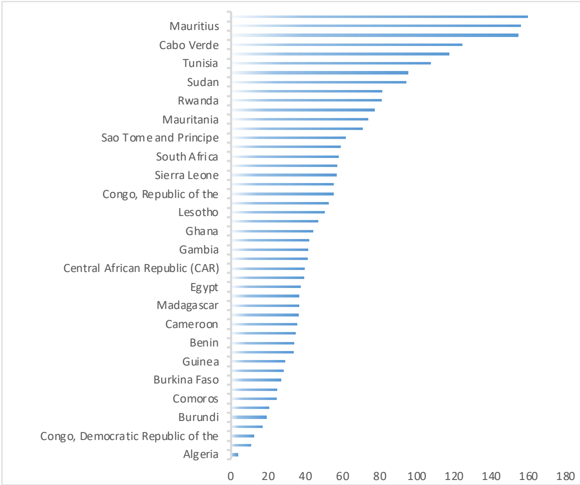
However, the majority of African states had debt to GDP ratios of less than 50 per cent in 2020 (Figure 3). Algeria, Botswana, Burundi, the DRC, Eswatini and Nigeria even had debt to GDP ratios of less than 20 per cent.

Figure 2: Africa's Total External Debt and Debt to GDP Ratio in 2020



Source: World Bank International Statistics (2020)

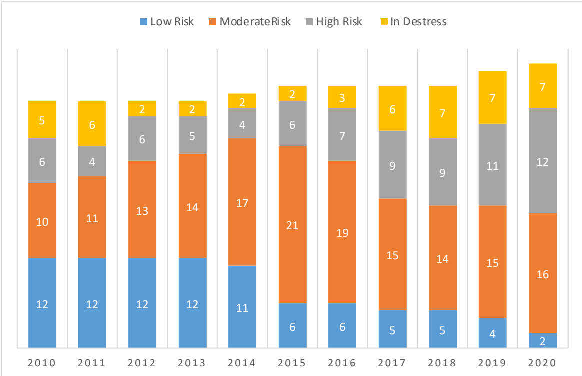
Figure 3: African Countries' Total External Debt (% GDP) in 2020



Source: World Bank International Statistics (2020)

In June 2021, the IMF/World Bank Debt Sustainability Analysis (DSA) framework rating indicated that a total of nineteen African states were in debt distress or at a high risk of debt distress. Six (the Congo Republic, Mozambique, Sao Tome and Principe, Somalia, Sudan, and Zimbabwe) were in debt distress, while thirteen (Burundi, Cabo Verde, Cameroon, Central African Republic, Chad, Djibouti, Ethiopia, The Gambia, Ghana, Guinea Bissau, Kenya, South Sudan, and Zambia) had a high risk of debt distress. The increasing debt vulnerability of these states stems from high levels of government debt and a substantial rise in debt servicing costs (CPIA Africa 2020).

Figure 4: Risk of Debt Distress in African Countries



Source: Author's calculations based on the IMF's Debt Sustainability Framework for Low-Income Countries database

As depicted in Figure 4, the number of African states with a low risk of developing debt distress has declined significantly: from twelve in 2010, to just two in 2020. In parallel, the number of African states with a high risk of dept distress increased from six in 2010, to fourteen in 2020. This indicates that debt sustainability in Africa is increasingly threatened, a situation that is made more difficult by growing debt service obligations. The average debt to service ratio of Sub-Saharan African states increased from five per cent in 2010 to fourteen per cent in 2020. Eight African countries (Angola, Botswana, Cote d'Ivoire, Djibouti, Ghana, Mauritius, Nigeria, and South Africa) had to pay more than ten per cent of the value of their total debt in debt service payments in 2020 (Heitzig et al., 2020). This means that debt payments are consuming the government revenues of African states and contributing to a deterioration of their fiscal position. The COVID-19 pandemic is expected to reduce government revenues further, and many countries may not have the necessary liquidity to meet their debt obligations (IMF 2020). Since the beginning of the pandemic most governments have announced fiscal stimulus packages, the costs of which range from about 0.02 per cent of GDP in South Sudan, to about 10.4 per cent of GDP in South Africa. It is also estimated that African governments will need additional gross financing to the sum of approximately 154 billion USD in order to be able to respond to the crisis (AfDB 2021).

