

**POLICY BRIEF:
LEARNING LESSONS FROM
THE STANDARD GAUGE RAILWAY**

BRI Monitor is a global initiative to track the impact of China's Belt and Road Initiative projects, involving a coalition of independent think tanks and civil society organizations across Asia-Pacific, Central Asia, and Africa. A key aim is to promote transparency and accountability around the terms and full costs to countries and communities. With support from the Center for International Private Enterprise, BRI Monitor partners developed a new methodology to assess the level of disclosure about various infrastructure projects and contract data. This can help identify governance gaps that make countries vulnerable to corrosive capital situations.

CHINA IN KENYA: LEARNING LESSONS FROM THE STANDARD GAUGE RAILWAY

In December 2018, journalist George Omondi of [The East African](#) published a story erroneously claiming that the Port of Mombasa, Kenya's main hub for imports and exports, had been used as collateral for the country's [\\$3.6 billion USD](#) loan from the Export-Import Bank of China to build a new railroad. But that was neither the beginning nor the end of the controversy over the Standard Gauge Railway (SGR) project implemented by the China Road and Bridge Corporation (CRBC), a subsidiary of China Communications Construction Company. Although Omondi's claim was unsubstantiated, it increased scrutiny of China's development assistance in Kenya.

China funded 90 percent of the construction of this [609 km](#) railway as part of its trillion dollar Belt and Road Initiative (BRI). Critics assert that China uses the BRI to spread its [economic and political](#) influence at the expense of recipient countries; others disagree. Deborah Brautigam, Vijay Bhalaki, Laure Deron, and Yinxuan Wang, a group of China scholars and development finance consultants, [argue](#) that the SGR project exemplified a "straightforward commercial deal, using gold standard international project finance mechanisms that both parties expected would ensure the viability of the project." The project delivered the railroad, but also led to corruption allegations and complaints from users. In this brief, BRI Monitor will focus specifically on the undemocratic processes used to borrow money and select contractors, the impact on Kenya's public debt burden, and the railway's economic impacts on Kenya's private sector, and offers recommendations for strengthening and democratizing Kenya's loan procurement process.

UNDEMOCRATIC SGR PROCUREMENT PROCESSES

One major concern with the China-Kenya SGR agreement is that the loan contract was not published when it was signed in 2014, and only recently—in [2022](#), five years after the SGR began operating—have in-depth details been made public. The Kenyan government fueled speculation regarding the project—including the claims about Mombasa Port—by backtracking on multiple [promises](#) to publish the loan agreements. When the SGR started service in 2017, [astronomical food prices](#) and a shortage of maize flour, a food staple, galvanized public outrage that the Kenyan government would soon begin repaying a large sum to China for a loan whose terms remained secret. The government's refusal to release the contracts spurred multiple lawsuits, resulting in a 2022 [court order](#) for the contract's release. Even so, then-President Uhuru Kenyatta cited confidentiality clauses in the loan agreements to defy the order.

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Okiya Omtatah, a prominent Kenyan lawyer, also [sued the government](#) for allegedly violating the country's constitution by failing to use a procurement process that is "fair, equitable, transparent, competitive and cost-effective." While the case was ongoing, Omtatah [claimed](#) he was offered bribes of up to \$1 million by both Kenyan senators and Chinese managers to withdraw his case and that, when he refused, the individuals threatened to pay off the judge. Though the court initially ruled [in Omtatah's favor](#), Kenya's Supreme Court overturned the ruling on the grounds that the SGR project was a "government to government transaction" and therefore not subject to Kenya's Public Procurement and Disposal Act as Omtatah had argued.

ECONOMIC RAMIFICATIONS

PUBLIC FINANCIAL BURDEN

At \$3.6 billion, the SGR loan was equivalent to more than 5% of Kenya's GDP and represented Kenya's largest loan to date as of 2014. According to its National Treasury, Kenya [owed China](#) \$6.4 billion as of June 2023, for the SGR loan as well as others. The figure amounted to about 16 percent of the country's total external debt at the time. The SGR loan agreements required that railway construction "goods, technologies and services" be preferentially sourced from China, [obstructing](#) local vendors and workers from participating in profit-generating activities connected to the project. Moreover, these imports from China were [exempt](#) from Kenyan taxes and duties, increasing the volume of revenue ultimately exported out of the Kenyan economy.

Businesses and other users of the SGR bear the brunt of the loan repayment costs because they pay high rates to use it. Some importers [claimed](#) using the SGR increased their transport costs by nearly 50%; researchers at the University of Nairobi similarly [reported](#) cost increases. Although rail is not necessary to [transport](#) most incoming cargo to Mombasa port, many importers were forced to use the rail because the Kenyan government [assured](#) China Exim Bank that it would guarantee a minimum amount of railway freight. While the Kenya Ports Authority rescinded a policy of mandating that businesses use it after these protests, [local businesses](#) say they still face pressure.

