



Post Budget Analysis FY 2021/22

The Judiciary & Parliament

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Constitution, Law and Economy (CLE) Program

Outline

- Legal framework on Budgets
- Judiciary
- Parliament
- Constitutional Commissions and Independent Offices
- Conclusions

Legal framework on Budgets

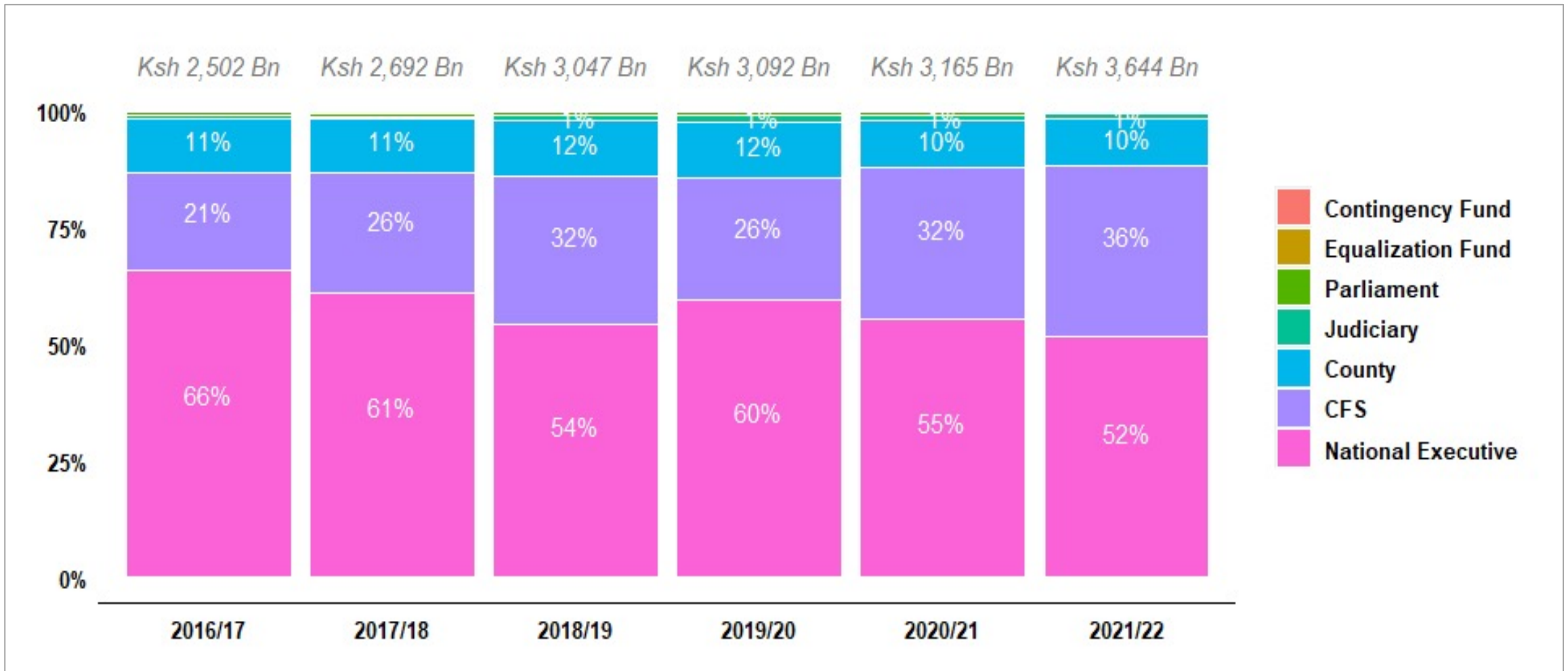
1. The Constitution of Kenya

- **Article 95(4)(b)** Role of the National Assembly
- **Article 221(1)** National Government: CS responsible for Finance
- **Article 127(6)(c)** Parliamentary Service Commission
- **Article 173 (3)** The Judiciary
- **Article 221(3)&(6)** The Appropriation Bill