3

INTERNATIONAL DEBT RELIEF INITIATIVES

Since the mid 1990s, the international community has developed a number of debt relief initiatives to help highly indebted countries reduce their debts to sustainable levels. In 1996, the IMF and the World Bank launched the Heavily Indebted Poor Countries Initiative (HIPC). In 2005, the IMF, the World Bank and the African Development Bank adopted the Multilateral Debt Relief Initiative (MDRI) after realizing that HIPC countries were struggling to make progress towards the United Nations Millennium Development Goals (MDGs). The MDRI provided 100 per cent debt relief to selected countries to free up resources which could then be used to finance MDG projects. More recent initiatives include the G20's Debt Service Suspension Initiative (DSSI), launched in 2020, which allowed affected countries to defer their debt payments in order to manage the COVID-19 pandemic, and the Common Framework for Debt Treatments, which extended the creditors base of the DSSI to allow other creditors, such as China, to participate in the DSSI. The DSSI expired in December 2021.

While these initiatives provided much-needed debt relief, this relief was generally short-lived. Consequently, debt sustainability remains a challenge for most African states today. For example, Cameroon and Zambia were beneficiaries of both the HIPC and the MDRI. Despite this, the two countries remain highly indebted and had to participate in the DSSI. This shows that debt relief alone may not be effective in promoting sustainable debt, unless it is coupled with practices to control and improve public debt management. According to the African Development Bank, three African countries (Chad, Ethiopia, and Zambia) that requested to participate in the Common Framework for Debt Treatments did not complete the required process to benefit from the program (African Development Bank 2022). The delay was largely attributed to difficulties in coordinating the various creditors involved (Georgieva and Pazarbasioglu 2021). Challenges of this nature are to be expected given how divers the creditors of African states are, and how this landscape is changing. In particular, there has been a notable shift to private creditors, which can encourage weak public debt management practices.

4

PUBLIC DEBT MANAGEMENT: LEGAL FRAMEWORKS

4.1. Foundations

Establishing a legal framework for Public Debt Management (PDM) is key to ensuring effective public debt management. This process involves a somewhat complicated set of interactions between distinct but related legal concepts. One of the most challenging aspects of designing a PDM legal framework is the need to strike a careful balance between a government's flexibility in exercising its authority on the one hand, and appropriate controls and safeguards on the other (Awadzi 2015). International experience shows that a PDM legal framework should include the constitution, primary legislation, and secondary legislation. The PDM legal frameworks of many African countries (e.g. Botswana, The Gambia, Ghana, Kenya, Namibia, Nigeria, Sierra Leona, South Africa, Zambia, and Zimbabwe) align with this international practice. They are anchored in the constitution, where broad principles are laid out, and are additionally based on specific provisions prescribed in national primary and secondary laws. For example, in Zambia, the powers of the state to borrow are outlined in Article 207 of the constitution, which further mandates that legislation enacted for borrowing and lending shall determine the category, nature, and other terms and conditions of a loan, grant or guarantee. To this end, the Loans and Guarantee Authorization Act was promulgated to provide details regarding debt management, as stipulated in the constitution. Similarly, in Cabo Verde, Article 177 of the constitution gives the parliament the authority to borrow on behalf of the government. The particulars of borrowing, inducing provisions to regulate borrowing, are detailed in the Annual Budget Law, the Organic Budget Law, and the Organic Law of the Ministry of Finance.

In terms of their content, Awadzi (2015) has suggested that PDM legal frameworks should be comprehensive and, at the minimum, (i) include the mandate to borrow and to issue guarantees; (ii) establish the authority to conduct debt management activities; (iii) determine the roles and responsibilities of various players; (iv) include disclosure clauses; and (v) outline borrowing restrictions, such as the scope of debt, the purpose of borrowing, a debt ceiling, etc.

In the sections that follow, this study examines African countries' compliance with this suggested framework and how its provisions are implemented.

