

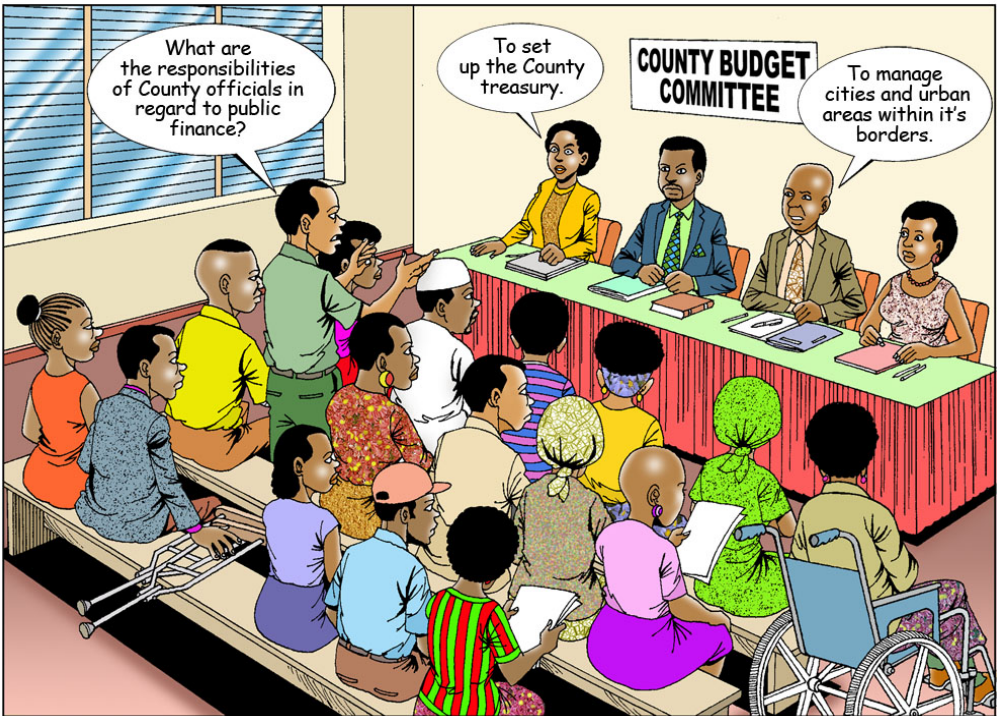


KITUO CHA SHERIA

LEGAL ADVICE CENTRE

we care for justice

PRACTICAL CITIZEN PARTICIPATION IN THE BUDGET PROCESS AT COUNTY LEVEL



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County Budget process

What is devolution?

Devolution is changing the way decisions are made and services delivered in Kenya. Think about the services you care about like health, water, education or housing. Who prioritizes and decides on which service gets more money? Who actually delivers these services? Under the new devolved system there are two levels of government the county and national. The county level is responsible for some services and national government others but they are required to work together for coordination. The county is responsible for services such as early childhood education, markets, County health facilities, housing, water and sanitation among others. The county is supposed to budget for all these services annually and **MUST** involve citizens in the process.

What is the role of citizens in the budget making process in the devolved system?

As a citizen you have new powers under the devolved system but also new responsibilities. You are entitled to participate in decisions that affect your life such as providing input in the budgets and government plans. Your responsibility is to understand what the government is doing and ensure that you participate actively in the decision-making process whenever possible.

What role have you played so far in the budget making process?

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What is a budget?

A budget is an itemized summary of likely income and expenses for a given period. It helps the government to determine the priority areas and allocate sufficient financial resources. It is a spending plan for the year that is based on the priorities identified in the county's development plans. In general both national and county budget making process is similar. The budget process happens every year and has **four steps**:

1. First the executive (county executive in charge of finance) proposes a spending plan
2. Second, this proposal is debated and approved by the county assembly. This is also the period when the County Budget Committee holds public hearings on the budget. You as a citizen should be involved during this stage. The date and month when the public hearings are held will be discussed below in the budget cycle.
3. Third, the budget is then implemented by the executive
4. Finally there is a process of review to make sure the budget was properly implemented. This is done by the county assembly, controller of budget and the auditor general.

What are the key dates in the county budget process?

This is what is normally referred to as the budget cycle at county level. At this stage citizens are involved and this is according to Article 201 of the constitution which lays down some key public finance principles including the need to ensure that there is openness and accountability in all public financial matters and that public participation is emphasized in the whole budget and decision making processes. This has further been emphasized by Public Finance Management Act and the County Government Act part IV.