2. The Public Finance Management Act

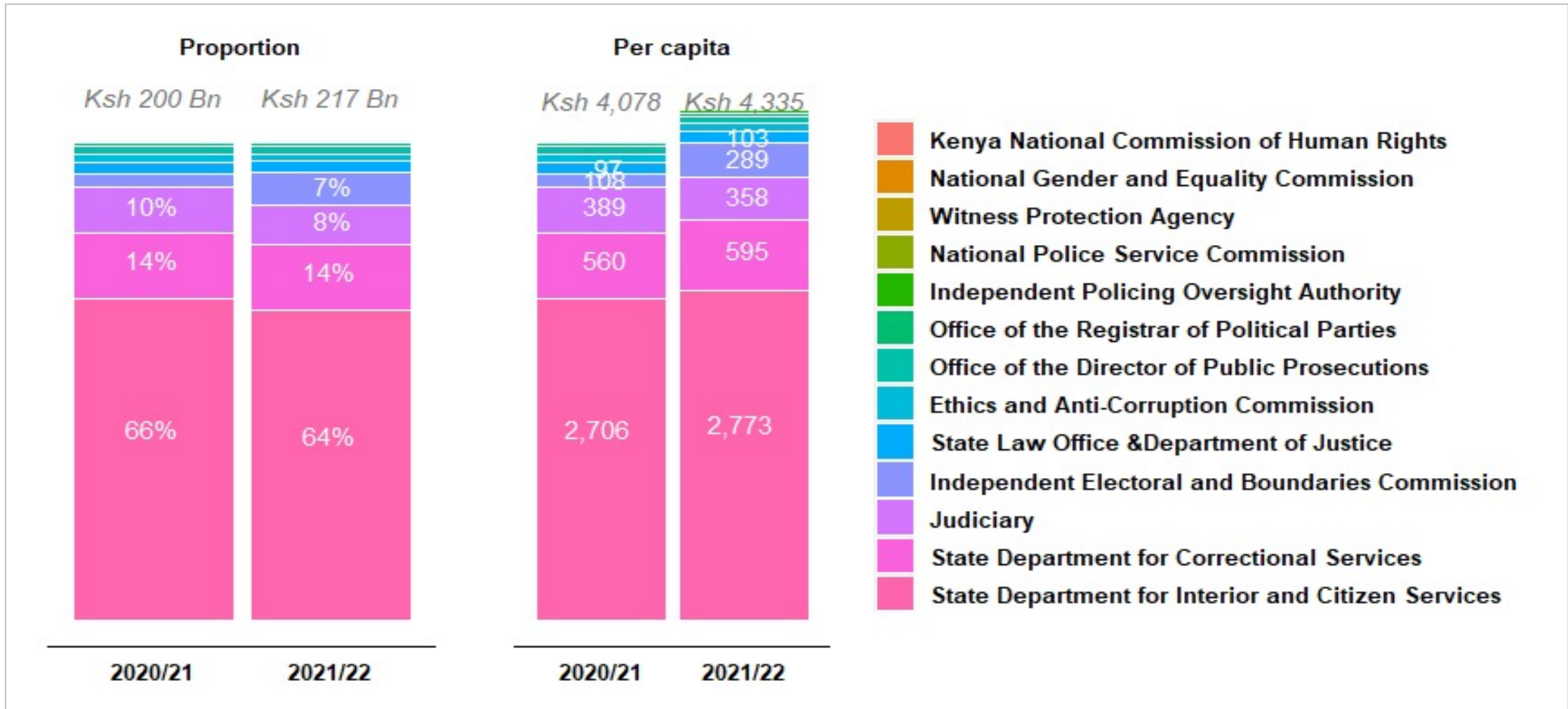
- Section 35 Stages in the Budget Process
- Section 37 Submission of Budget Estimates and related documents for approval
 - 37 (2) CS Finance-National Government
 - 37 (3) Accounting Officer- PSC
 - 37 (4) Chief Registrar of the Judiciary