4.2. The Role of the Constitution

PDM must be a well thought-out process, anchored in good governance practices such as transparency, accountability, and effectiveness. The AFRODAD's Borrowing Charter recommends that PDM should start from the constitution. As the supreme law, the constitution should establish the broad principles of PDM, and define how public loans should be obtained, used and serviced. The constitution must establish governance principles and controls, such as the authority to borrow, who these powers are delegated to, and how they may be applied. It is very important that the provisions made in the constitution are comprehensive and sound, so that they are able to provide the required guidance and protection. Weak provisions in the constitution may result in weak governance in PDM. For example, in Zambia, the constitution gives the parliament an oversight role in managing public debt. At the same time, Article 202(2) of the constitution requires the Minister of Finance to specify the maximum amount the government intends to borrow in that financial year when presenting the national budget. Furthermore, Article 202(4) prohibits the legislature from reducing the amount of borrowing the government may propose when it is presented as part of the overall budget estimate and expenditure. Similarly weak provisions are observed in Mauritius, where the law requires the minister responsible for finance to present a copy of the government's loan agreements to parliament only after the agreements have been signed. This strips the legislature of its oversight powers and may result in weak governance practices. In contrast, in Sierra Leone the law requires that all loan agreements must be laid before parliament and shall not come into effect unless they have been approved by parliament.

4.3. The Role of Supranational Institutions

The design of a state's PDM framework is, in some cases, influenced by its membership of regional and economic blocs. In West Africa, the countries belonging to the West African Economic and Monetary Union (WAEMU) adopted Regulation No. 09/2007/ CM/WAEMU, which requires member countries to adopt a common PDM framework. This framework stipulates common practices such as the preparation of a debt management strategy, the clear delegation of responsibilities in the borrowing process, the publication of debt management reports, and the coordination of the government's debt management policy with its macroeconomic policies. The East African Community has a similar arrangement where, in the protocol on the establishment of the East African Community Monetary Union, members agreed to adopt a common PDM framework. The member states of the SADC, meanwhile, are currently involved in a consultative process to enact a Public Finance Management Model law. The model law is expected to be adopted before the end of 2022. Regarding the limits of public debt, SADC's regional economic agenda, outlined in its Regional Indicative Strategic Development Plan (RISDP), requires members to, among other things, achieve macroeconomic convergence and to be monitored and measured against specific convergence criteria indicators, one of which is a public debt threshold of 60 per cent of GDP. The SADC debt to GDP threshold of 60 per cent is similar to that prescribed to its members by the African Monetary Co-operation Program (AMCP). At 70 per cent, the WAEMU threshold is higher, while at 50 per cent, that of the East African Community is the lowest.

Even though the member states of these regional blocs are required to develop their debt management practices in line with the principles prescribed, it is observed that in some cases, countries do not adhere to them. For example, in 2020, both Zambia and Mauritius had debt to GDP ratios that were higher than the SADC limit of 60 per cent.

4.4 Designated Debt Management Laws

The international best practice in debt management recommends that governments adopt a designated public debt management law to provide a clear framework for strategic debt management. This practice has, so far, only been adopted by a few African states (including Cote d'Ivoire, Djibouti, Ethiopia, Lesotho, Mali, Mauritius, Niger, Nigeria, Seychelles, Sierra Leona, Tanzania, Zambia, and Zimbabwe). Most African countries have public debt management provisions embedded within their public finance laws. This may not be the best approach, given that these laws do not focus on debt management exclusively. Therefore, the provisions related to debt management may not be comprehensive enough to address all issues of concern. For example, Madagascar's Public Finance Management Act does not includes legal provisions regarding debt management, such as the issuance of government guarantees, the scope of debt, and public debt management objectives. Similarly, Rwanda's State Finance and Property law does not outline its debt management objectives. In contrast, countries like South Africa and The Gambia have included comprehensive debt management provisions within their Public Finance Management laws, making the requirement to have a designated debt management law superfluous. Therefore, countries should focus on building strong and comprehensive debt management legal frameworks, irrespective of where these laws are located.

5 INSTITUTIONAL FRAMEWORK

5.1. The Authority to Borrow on Behalf of a Government

According to Awadzi (2015), effective debt management requires that a government's legislation must be clear regarding the authority of the state to borrow. The starting point should be the constitution, which should specify whether the state has the authority to borrow, and should determine who has the authority to exercise this power on behalf of the government. Furthermore, the role of the parliament, the cabinet, the minister/cabinet secretary, and the public debt management office must be clearly defined in the country's law. The AFRODAD Borrowing Charter (2013) recommends that parliament should approve loans before contracts are signed, to ensure that the process of acquiring a loan follows established guidelines and laws, and that the loan can be serviced within the national budget. Most African countries conform to this requirement. The legal authority to borrow on behalf of a government rests with parliament, and in most cases this authority is anchored in the constitution. In many African states the borrowing powers are delegated to the minister responsible for finance (e.g. in Botswana, Seychelles, South Africa, Tanzania), the president (e.g. in Cote d'Ivoire, Nigeria, Rwanda, Sierra Leone), or the cabinet secretary (e.g. in Kenya), who has the sole responsibility to borrow on behalf of the government.

