



Terms of Reference for Strategic Interest Litigation on Debt Toolkit

1. Introduction

The [Stop The Bleeding Campaign \(STB\)](#) is a consortium made up of seven Pan-African organisations namely: [African Forum and Network on Debt and Development \(AFRODAD\)](#), [Africa Women’s Development and Communication Network \(FEMNET\)](#), [International Trade Union Confederation Africa, \(ITUC Africa\)](#), [Pan Africa Lawyers Union \(PALU\)](#), [Tax Justice Network Africa \(TJN-A\)](#), [Trust Africa \(TA\)](#) and [NAWI – the Afrifem Macroeconomics Collective](#). The consortium was established upon recognizing the gravity of Illicit Financial Flows (IFFs). Taking into cognisance the changing environment and learning from its lessons, the STB has evolved to focus on development finance where focus has been extended to debt, mineral resources governance, labour and gender issues. Further, it has adopted a ‘Big Tent Approach’ where it accommodates stakeholders who share its vision and contribute to the achievement of its objectives. The consortium continues to be rooted in African experiences, driven by Pan-African CSOs and reinforced by global African linkages.

PALU is the premier continental membership forum of and for individual African lawyers and lawyers’ associations in Africa. It was founded in 2002 by African Bar leaders and eminent lawyers, to reflect the aspirations and concerns of the African people and to promote and defend their shared interests. Under its Economic Governance Portfolio, the work of PALU focuses on prudent debt management, illicit financial flows, tax justice, mineral resource governance and climate justice. Currently, PALU is the Chair of the Stop The Bleeding Campaign.

AFRODAD is a Pan-African civil society organisation established in 1996 to advocate for debt cancellation and addressing debt related issues in Africa. Over the past 29 years, AFRODAD has built expertise on public debt management issues and their intersectionality with domestic resource mobilisation, and international public and private finance in Sub-Saharan Africa. Overall, AFRODAD conducts research and advocacy for sustainable solutions to Africa’s challenges in debt management and resource mobilisation.

PALU and AFRODAD seek the services of a consultant to develop a toolkit on public debt strategic litigation in Africa. The purpose of the toolkit is to inspire, encourage, strengthen and build a network of lawyers, civic society organisations, the media and the general citizenry to deploy public interest litigation as one of the strategies to contribute towards prudent debt management in Africa. The development of the toolkit is under the Stop the Bleeding Campaign, an Africa Debt project under which PALU and AFRODAD are implementing partners.

2. Background

Conversation on public debt has gained traction as a critical subject, as countries grapple with the challenges it presents, and opportunities for relief from the burden of high debt levels and constrained fiscal spaces, which affect economic stability and growth, development and human rights. This conversation, which also happens globally, is even more probant in Africa,



which is acutely affected by public debt dynamics. The African Legal Support Facility (ALSF) reports a doubling of debt-to-GDP ratios in sub-Saharan Africa over the course of a decade from 2013 to the end of 2022, with the interest-to-revenue ratios more than doubling since the early 2010s, increasing concerns around debt sustainability.¹ As of November 2024, the United Nations Economic Commission for Africa (UNECA) reported that 11 African countries were at a high risk of debt distress with 9 already in debt distress.² The mounting debt is accompanied by massive debt service, as the African Development Bank Group (AfDB) reported that Africa would pay out USD 163 billion for debt service in 2024, up from USD 61 billion in 2010.³ An additional concerning trend is that public debt is growing faster in the developing world.⁴ This is alarming because debt is draining Africa of resources which otherwise could have been invested in development and in addressing inequality in public service delivery. There are a variety of factors that have contributed to the current state of affairs, among them weak debt management and governance. The World Bank's Debt Management Performance Assessment (DeMPA) indicated that ineffective governance systems for public debt management and governance in African countries. Good governance encompasses elements such as the authority to borrow, delineation of powers, loan contraction processes, transparency and accountability mechanisms.⁵ All of these are dictated by the law, hence governance deficits arise when the law stipulates weak or no safeguards.

3. Problem Statement

While the state of public debt is a manifestation of several economic, social and political factors, ultimately it is the legal foundations of public debt that operationalise its existence and influence its trajectory. Africa's debt crisis as described above does not operate in a vacuum but in the context of legal, political, social and economic realities. In cognisance of this, an extensive understanding of public debt as an instrument of public finance involves a comprehensive analysis of its legal complexities including, *inter alia*, creation processes, rights and liabilities, transparency mechanisms and contractual agreements, debt procurement processes, actors involved, dilemmas faced by creditors and borrowers, non-disclosure and

¹ Difie Boakye-Mensah et al, *Understanding Sovereign Debt: Options and Opportunities for Africa* (African Legal Support Facility, 2nd edn), 14.