Citizens should keep the dates in mind or write them somewhere to ensure their opportunity to participate is fully utilized

Timeline	Activity
August 30	<p>County treasury releases a circular to all departments informing them that the budget process is beginning so that they make request for funding.</p> <p>This circular is also important because it has details setting out guidelines for public participation before the budget is tabled at the County. Citizens must access this information through their MCAs at the ward offices</p>
September 1st	Counties prepare and table a county development plan to the County Assembly for approval. The plan must be made public within seven days.
September 1 to February 15	During this time, county government departments undertake consultations with the public and other stakeholders. Views from the public should feed into the formulation of the County Budget Review and Outlook Paper (CBROP).
January 1	By January of every year, the Commission on Revenue Allocation should submit its recommendations for the division of revenue between national and county governments to parliament.
February 15th	The division of revenue and county allocation of revenue bills go to parliament.
February 28th	Deadline for the County Fiscal Strategy Paper to be tabled in each County Assembly
March 16th	Deadline for passing the division of revenue and county allocation of revenue bills by parliament

April 30 th	The county executive (Governor and county executive committee) prepares and submits budget estimates (proposed spending plan) to the County Assembly for discussion, amendment and approval. The County Assembly can then debate and change the budget proposal anytime between April 30 and June 30.
May	This is the period when the county budget committee is likely to hold public hearings on the budget.
June	A county finance bill is tabled in the County Assembly
June 30 th	This end of the financial year and deadline for county assemblies to authorize spending for the new budget year.
October 30 th	County government publishes an implementation report for the period (July-September). The national government is supposed to do this by November 15 th each year.

Looking at the budget timetable, which months creates an opportunity for you to participate in the budget process?

What value will you add in the forums?

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1 March

Parliament considers report on Budget Policy Statement and passes resolution (with or without amendments)

National Assembly Committee considers Division of Revenue Bill

County Assembly considers County Fiscal Strategy and adopts with or without amendments

15 March

30 April

Detailed budget estimates for national government presented to Parliament
Includes Allocation from Equalisation Fund

Senate Committee considers Allocation of Revenue Bill and reports to Parliament

CRA Response to Equalisation Fund Appropriation??

Detailed budget estimates presented to County Assembly

Detailed budget estimates for Judiciary and Parliament presented.

15 May

CS Finance presents comments on budget estimates for Judiciary and Parliament

National Assembly committee considers estimates and reports

Assembly committee considers estimates and reports to Assembly

30 May

Estimates approved by Parliament (in time for appropriation law 30/6)

Parliament considers Revenue Sharing Bills x 2 and votes on them (with or without amendments)

Estimates approved by county assembly (in time for appropriation law by 30/6)

30 June

Appropriation Bill passed and assented to

County Appropriation Law must be passed

What are some of the questions that a resident of Nairobi City County can ask during public hearings in the budget making process?

When county governments table their budgets, it is important for citizens to ask certain questions, to ensure that the budget is in line with citizen priorities. The following are FOUR questions that citizens can ask on the budget when it is released in April.

1. Are there reasons given for choices my leaders made in the budget?

This question asks whether the budget contains a narrative explanation that explains why the county made certain choices. Every budget must make choices about how to use limited amounts of money. There is right way to distribute funds, but good practice is to provide some explanation of priorities and the reasons for making choices. It is not good practice to simply provide tables with data without a good explanation.



2. What are the priority areas in my budget?

When we talk about priority areas, we generally mean the sectors that have received the highest allocations (most money). This is one way of understanding choices and relative priorities.

A priority area can be identified by comparing the current budget to last year or to the budgets of similar counties.

3. Does my budget tell me where (that is, in which ward or constituency) development projects will be located?

In order to assess the degree to which the budget is allocating resources equitably, we want to know where buildings and infrastructure will be located. This requires that spending information be broken down below the county level (to sub-county or ward). Generally, this information should be included in the part of the budget that details development (capital) expenditure.

4. How much money does my county say it will raise from its own taxes and fees and is that reasonable?

Counties mostly receive money from national transfers and from their own taxes and fees. Many counties have estimated very high revenues from their own sources. To know if these are reasonable, one could compare them to what local authorities were able to raise from similar sources. This Data is contained in the 2012/13 PBO report.¹

What priority areas did you identify at your Ward level in the current proposed budget?

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What is the role of National & county political leaders in the county budget process?