The role of parliament and how powers are delegated differs widely among African states. In countries such as Botswana, Eswatini, The Gambia, Liberia, Malawi, South Africa, and Zambia, parliament approves all public borrowing. The minister responsible (or his functional equivalent) is therefore required to seek parliamentary approval before undertaking any borrowing. In other countries (e.g. Namibia, South Sudan, Tanzania, Uganda), parliament does not approve individual loans, but instead approves state borrowing indirectly by passing the annual state budget. In a few countries (including Mauritius and Sierra Leona), parliament approval is not required. The minister responsible is required to present the loans to parliament, for information purposes only, after the loan agreements have been signed. For example, in Mauritius, Section 3(5) of its Public Debt Management document requires that a copy of every loan agreement must be laid before the national assembly. When the assembly is in session, this must happen within fifteen working days after concluding the agreement, when the assembly is not in session, within seven working days of the next session of the assembly. In some states, such as Sudan, the law only clarifies the government's legal authority to borrow from external creditors, omitting its legal authority to borrow domestically.

In most cases, the laws of African states allow the minister responsible to delegate some of his authority to borrow on behalf of the government to other institutions. This may be the Debt Management Office (DMO), so that it can carry out the day-to-day activities of debt management, or the central bank, to undertake domestic borrowing. International best practice suggests that how this authority is delegated must be clearly defined in the state's secondary legislation, and a delegation document must be signed. Some African countries do not conform to this practice. For example, in Lesotho, the minister responsible delegated the authority of the government to borrow from the domestic market to the central bank. However, no formal delegation agreement between the minster and the central bank was signed (Lesotho DeMPA 2012).

5.2. Debt Management Offices

The DMO is responsible for running the day-to-day activities of public debt management. The office operates under the delegated authority of the minister of finance or any other institution that has the legal authority to borrow on behalf of the government. Where the DMO is located differs from country to country. Sudan and Nigeria, for example, have established autonomous DMOs to focus more on debt management policy and to improve their operational efficiency. In most African states, the DMO is a separate office but operates under the ministry of finance. In Zimbabwe, different institutions are involved in managing the government's debt. Dispersing debt management across different layers of government can, however, make the development of a coherent debt management policy and overall risk assessment more difficult, leading to higher operational risks.

Another important issue to consider when establishing a DMO is how to distribute duties within the office. In accordance with international best practice for operational risk management, tasks related to public debt management should be performed in three distinct functional areas (a front, middle, and back office) with clearly separated responsibilities. African states comply with this requirement to different degrees. More developed countries, such as Botswana, Namibia, Nigeria, and South Africa, have demarcated the different tasks of their debt management offices, while other countries have not.

5.3. Debt Management Advisory

To give credibility to the debt management process, the minister responsible is required to seek expert advice before entering into a new loan agreement. To this effect, debt management laws should have provisions that mandate the minister to seek professional advice before doing so. African governments have institutionalized this practice in different ways. Some countries have established debt management committees that, among other things, provide guidance to the executive on debt management issues. For example, Section 17 of the Seychelles' Public Debt Management Act established a National Debt Management Committee with the mandate to advise the minister on matters related to debt management. Members of the committee are drawn from different government institutions, such as the central bank and the attorney general chambers. Other countries that have established debt management committees in a similar way include Tanzania and The Gambia. In Kenya, the cabinet secretary is required to seek advice from the attorney general on all loan agreements before they are concluded. In Sierra Leone, the law gives the minister responsible the power to hire consultants and experts whenever needed. In other countries, such as Lesotho and Liberia, the laws are silent on this requirement.