² United Nations Economic Commission for Africa, 'The Rising Debt Burden in Africa's Least Developed Countries is Eroding Funding for Sustainable Development' (UNECA, 17 November 2024) <<https://www.uneca.org/stories/the-rising-debt-burden-in-africa%27s-least-developed-countries-is-eroding-funding-for#:~:text=Allan%20Mukungu%2C%20Economic%20Affairs%20Officer,them%20vulnerable%20to%20financing%20issues.>> accessed 12 February 2025.

³ African Development Bank Group, 'Annual Meetings 2024: Old Debt Resolution for African Countries – The Cornerstone of Reforming the Global Financial Architecture' (AfDB, 15 May 2024) <<https://www.afdb.org/en/news-and-events/annual-meetings-2024-old-debt-resolution-african-countries-cornerstone-reforming-global-financial-architecture-70791>> accessed 12 February 2025.

⁴ United Nations Global Crisis Response Group, 'A World of Debt: A Growing Burden to Global Prosperity' (United Nations, July 2023) <<https://unctad.org/publication/world-of-debt/regional-stories>> accessed 14 May 2024.

⁵ Bopelokgale Soko, 'Debt Management and Governance in Africa' (FES and AU, June 2022) African Debt Series Vol 1 <<https://library.fes.de/pdf-files/bueros/fes-ua/19364.pdf>> accessed 4 May 2025.



transparency requirements.⁶ When examining the legal and institutional frameworks governing sovereign debt contraction and management in Africa, we remain cognisant that while countries require clear rules and enforceability, there is also a need to balance the laws with the social and economic realities and promote public interest and human rights concerns. This begs the question whether global, continental, regional and national legal frameworks achieve this balance. The unfortunate reality is that there exist significant gaps and challenges in the legal landscapes at different levels. For instance, accountability for poor governance of public finance is underdeveloped as sanctions for mismanagement seldom pose penalties severe enough to enhance deterrence, and even these penalties are often unenforced. Many legal frameworks have also failed to sufficiently capture the evolving realities in the debt landscape such as credit ratings, minimum terms and conditions, responsible borrowing and lending principles, debt restructuring guidelines, among several other factors. The political context that characterises this encompasses power dynamics, external influences, governance failures and legal inadequacies. This often leads to institutional failures and weaknesses at the level of debt management offices, Auditor General offices, legislatures and ministries of finance. A case in point is the recent Petition lodged at the High Court of Kenya, alleging that several government officials and institutions played a role in worsening Kenya’s debt situation.⁷ Given the current debt crisis, the legal lacunas and governance gaps, litigation becomes a powerful tool to clarify ambiguous laws, develop jurisprudence around debt and as a means of legal reform. Strategic interest litigation is an avenue to create political pressure to amend outdated laws and enhance prudent debt management and governance – this is in a bid to ensure our legal foundations on public debt management and governance are sound and translate into a reality of self-sufficient and sustainable debt management on the continent.

4. Description of the Assignment

PALU and AFRODAD are looking for an **experienced expert, consulting firm or individual** to assist in the development of a **Debt Public Interest Litigation Toolkit**. The goal of the toolkit is to provide guidance on utilising strategic public interest litigation on debt to improve prudent debt management in Africa. The toolkit is expected to guide PIL, advocacy and engagement, identifying key legal aspects of debt and serving as a document for promoting linkages/synergies and experience sharing to improve prudent debt management. In general, the toolkit seeks to contribute to improvements in public debt management frameworks (legal and institutional) and bolster accountability. It further seeks to empower lawyers, communities, activists, CSOs, and Faith-Based Organisations (FBOs) to manufacture political will, a key ingredient for policy change. The major targets for the toolkit are lawyers, national bars, CSOs, the media, think tanks, the general citizenry and any other individual activists and organisations advocating for prudent debt management.

⁶ Lyla Latif, ‘The Legal Foundations of the African Public Debt’ (AFRODAD, 2023) <<https://afrodad.org/portfolio/the-legal-foundations-of-the-african-public-debt/>> accessed 5 May 2024.

⁷ Okiya Omtatah and 4 others v HE (former) President Uhuru Muigai Kenyatta and 21 others, Petition No 531 of 2025.