Trends in the proportions of total budget allocation



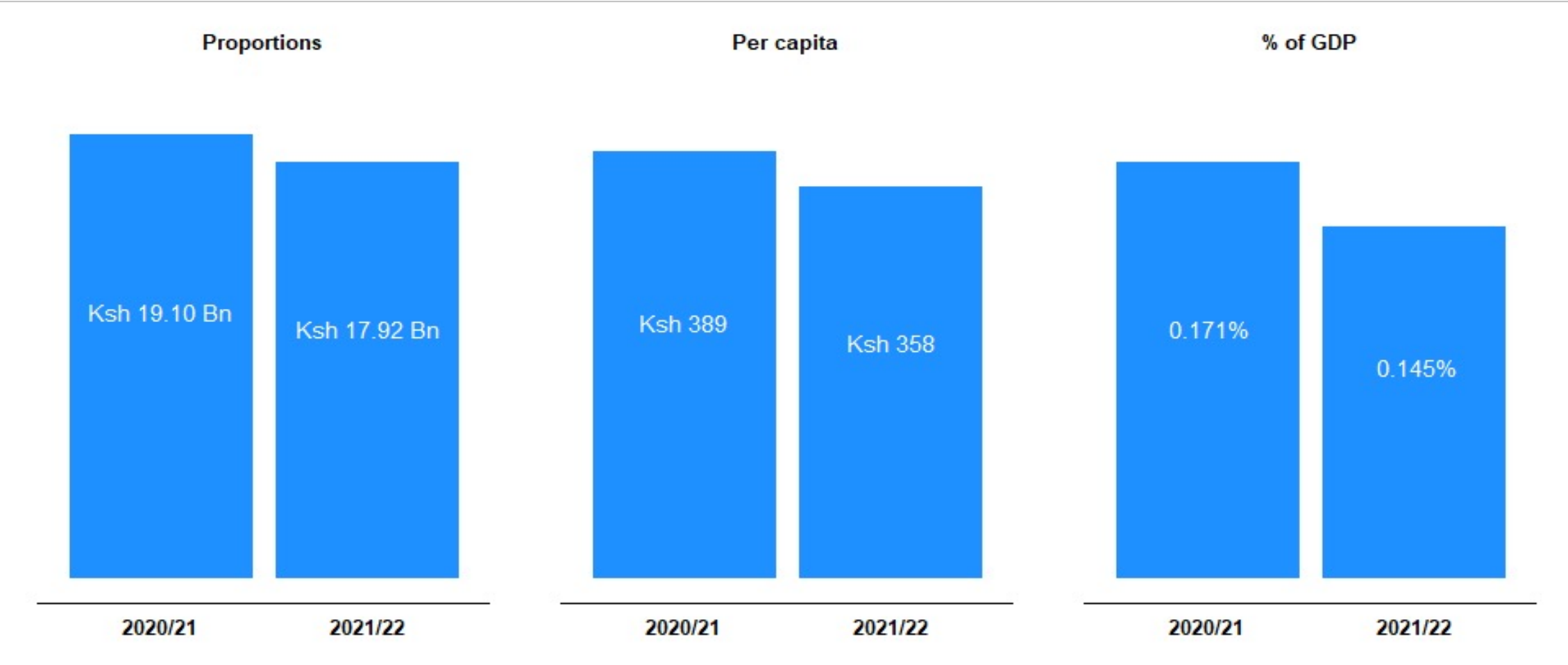
Source: National Treasury | Budget Estimates, April 2021

Estimates for Governance, Justice, Law & Order Sector (GJLO's)