6

KEY ISSUES IN PUBLIC DEBT MANAGEMENT

6.1. Defining Public Debt

PDM laws should define public debt clearly and comprehensively. It is, for example, of paramount importance that contingent liabilities are included. If not managed properly, contingent liabilities may inflate the country's public debt and push it to unsustainable levels. A good example is Mauritius, where Section 6 of the Public Debt Management Act defines public debt as "Any debt incurred – (a) through the raising of loans, the issuing of securities, overdrafts or by any other means by – (i) the central Government; (ii) the Rodrigues Regional Assembly under section 51(c) of the Rodrigues Regional Assembly Act 2001; (iii) the local Government; (iv) a public enterprise, whether or not the loans are wholly or partly guaranteed by the Government; (b) by way of advances from the Bank to any entity in the public sector legal framework should cover all categories of debt including government publicly guaranteed debt, domestic debt and external debt." Similarly, Uganda's definition of public debt includes both domestic and external debt, government guarantees, and the arrears accrued by government ministries and agencies that remain outstanding beyond the fiscal year in which they incurred. However, in countries like Zambia, the government has not defined the scope of debt comprehensively, and in Rwanda and Madagascar, the law does not define public debt at all. Such countries are likely to have issues in managing their public debt, as guidance on what constitutes public debt is missing.

6.2. The Purpose of Borrowing

A good debt management framework should restrict government borrowing so that it only serves certain purposes, and to safeguard against abuse. Examples of the latter include borrowing to finance expenditures that cannot be covered by the approved national budget, or that do not fall within government policy on the use of resources. For this reason, the purpose of borrowing must be prescribed in a state's legislation. African states commonly borrow to finance budget deficits, for monetary policy management purposes, to obtain foreign currency for balance of payments support, to build foreign currency reserves, or to refinance loans. For example, in Sierra Leone, Section 2 of the Public Debt Management Act stipulates that "The Government may borrow–, (a) to finance Government budget deficits; (b) to maintain a credit balance on the treasury main account at a level determined by the Minister; (c) to provide such Government loans or credits to local councils, public enterprises and any other entity as may be approved by Parliament; (d) to honour obligations under outstanding Government guarantees; (e) to refinance outstanding debt or repay a loan prior to its date of repayment; (f) to immediately protect, mitigate or eliminate effects caused by a natural or environmental disaster or any other national emergency; (g) to replenish the international reserves; (h) to meet requests by the Bank of Sierra Leone to issue Government securities for the sole purpose of supporting monetary policy objectives; and (i) any other purpose as Parliament may by resolution, approve." Similarly, in South Sudan, Section 36 of the Public Financial Management and Accountability Act prescribes that "Loans may be raised for the purposes of financing budget deficits, obtaining foreign currency, on-lending to an approved institution or financing a development project." Other states that have broadly defined their purpose of borrowing include Ghana, Kenya, and Zimbabwe. In Mauritius, the government is only authorized to borrow for investment purposes. Other countries, such as Lesotho, Malawi, and Zambia, have not included purposes of borrowing in their laws. When a government does not define the purpose of borrowing in its legislation, it may be more difficult to control the borrowing process. This might be the reason why Zambia is currently in debt distress, and its debt is higher than the prescribed debt limit.

6.3. Debt Ceilings

One of the ways in which governments restrict borrowing is by establishing a debt ceiling in their PDM laws. A debt ceiling is used to determine the maximum amount of debt that governments can carry. As mentioned above, in regional blocs and monetary unions, debt limits are used as a convergence criterion. For example, SADC requires its members to have a debt limit of 60 per cent of GDP, while the WAEMU and EAC debt limits are 70 per cent and 50 per cent of GDP respectively. The debt limit may be established as a percentage of the aggregate (which is the most common approach), or as a nominal amount (e.g. in Kenya and Zambia). Some countries have established limits to borrowing in their primary legislation, i.e. their constitution and/or debt management laws. Given that the procedures for constitutional and legal amendments are often more stringent than those for secondary laws, prescribing a debt ceiling in primary law makes the debt ceiling more permanent and difficult to change. While this might be desirable, it may become a challenge when governments need to increase their borrowing in cases of emergency. In some states, limits to borrowing are approved by parliament on an annual basis, as part of approving the annual national budget. This is the case in, for example, Cabo Verde, Kenya, and Zambia. In Kenya, Section 50(5) of the PFM Act (2012) states that "Parliament shall provide for thresholds for the borrowing entitlements of the national government and county governments and their entities."

6.4. The Objectives of Public Debt Management

In terms of the Revised Guidelines for Public Debt Management (2014), the primary objective of debt management should be to ensure that the government's financing needs and payment obligations are met on a timely basis, and at the lowest possible cost in the medium term. This objective has been adopted by most African states. In addition, some, including Egypt, Morocco, South Africa, Uganda, and Zimbabwe, have formulated a secondary objective: to develop the domestic debt market. For example, Zimbabwe's debt management objectives are "to ensure that Government's financing needs and its payment obligations are met at the lowest possible cost over the medium to long term, with a prudent level of risk, and to promote development of the domestic debt market." Sierra Leone's objectives are defined in the exact same way. Some states (e.g. Cote d'Ivoire, Rwanda, South Sudan, Sudan, Tanzania, and Zambia) do not define debt management objectives in their laws, while others (e.g. Kenya, Malawi, Seychelles) have stated their debt management objectives in their debt management strategies.