Despite the loan's drag on Kenya's financial health, the International Monetary Fund's [July 2023 analysis](#) finds that Kenya's overall public debt is sustainable and that the current government's commitment to reform, coupled with strong medium-term growth, is expected to alleviate existing vulnerabilities. The IMF finds Kenya transparent about its overall debt burdens and its [authorities](#) are committed to protecting the public sector balance sheet from state owned enterprise-related liabilities.

ECONOMIC VIABILITY

While the IMF considers Kenya's overall debt sustainable, the railway's economic viability remains questionable. According to a [2013 World Bank report](#), a more cost-effective choice would have been to renovate the existing railway. A refurbished railway could have accommodated anticipated traffic and freight volumes while costing an estimated \$0.45 million per kilometer. By contrast, the new SGR was estimated to have cost \$3.25 million per kilometer. In reality, the \$3.8 billion, 609-kilometer SGR averaged out to \$6.2 million per kilometer—nearly twice the World Bank estimate.

Unlike the World Bank, CRBC concluded that the SGR would be profitable. However, CRBC declined to release important metrics, such as cashflow projections, that independent analysts could use to evaluate its feasibility study. This raises questions concerning the findings' reliability, as CRBC stood to benefit regardless of the SGR's future performance as the railway's hand-picked construction

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contractor. Moreover, [various news outlets](#) report that the SGR operates at a loss of as much as [\\$205 million per year](#). Although the railway is an efficient mode of transportation for commuters between Nairobi and Mombasa, passenger revenues fall far short of meeting loan repayment obligations—even with passenger fares increasing by [50 percent](#) in 2024.

Adding to questions concerning [economic viability](#), the Kenyan government gave [notice](#) that in May 2022 it would transfer control of operations from Africa Star Railway Operation Company (Afristar), another subsidiary of China Communications Construction Company, to the Kenyan-owned Kenya Railway Corp. The contract with CRBC outlined that Afristar would operate the SGR for ten years with an optional break period after five years. The Kenyan government estimated that transferring operations would [save](#) the country more than \$120 million per year in payments to Afristar. By that point, Kenya was already \$380 million in arrears and had received a deferral on \$378 million in interest payments due to China Exim Bank in mid-2021. Kenya's difficulty in making payments was exacerbated by the SGR's [cumulative operating loss](#) of \$197.7 million between 2017 and May 2020.

RECOMMENDATIONS

Issues with the SGR's procurement and implementation exposed fractures in Kenya's democratic governance. The Kenyatta administration's refusal to publicize the SGR loan agreement eroded public trust and sidelined civil society. The refusal also paved the way for corrupt actors inflate costs and misuse taxpayers' money. Governments can avoid some of these problems by publishing the agreements they sign and rejecting the use of confidentiality clauses that restrict debt transparency. Such clauses can [disadvantage the borrower](#) in future transactions by obscuring the borrower's true fiscal health, leading other lenders to charge higher interest rates, making debt restructuring more difficult, and pushing countries toward reliance on fewer creditors.

Attempts to hinder Omtatah's case through bribery and intimidation also revealed how supporters of the executive branch sought to sidestep the judiciary. Moreover, the Kenyatta administration's defiance of a court order to release the SGR contracts—[neither Kenyatta's first nor last time](#) disregarding the judiciary—demonstrated the executive branch's ability and willingness to unlawfully ignore court rulings. With tension between the branches [continuing](#) to rise under [President William Ruto](#), civil society actors have an important role to play in defending their democracy. In the case of the SGR, business leaders [played a key role](#) in pressuring the government to release details of its agreements with China and to rescind its policy that forced Kenyan companies to ship cargo on the SGR. In future projects, private sector voices should be included in all steps of the infrastructure development process.

To ensure that infrastructure projects benefit taxpayers and businesses, economic viability studies should be conducted by organizations that do not have a vested interest in a project's outcome. Independent feasibility studies can improve confidence in a project's ability to pay for itself and ensure that [public needs and available resources](#) are balanced. Governments should also reject loan terms that sacrifice valuable economic gains from development projects to their creditors. Exemptions from taxes and duties for the donor state reduce revenues that can be used to repay debts. Put together, these "hidden costs" can substantially increase the burden on recipient states, increase risk of debt distress, and contribute to the creation of an uneven playing field that benefits foreign, often state-owned or -affiliated firms at the expense of the local private sector.