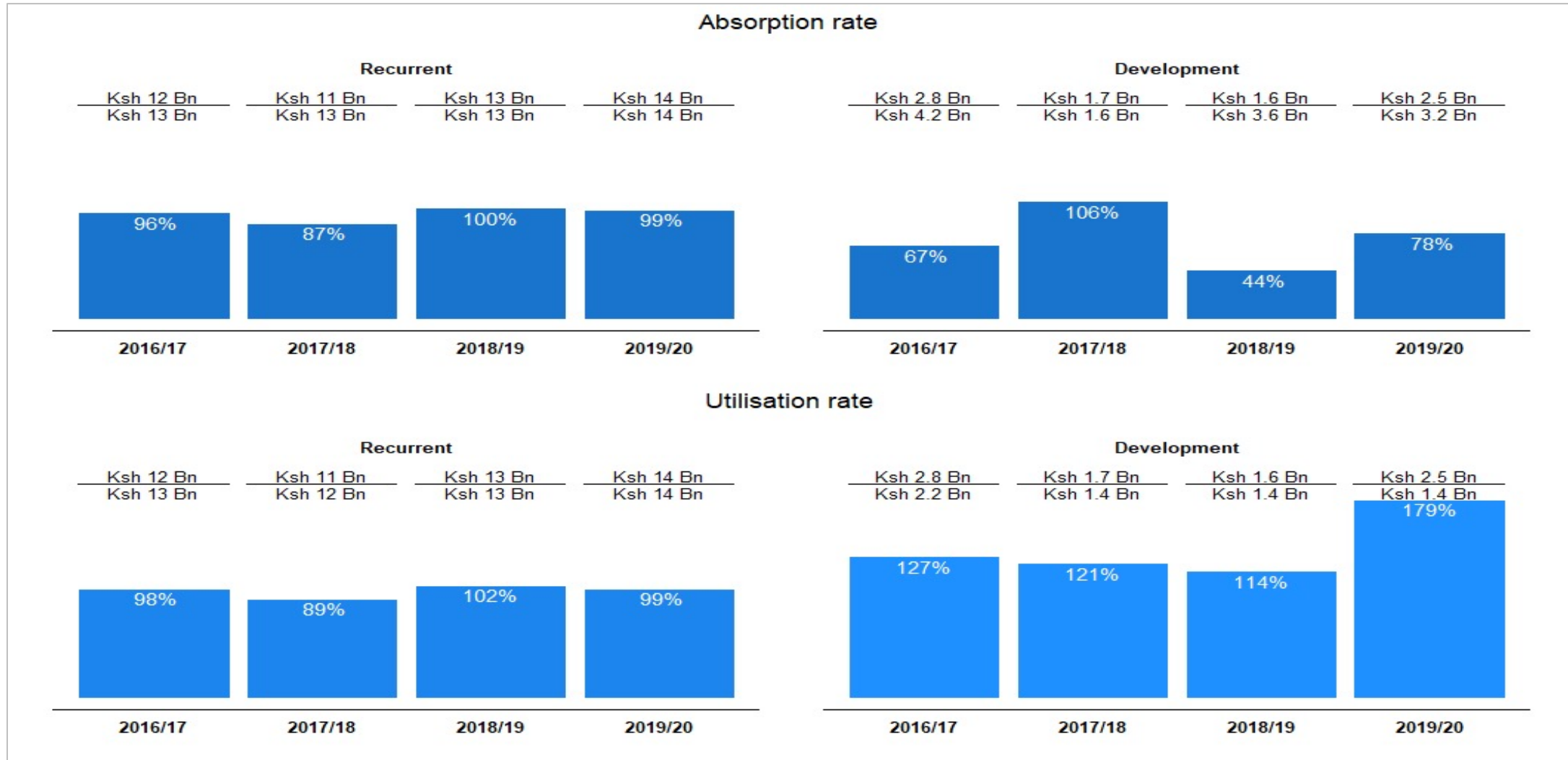
Source: National Treasury | Budget Estimates, April 2021

Judiciary's Estimated Expenditure



Source: National Treasury | Budget Estimates, April 2021

Absorption and Utilization rates for Judiciary



Source: Controller of Budget | National Government Budget Implementation and Review reports

Resource Requirement Versus Allocations

Financial Year	Resource Requirements Ksh Bn	Allocation Ksh Bn	Shortfall (Ksh Bn)	Shortfall as share of Resource Requirement
2017/18	35.95	17.56	18.39	51%
2018/19	31.17	17.30	13.86	44%
2019/20	23.29	18.86	4.43	19%
2020/21	37.42	19.10	18.32	49%
2021/22	35.36	17.92	17.44	49%