6.5. Debt Management Strategies

The Revised Guidelines for Public Debt Management (2014) suggest that countries should establish a Medium Term Debt Strategy (MTDS) to guide their public borrowing activities. For the strategy to be effective, it should be reviewed on an annual basis. Most African states have established a debt strategy. However, it is observed that some governments do not review their strategy, rendering it ineffective as a debt management tool. For example, in Botswana, the latest MTDS was published in 2012.

6.6. Transparency and Accountability

The practice of disclosing debt management information to stakeholders and the public is central to public debt management. The information shared is used to hold governments accountable for the debt management decisions they make. It also encourages discipline in managing debts. Typically, the state's law should require the authorities responsible to report to parliament and publish debt management reports periodically, including debt management strategic and borrowing plans, debt management procedure manuals, etc. Almost all African governments are required to report their debt management activities to parliament at least once a year (Table 2). For example, in Uganda, the Public Finance Management Act (2015) requires the Minister of Finance, Planning and Economic Development to present a report on existing guarantees and the activities of the previous year to parliament. In some countries, such as Rwanda and Sudan, the law requires that debt management activities are reported to parliament, but is silent with regard to the requirement that the government must publish this information. Transparency is high in Nigeria, where the DMO publishes at least four detailed debt management reports per year. However, only a few African states publish their annual borrowing plan (Table 2). Regarding PDM strategies, some countries still do not publish their strategy annually. Botswana, for instance, has not published a PDM strategy since 2012.

Parliamentary committees can also play an important role in ensuring that those executives entrusted with debt management disclose their activities and are held accountable. A public accounts committee, for example, may ensure that public debt activities are aligned with the country's laws. Despite this important role, the public debt management laws of most African states do not recognize public accounts committees as playing an integral part in controlling public debt management. The practice of auditing public debt management activities and policies is another important way to ensure transparency in public debt management. In most African countries the auditor general has a mandate to ensure that, among other things, debt activities adhere to the law. In some states, the requirement that debt management activities must be audited is enshrined in the constitution (e.g. in Zambia), which indicates that the practice of auditing is considered important for fostering good governance.

6.7. Coordination with Macroeconomic Polices

A government's debt management has an impact on its monetary policy through asset prices, and on its fiscal policy through interest payments (Togo 2007). The IMF (2001) has indicated that even though fiscal policies, monetary policies, and debt management policies are separate policies, the links between them are strong, and they must therefore be coordinated. For the purposes of effectiveness and enforcement, coordinating these policies requires a legal basis. This can be achieved in different ways. In Rwanda, Article 57 of the Organic Law on State Finances and Property determines that "[i]n formulating debt management guidelines and implementing the annual debt management strategy, the Minister shall, each year, consult with the National Bank of Rwanda, so as to avoid any possible conflicts among the objectives of fiscal, debt management, trade, monetary and exchange policies." In The Gambia, coordination between these policies is achieved through various committees, whose members are drawn from the government's debt management, monetary and fiscal policy personnel. Despite the importance of coordinating these three policy areas, only a few African countries have provisions in their laws to this end.

Table 1: Disclosure of PDM Information in Selected African Countries

Country	Annual Report	Report to Parliament	Borrowing Plan	PDM Strategy
Botswana	√	√	x	x
Eswatini	√	√	x	√
Gambia	√	√	√	√
Ghana	√	√	√	√
Lesotho	√	√	x	√
Madagascar	x	√	x	x
Malawi	√	√	√	√
Mauritius	x	√	√	√
Mozambique				√
Namibia	x	√	x	x
Rwanda	x	√	x	√
Seychelles	x	x	x	√
Sierra Leona	√	√	√	√
South Africa				√
Sudan	x	√	x	√
Tanzania		√	x	√
Uganda	√	√	√	√
Zambia	√	√	√	√
Zimbabwe	√	√	√	√