Members of Parliament (National Assembly)

The MPs play a role in deciding the total amount of money available for counties, but not how counties spend that money. After the President and the Cabinet have begun to implement national plans and budgets, MPs must also oversee implementation and investigate any misuse of funds.

Senators (Senate)

The Senate represents the counties and is designed to protect their interests within Parliament. Unlike members of the National Assembly, who are elected from constituencies, the Senators are elected from counties. The role of the Senate in the budget process is to make decisions about the total amount of funds that counties receive each year. The Senate is also required to oversee national revenue allocated to county governments.

Governor

The Governor must propose plans and budgets each year to guide the county's development. Once those plans and budgets have been approved (possibly with changes), the Governor and other members of the County Executive Committee must implement the plans and budgets.

MCA's (Member of County Assembly/ Ward Representative)

The Members of the County Assembly, like the Members of the National Assembly, are responsible for discussing the plans and budgets of the Executive (in this case the Governor and County Executive Committee), amending and approving them. Once the Governor and the County Executive begin to implement their plans and budgets, the County Assembly must also oversee their implementation and investigate any misuse of funds.

What do you think are the functions of your area Ward Administrator

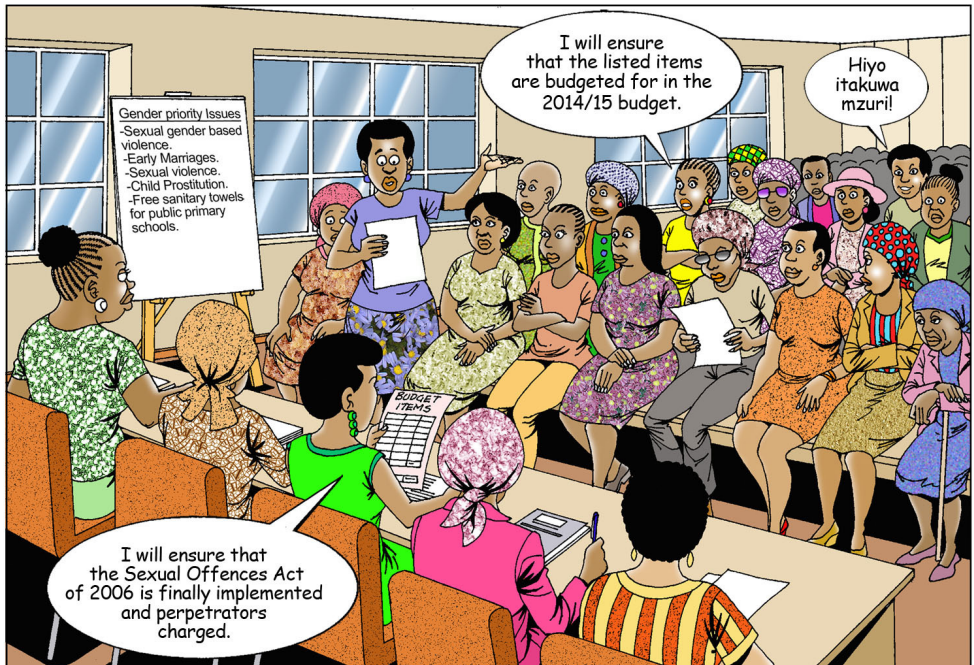
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Women Representative

The Women Representative should champion countywide gender issues and ensure their inclusion in the budget.



Mechanisms available for citizen participation in the budget process at the county level

Citizen participation is critical in the devolved system, and this is a requirement by the law. There are many ways that citizens can participate in the budget process. Some of these are formal mechanisms while others require creativity on the part of citizens. The governor **MUST** ensure that citizens participate in development of policies, plans and delivery of services. The following guidelines offer the various practical ways citizens can explore in engaging with the budget process.

1. County budget and economic forum

The Public Finance management Act establishes the formation of the County Budget and Economic Forum which is chaired by the Governor. The forum allows citizens to give their views, input and proposals in planning, prioritization and budgeting. The forum must include members of the County Executive, representatives from professional bodies, CSOs, women, persons with disabilities, and faith-based groups among other groups. The citizens' views are then integrated in documents such as the Fiscal Strategy Paper.

2. Petitions

Citizens can also review the proposed budget and the priorities fronted and then prepare signed petitions giving a different view of suggesting differently in terms of priorities and allocations.

3. Citizen forums

These forums of are organized by the county government at all administrative



levels of the county; sub-county, ward and village levels. This will ensure that all citizens have equal opportunities to participate without discrimination. However, it is the obligation of citizens to go to relevant county offices and wards to demand for and attend these meetings with a view to give their informed contribution.