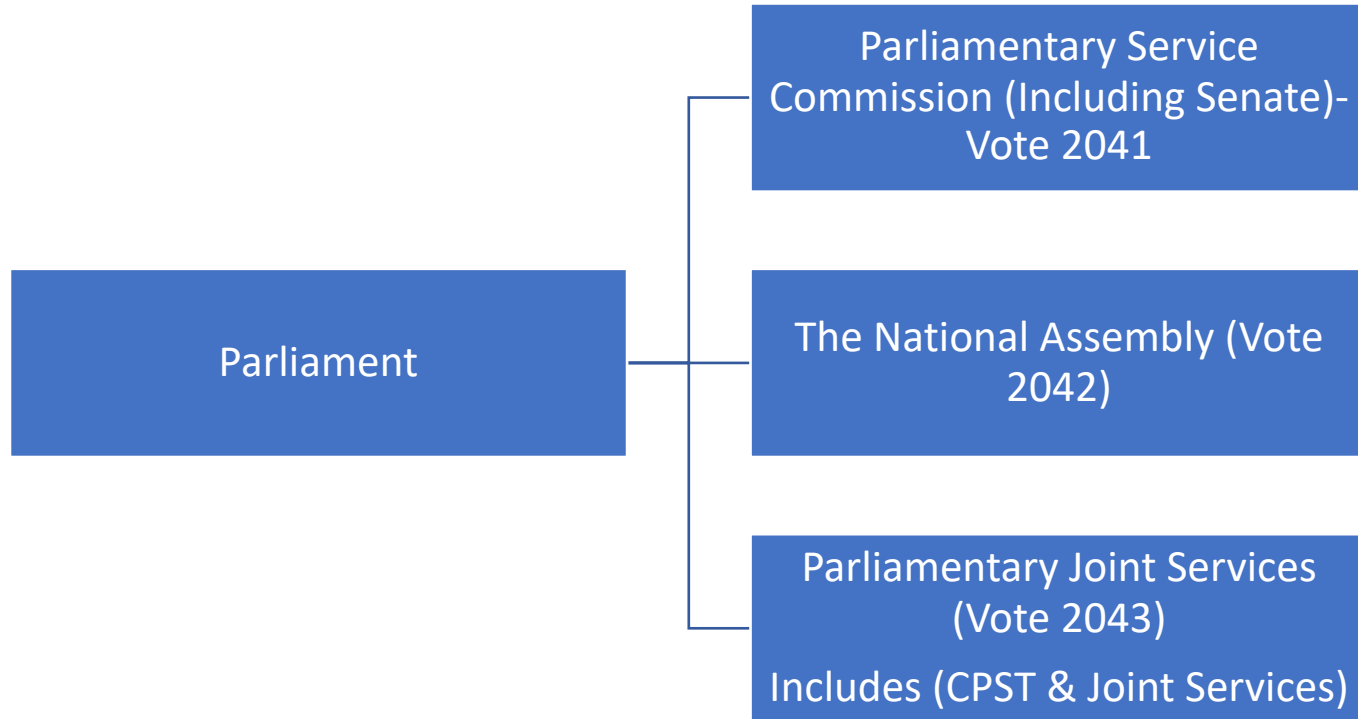
Source: Budget Estimates (Various issues), Authors Calculations