6.8. Sanctions and the Role of the Judiciary

To ensure the integrity of public debt management, a state's law must include provisions for sanctions, should the government not comply with its public debt management responsibilities. In most African countries, PDM laws do not include criminal penalties. Instead, the laws prescribe disciplinary procedures, which may not be effective in deterring non-compliance. These countries mostly rely on enforcement mechanisms, such as reporting and auditing requirements, to ensure compliance. Sanctions may mean that the loan agreement is rendered void if it is proven that executives acted outside of the law. For example, in Mozambique there was a case where executives violated the rules set for public debt management. The Constitutional Council ruled that the loan agreements were null and void because they had been finalized without parliamentary approval, as is required by the law. In some cases, executives may be held liable if they acted ultra vires when entering into a borrowing agreement.

7

CURRENT CHALLENGES

This study has, so far, examined how African states have developed and implemented legal frameworks for public debt management, in order to draw conclusions about the quality of their debt management governance practices, and their effectiveness in encouraging prudent borrowing and sustainable debt. However, in some cases, how governments have implemented their legal framework in practice deviates from what is prescribed by the legal framework. A few examples follow.

7.1. Non-Compliance with Disclosure Requirements

In Lesotho, the Public Finance Management Act mandates the auditor general to file an audit report with parliament on an annual basis. Despite this statutory requirement, the latest audit report submitted to parliament was for the period 2008/09. A similar non-compliance with the statutory requirements is observed in Botswana, where the minister of finance is required to publish the government's debt management strategy on an annual basis. This has not been the case. The latest debt management strategy was published in 2012.

7.2. Non-Compliance with Debt Limits

Several African states have not been able to comply with the debt limits they agreed to, either in their legislation or as a member of a regional bloc or monetary union. These states include Cabo Verde, Kenya, Mauritius, Zambia, and Zimbabwe. In most cases, the governments in question have exceeded their debt limits due to a lack of prudence in implementing their debt management activities. For example, Zambia increased its limits for external borrowing three times in about five years, to be able to accommodate more borrowing. The same practice was observed in Kenya, where the government increased its debt ceiling in 2015 and 2016 to allow for more borrowing. As a consequence, these countries went beyond the convergence thresholds of their regional blocs and accumulated debt at unsustainable levels. The IMF has classified both Zambia and Kenya as being at a high risk of distress.

7.3. The Legal Authority to Borrow

An adequate definition of the legal authority to borrow on behalf of a government is crucial for effective debt management. It ensures that only people who have the authority to contract debt on behalf of a government do so. To enforce this rule, it should be supported by sanctions enshrined in the country's law. They must be strong enough to deter unauthorized people from contracting debt on behalf of the government. If they cannot do so, some officers may not follow the rules. This happened, for example,   as mentioned above, in ain Mozambique where public debt, , was contracted outside the authority of the law.

8

CONCLUSION

This paper has examined debt management and governance systems in African states. It did so mainly by examining the laws and debt management documents of different African countries. Evidence from this study shows that the institutional and legal frameworks for public debt management in African countries generally follow the guidelines proposed by the World Bank and the IMF. Many African governments have established debt management decision-making structures, have formulated debt management strategies, and established debt management offices to implement these strategies. Despite this, there are noteworthy weaknesses in the debt management frameworks of African states and how they have been implemented so far. For example, in some cases the country's legal framework for debt management is not comprehensive and lacks elements that are important for effective and sustainable debt management. In other cases, governments comply with set standards.

How African states have implemented various debt management requirements is also inadequate. Some countries continue to undertake debt management activities outside the parameters defined by their debt management frameworks. The inability of these countries to manage their debts in a sustainable way is not because their debt management frameworks are incomprehensive or inadequate, but because they do not adhere to their own debt management requirements.

9

POLICY RECOMMENDATIONS

This study has shown that African countries are very diverse in terms of their debt situation and their debt management practices. Most countries have established a basic legal and institutional framework for public debt management. However, there are some gaps in these frameworks. Also, in some cases, governments do not implement the legal framework they have developed, i.e. they do not comply with their own public debt management requirements. This situation is partly facilitated by a lack of, or inadequate, sanctions. It is against this background that this study makes the following recommendations.