4. County communication platform and strategy

The Constitution of Kenya under Article 35 1 (a) and (b) imposes an obligation on the county government to actively publish and publicize information that has direct impact on citizens including all information relating to the budget process. Citizens have a right to critical information that affects their daily lives.

5. County budget committee hearings

The Budget and Appropriations Committee of the County Assembly has a constitutional obligation to organize for public hearings where citizens can discuss their priorities. Citizens are given the opportunity to influence the outcome of the budget before it is passed.

6. Memorandum

Citizens can also collectively prepare memoranda and use their MCAs to submit to the relevant County committee for consideration. The memorandum must address specific vote heads in the entire budget.

7. County Budget Review and Outlook Paper

This is a paper that looks at the performance of the government based on the budget at the end of the financial year. The paper should be of interest to citizens since it explains any discrepancies between the previous year's budget and the actual performance or variations that may have occurred during implementation. Citizens must grab a copy of the Outlook Paper as part of their budget monitoring exercise to support or explain discrepancies they may have witnessed on the ground and consolidate this in the citizen's annual budget monitoring report. where can they get it from?

Nairobi City County budget: Overall analysis of the Financial Year(FY) 2013/14 budget

i) What is my county's Budget?

The total general budget of Nairobi City County stands at **Kshs. 25.2 billion** of which, 59 per cent (14.9 billion) is financing recurrent expenditure and 7.5 billion (30 per cent) is Developmental and 2.7 billion (11 per cent) going towards debt repayment as illustrated in Figure 2.

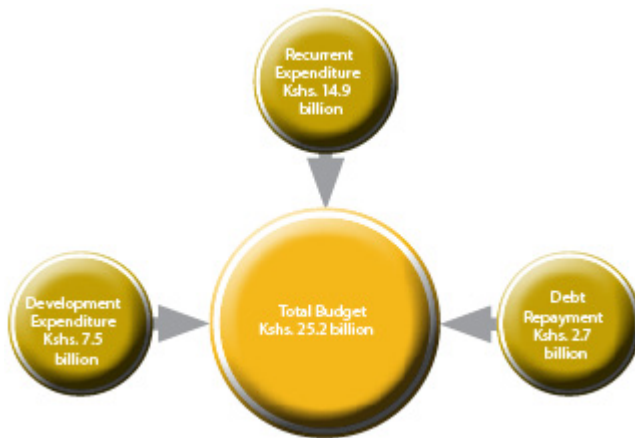


Figure 2: Overall Expenditure FY 2013/14

ii) Where is the money coming from?

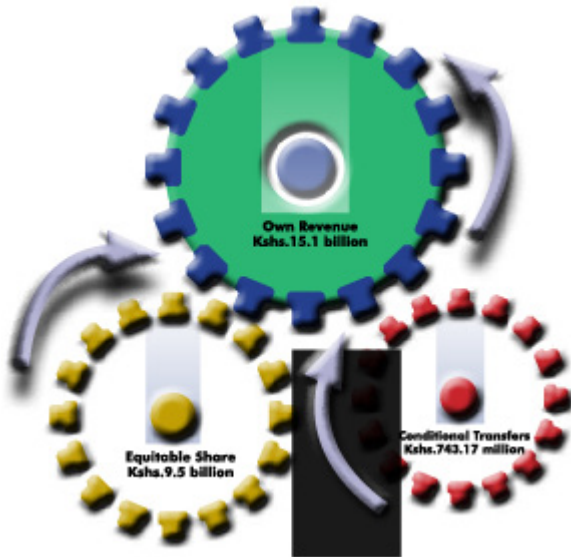


Figure 3: **Financing the County**

As indicated in **Figure 3** above, Nairobi County's FY 2013/14 budget will be largely financed through own revenue raising measures¹ at Kshs. 15.1 billion. To fund the gap between resources that county governments are able to generate through their own revenue raising capabilities, and resources required to carry out the assigned responsibilities as spelled out in the Fourth Schedule, the national government will transfer Kshs. 9.5 billion and Kshs. 743.1 million respectively in the form of the equitable government share and additional transfers in conditional grants.

With the aforementioned resource outlay, the budget for FY 2013/14 has a financing surplus of Kshs. 119.1 million

However, last year the county only managed to collect Kshs. 6.8 billion². The 115 per cent jump in revenue may not be realistic given the already existing of revenue collection made even harder with the removal of local

1 The county's own revenue raising measures will stem from Rates, Single business permits, Building permits, Car parking fees and other revenue sources

2 2012/2013 PBO report

authorities³. The county budget has no donor funding or transfers from the LAFT for the financial year 2013/14.

iii) Where is the money going?