Key Messages

1. Significant underfunding- resource requirement vs allocations
2. High utilization rates-capacity for implementation

Parliament

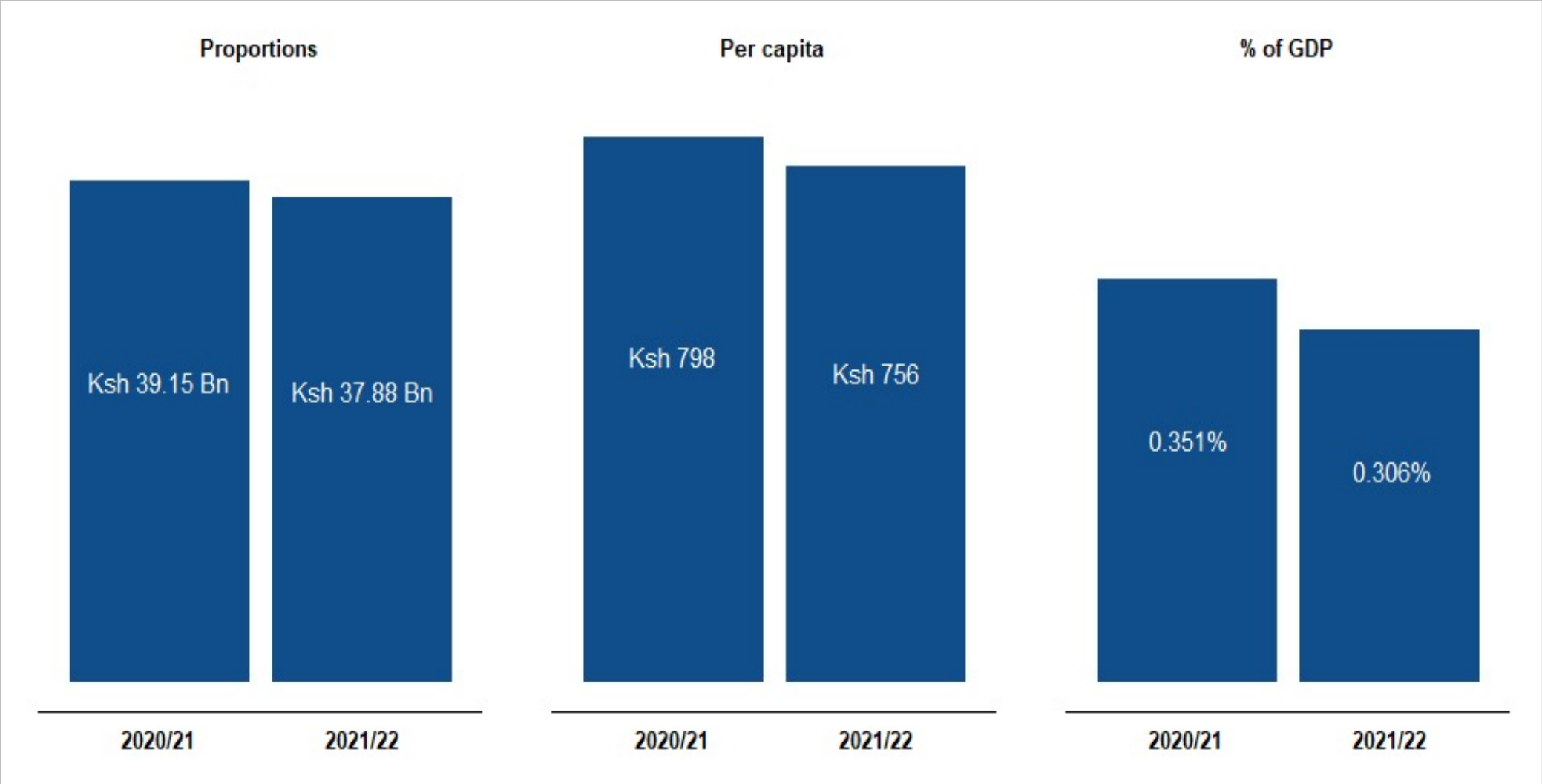
How Parliament is funded?