9.1. Revision of Debt Management Legal Frameworks

As noted above, the debt management legal frameworks of many African states have shortcomings. This study therefore recommends revising and amending the debt management laws of these states, by focusing on the following points in particular:

i. Defining Public Debt: As recommended by the World Bank and the IMF, the definition of public debt should include contingent liabilities.

ii. Defining the Purpose of Borrowing: This is an important control to safeguard against borrowing for unproductive purposes and purposes that are not aligned with government policies.

iii. Debt Limit: To ensure the effectiveness and relevance of debt limits, countries should define debt limits as percentages of aggregates, e.g. the GDP or the total revenue of the country. The debt limits should also be prescribed in the secondary legislation of the country to make their amendment easier when this is necessary.

iv. Reporting and Disclosure of Information: The laws of the country should make both reporting to parliament and the publication of debt management data mandatory.

9.2. Strengthening the DMO

In some countries the responsibilities of the DMO are dispersed across different institutions. This leads to inefficient and uncoordinated efforts. As part of managing operational risk, it is very important to strengthen the DMO. This can be achieved by streamlining debt management activities and making sure that the office is well resourced, among other things. The role and responsibilities of the DMO must also be clearly defined in the relevant legislation. Its tasks should include carrying out market analyses, developing models for an optimal borrowing strategy, liquidity management, and risk monitoring. Considering the technical nature of the DMO's work, the office needs to be staffed with people who have the right skills. The concern is that most African countries may not be able to keep up with the increasing complexity of debt instruments as they continue to emerge, due to their limited management capacity.

9.3. Integrating Strong Sanctions into the PDM Framework

Sanctions play a very important role in protecting the integrity of the debt management system. They serve to deter behaviour that violates the country's debt management laws. Most African countries have not integrated sanctions into their PDM frameworks. Where they exist, the sanctions are weak and not effective. It is therefore recommended that countries include effective and strong sanctions in their debt management laws.

9.4. Self Assessments

Governments should make it a requirement that they must do a self-assessment of their debt management framework on an annual basis. The assessment could be based on the DeMPA methodology to make its application and the interpretation of results easier. This practice would give policy makers a sense of ownership (instead of waiting for the World Bank assessment and being told what to do). It would also allow them to adjust their debt management strategies as and when this is necessary. For example, to respond to emerging risks that are linked to the shifting debt landscape (e.g. the entrance of new creditors and credit products).

9.5. Reducing Government Commitments

Governments may consider reducing their commitments to free some of their revenues. One way to do so is to clearly define state owned enterprises that qualify for government guarantees and to set an annual limit for these guarantees. As a broader policy, governments may consider rationalizing and/or privatizing some state-owned enterprises.

9.6. Improving Government Revenue Collection

This is necessary to strengthen governments' domestic capacity to enhance their revenue and to ensure that they can repay their financial obligations when they become due. Weak domestic revenue capacity is a major reason why most African states rely on deficit financing for their development (AFDB 2018). In 2019, the average tax revenue-to-GDP ratio in Africa was fifteen per cent, far below the twenty-five per cent benchmark required to finance development. To address this problem, African countries should consider implementing tax reforms that seek to, among other things, eliminate loopholes for tax avoidance, especially by multinationals, and improve the efficiency of their tax administrations.

9.7. Improving Follow-Ups on the Recommendations of the DeMPA

Since introducing the DeMPA in 2007, the World Bank has assessed more than twenty African countries, some of them more than once. The DeMPA results are usually published together with wide-ranging recommendations for improving the country's public debt management and governance. However, some countries take a long time to implement these recommendations following their assessment. This study, therefore, recommends that countries should make action plans to address the gaps and issues identified. To ensure accountability, the minister responsible may be required to report the government's progress to parliament as part of its periodic reports to parliament.

9.8. A Continental Debt Management Framework

The African Union may consider developing a continental debt management framework, which would define the minimum standards for effective debt governance and management. The implementation of, and compliance with, these standards could be monitored by the regional blocks.

9.9. Establishment of a Debt Observatory

Establishing a debt observatory would contribute to ensuring that reliable and standardized data on the public borrowing practices of African states is available across the continent.

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Debt Management and Governance in Africa

Some African countries debt management practices are not aligned to international best practice. The debt management laws, in some cases have notable deficiencies which results in weak governance. In some cases, the Executives do not comply with the legal requirements when executing debt management activities.

The African Union must consider developing a continental Debt Management Framework, recommending the minimum standards for an effective debt governance and management. Parallel to that, the study also recommends the establishment of an African Debt Observatory as a continental organ to collect, analyze and exchange data across an interconnected system, linking African countries to improve debt management policies and frameworks.

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