Nairobi county government is structured around the main 11 sectors⁴ of service delivery as indicated in **Figure 4** below⁵.



Figure 4: Nairobi County Government Structure and Sector Allocations FY 2013/14

3 These are estimates based on local authority figures, since counties did not exist last year as a county to collect county revenues.

4 Governor's Office, Finance and Economic Planning, Environment and Forestry, Health, Physical Planning Housing and Lands, Public Works, Roads and Transport, Education, sports, culture and Social Services, Trade and Enterprise Development, Public Service Management, Agriculture and Livestock Development, Water, Energy and Sanitation.

5 Both the Agriculture and Livestock Development sector and the Water, Energy and Sanitation sector have no recurrent spending for the FY 2013/14

a. Recurrent Expenditure

Figure 4 above shows that of the total recurrent expenditure of **Kshs. 14.9 billion**, **Kshs. 10.4 billion** or **69.9 per cent** of the recurrent expenditure is going towards compensation of employees of both the county executive and assembly. Operations and Maintenance⁶ is expected to take **18 per cent** (**Kshs. 4.5 billion**) while Debt Repayment is equivalent to **11 per cent** of the recurrent budget.

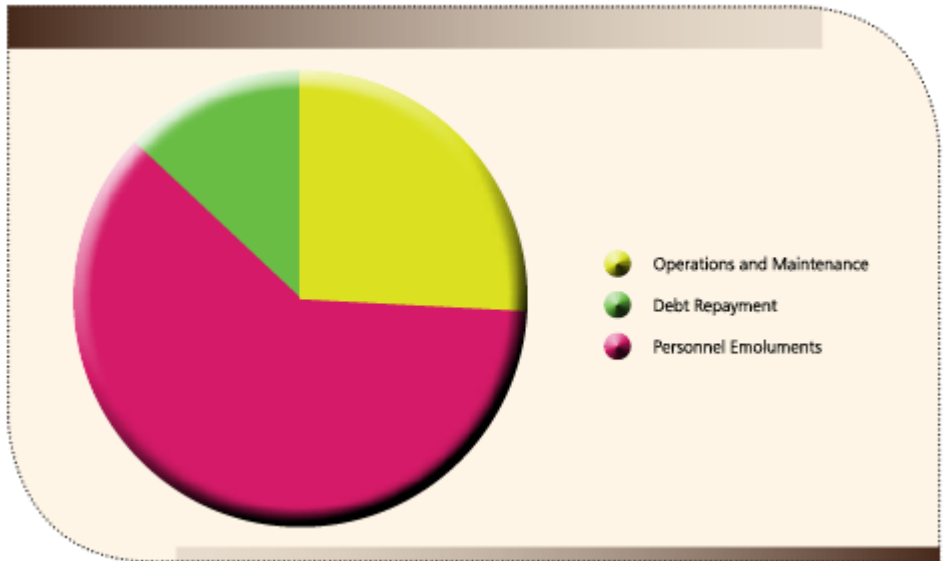


Figure 5: Nairobi County Recurrent Expenditure FY 2013/14

6 Include items such as travel costs, accommodation, catering services , general office supplies, expenditure on Board, committees, seminars and conferences, purchasing office furniture and fittings, exchanges & other communication equipment, computers, Printers and other IT equipment ,maintenance expenses, Constituency office expenses , telephone, telex, facsimile and mobile services, subscription to newspapers, magazines and other publications, laundry expenses and emergency relief.