PSC will be implementing 4 programmes under the three votes

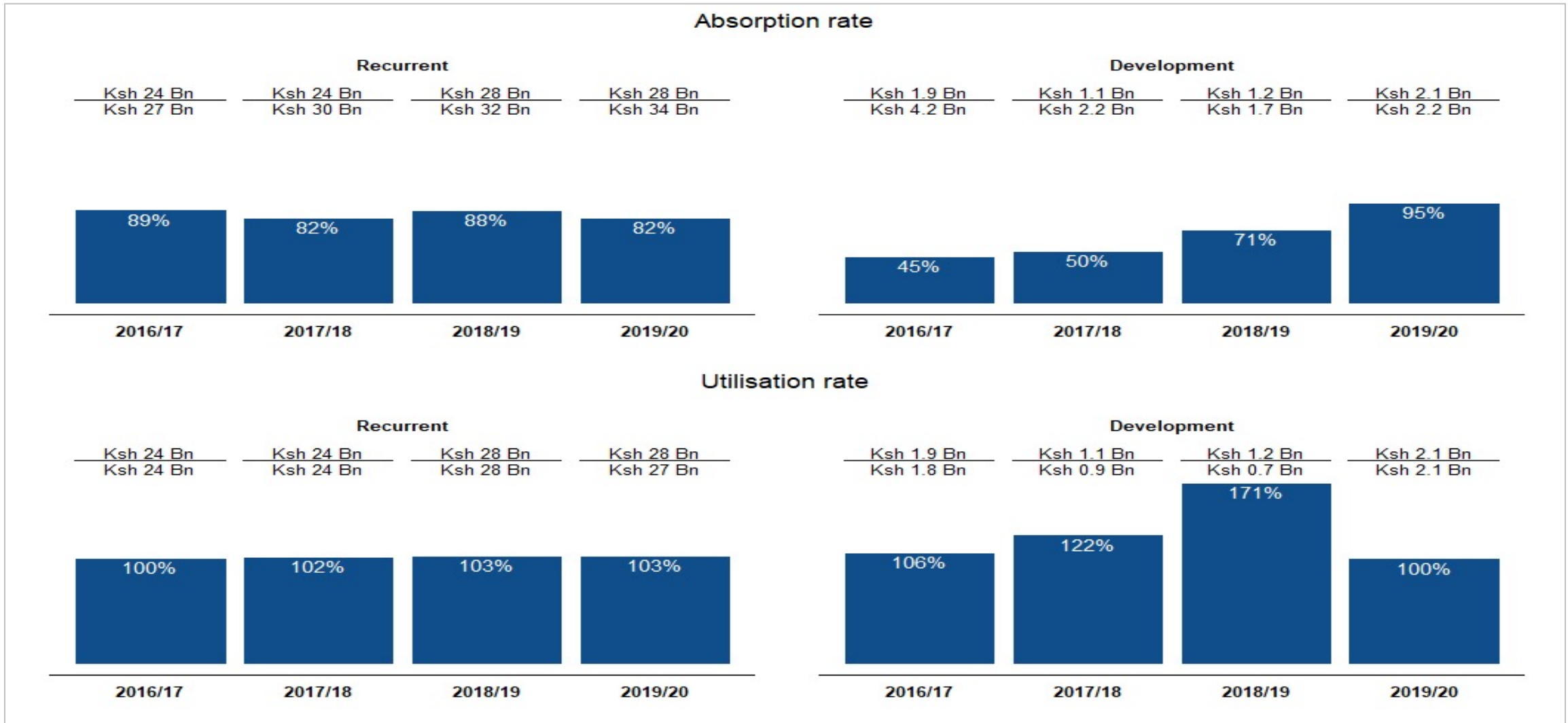
- ❖ National Legislation, Representation & Oversight Programme
- ❖ Senate Affairs Programme
- ❖ General Administration, Planning & Support Services
- ❖ Legislative Training & Knowledge Management Programme