The Expert, Consulting firm or Individual will be responsible for the following:

- i. Provide a legal foundation to debt, linking it to the laws in existence and the need to seek interpretation, accountability and enforceability via litigation.
- ii. Provide relevant background information on debt management in Africa. This background information should capture information such as an explanation of the global financial architecture and how its structure impacts debt in Africa, the current state of debt in Africa, the evolving creditor landscape, the relevant statistics and the drivers of debt during the pre- and post-independent Africa (bring out the effects of colonial debt and odious debt).
- iii. Provide information and data on the reasons why countries borrow and why this appetite is increasing, principles of debt management that African countries must adhere to, types of debts and loans that countries contract and the relevant subsequent instruments available to countries and the various sources of debt.
- iv. Give an analysis of institutional and legal debt management frameworks. The consultant is expected to give a dissection of specific national acts of parliament and regional frameworks that deal with debt management giving an explanation on what they seek to achieve as far as debt management is concerned. Regarding the institutional frameworks, the consultant is expected to list and explain the relevant institutions and the specific roles that they play when it comes to debt management. This analysis should highlight the gaps in the legal framework and opportunities where public interest litigation can be used as a tool to spark legal reform.
- v. Give an overview of Public Interest Litigation. This overview should define PIL and outline its advantages and disadvantages. Further, the consultant is expected to also give an argument on the importance of PIL as a strategy for improved prudent debt management.
- vi. Document precedents on public debt litigation. These precedents should encompass both successes and failures of concluded court cases on debt. On the other hand, the consultant can also analyse the cases that are ongoing (first instance or appellate cases). The inclusion of failures is important to assist stakeholders in learning from past mistakes and be able to devise and implement working strategies and tactics. Documenting success stories is important in sparking interests and giving hope to stakeholders to deploy PIL as one of the strategies to ensure prudent debt management.
- vii. Provide guidance on the development of PIL documents and the process and steps to be followed at both national and regional levels. Relevant information that is required at each stage should also be given and the sources of the information. For instance, on the cause of action, what aspects of debt management laws need to be analysed to identify gaps sufficient to develop a cause of action that guarantees success? What kind of information can be researched to strengthen the pleadings? What are the legal aspects/provisions and procedures that qualify for litigation? What are the sources of that information?
- viii. Provide advocacy pathways, including options for potential litigators before various mechanisms



- ix. A glossary section explaining technical terms that may need to be demystified by non-legal practitioners.
- x. An annex with templates of litigation tools like model litigation templates used in the past, debt audit guides, legal frameworks guides and other resources that might have been used in past experiences

5. Important points to consider

The toolkit targets several different stakeholders that include lawyers, CSOs, the media and the general citizenry. In this regard, the toolkit should be designed in a way that balances the needs and roles of different stakeholders, with priority given to the role of CSOs.

6. Expected Deliverables

The following are the expected assignment deliverables:

- a. Inception report developed, commented on, and approved by PALU and AFRODAD.
- b. Draft Toolkit developed and presented to PALU and AFRODAD.
- c. Validation meeting held with external stakeholders.
- d. Final Toolkit development which is not more than 35 pages and encompasses elements in Section 4.
- e. All drafts must be submitted in English.

7. Experience

The consultant is expected to meet the following conditions:

- a. The expert, Consulting firm or Individual must consist of qualified expert(s), with a demonstrated track record in toolkits for non-profit organizations and CSOs ideally in the development finance context.
- b. Have a good understanding and profound knowledge on public debt management and experience in public interest strategic litigation.
- c. Have at least ten (10) years of progressively advanced experience in strategic communications, public advocacy, which must include developing communication and advocacy strategies at the global, regional, or national level and movement/network building.

8. Timeline

The selected consultant shall provide the following:

- a. An inception report for approval within two weeks of the start of the assignment.
- b. Comprehensive first draft of the Toolkit within 6 weeks of the acceptance of the inception report by PALU and AFRODAD.
- c. Revised Toolkit within two weeks of receiving comprehensive comments from PALU and AFRODAD after their internal review.
- d. Final Toolkit within two weeks of the validation meeting.



9. Deadline for proposal submission

Interested consultants should submit a detailed technical and financial proposal inclusive of the following:

- a. Cover letter indicating Expression of Interest (Eoi) stating why you are eligible for the assignment.
- b. Detailed budget including professional fee (in USD).
- c. CV of the professional to undertake the assignment including a summary of similar assignments undertaken previously.
- d. At least 3 references of previous mandates.
- e. Samples of materials that have been produced as well as samples of Advocacy and Campaign Strategies developed.

Applications that meet the above requirements need to be submitted by e-mail to secretariat@lawyersofafrica.org and copy theo@afrodad.org and afshin@afrodad.org with the email subject line: **Debt Litigation Toolkit by 7th February 2026.**

Only short-listed candidates will be contacted.

Note: PALU is an equal-opportunity employer and all applications will be considered strictly confidence.