b. Development Expenditure

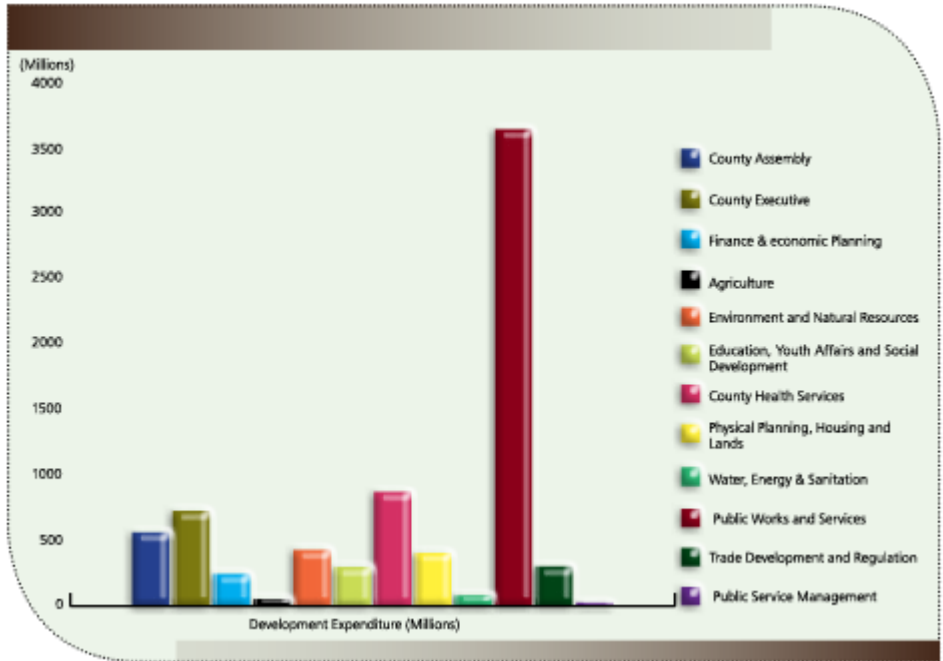


Figure 6: Development Expenditure FY 2013/14

Figure 6 above indicates the development expenditure for the FY 2013/14.

Why does county expenditure deviate from the budget?

- Poor financial management systems
- Corruption
- Funds diversion
- Use of reserves during unexpected occurrences
- Inadequate funding
- Off-budget donor funds
- Weak oversight

Form of Petition

198. A petition shall be in the form set out in the Third Schedule and shall-

- a) be handwritten, printed or typed;
- b) be in English or Kiswahili and be written in respectful, decorous and temperate language;
- c) be free of alterations and interlineations in its text; (d) be addressed to the County Assembly;
- d) have its subject-matter indicated on every sheet if it consists of more than one sheet;
- e) indicate whether any efforts have been made to have the matter addressed by a relevant body and whether there has been any response from that
- f) body or whether the response has been unsatisfactory;
- g) indicate whether the issues in respect of which the petition is made are pending before any court of law or other constitutional or legal body.;
- h) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners in regard to the matter to which it relates;
- i) subject to paragraph (m), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;
- j) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;
- k) not have any letters, affidavits or other documents annexed to it;
- l) in the case of a petition presented by a Member on behalf of a petitioner, be countersigned by the Member presenting it; and
- m) be signed by the petitioner or if the petitioner is unable to sign, by a witness in whose presence the petitioner shall make his or her mark on the petition.

THIRD SCHEDULE

GENERAL FORM OF A PUBLIC PETITION [Standing Order ... (98...)]

I/We, the undersigned,

(Here, identify in general terms, who the petitioner or petitioners are, for example, citizens of Kenya, residents of province or region, workers of industry, etc.)

DRAW the attention of the County Assembly to the following:

(Here, briefly state the reasons underlying the request for the intervention of the County Assembly by outlining the grievances or problems by summarizing the facts which the petitioner or petitioners wish the County Assembly to consider.)

THAT

[Here confirm that efforts have been made to have the matter addressed by the relevant body, and it failed to give satisfactory response.]

THAT

[Here confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.]

HEREFORE your humble petitioner(s) Pray that County Assembly —

(Here, set out the prayer by stating in summary what action the petitioners wish County Assembly to take or refrain from.)

Name of petitioner	Full Address	National ID. or Passport No.	Signature/ Thumb impression
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(Here, repeat the summary in first page)

Name of petitioner	Signature/Thumb impression
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(Subsequent Pages)

* This form may contain such variations as the circumstances of each case may require.



KITUO CHA SHERIA

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we care for justice

Head Office

Ole Odume Rd, Off Argwings Kodhek Rd,

P.O. Box 7483 - 00300, Nairobi, Kenya.

Tel: 254-020-3874220, 387419, 3876290,

Mobile: 0734874221, 0727773991, Fax: 254-020-3876295

E-mail: info@kituochasheria.or.ke

Branch Office

Jogoo Rd, Nairobi, Forced Migration Program (FMP),

Jogoo Road Plaza, Jogoo Road, Tel: 202451631,

0736867241, 0720806531

Regional Office

Mombasa, Opp Ganjoni Primary School,

P. O. Box 89065, Mombasa, Kenya. Tel. : 254-041-2230282,

0731129739, 0700638379, Fax: 254-041-2230283

E-mail: msa@kituochasheria.or.ke

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