Parliament Estimated Expenditure



Source: National Treasury | Budget Summary Estimates, April 2021

Absorption and Utilization Rates for Parliament



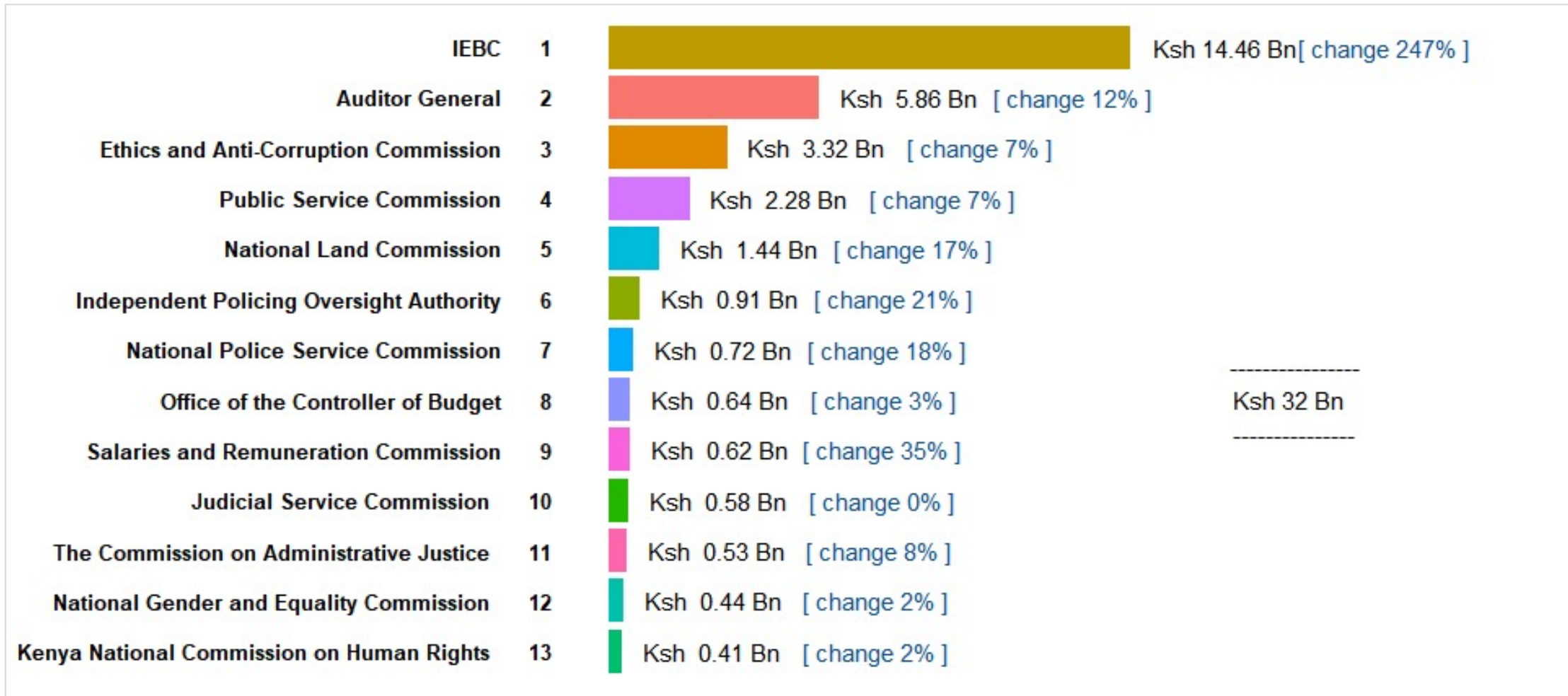
Source: Controller of Budget | National Government Budget Implementation and Review reports

Constitutional Commissions

Constitutional Commissions & Independent Offices


- Functions of commissions are set out in chapter 15 of CoK 2010
- Has faced **Budget Weaponization** in the past years i.e SRC, NGEC, KHRC
- Play an important role in **running of Independent Institutions** and providing checking excess of institutions
- The Independent Offices is essential for **accountability** on use of Public Funds
- Other Commissions perform unique functions such as SRC, NLC

Estimates for Commissions & Independent Offices



Source: National Treasury | Budget Estimates, April 2021

Key Messages

- Allocations to Constitutional Commissions and independent Offices still smaller compared to MDA's
- Budget Increases for IEBC- Referendum & Election Preparations
- JSC should do more, to demonstrate the Opportunity Cost of the Unfunded Authority
- Big  allocations in Parliament & Executive Budget reveal;
 - Parliament has not grasped the gravity of case backlog problem in Judiciary
 - Principle of Equitable Sharing of financial resources amongst arms of govt is a serious Policy Concern

References

1. National Treasury and Planning. “Program Based Budget of the Government of Kenya,” (Various Issues) treasury.go.ke
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3. Office of Controller of Budget. “Budget Implementation Review Reports,” (Various Issues). cob.go.ke.
4. National Treasury and Planning. “2021 Budget Policy Statement,” treasury.go.ke
5. Judiciary. “MTEF Budget Report” for the FY 2021/22-FY 2023/24”
6. Judiciary. “The Judiciary Budget: A Guide for Citizen FY 2021/22”

The End

Thank you!

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