



**THE NATIONAL ASSEMBLY (FOURTH SESSION)**

**CONVEYANCE OF A PUBLIC PETITION**

(No. 40 of 2020)



**REGARDING CONCERNS BY THE COUNTY GOVERNMENT  
OF UASIN GISHU ON HEALTH SERVICES CONDITIONAL  
GRANT**

**Honourable Members,** Standing Order 225(2)(b) requires the Speaker to report to the House any Petition other than those presented by a Member. I therefore wish to report to the House that my office has received a petition from the leadership of the County Government of Uasin Gishu regarding *non-allocation of Health Services Conditional Grant to the County Government of Uasin Gishu.*

**Honourable Members,** the petition, which is co-signed by among others the Governor of Uasin Gishu County, H.E. Jackson K. Arap Mandago and his deputy, holds that the Moi Teaching and Referral Hospital has never received a Conditional Grant which is provided for under Article 202(2) of the Constitution. The petitioners aver that the elevation of the said Hospital from Level 5 to Level 6 is the root cause of this funding stalemate that continues to deny county residents access to emergency, outpatient and inpatient services.

Further, **Honourable Members,** the petitioners assert that the Moi Teaching and Referral Hospital perennially struggles with underfunding, neglect and budget cuts, and is set to miss out on the Ksh 4.3 Billion earmarked for Level 5 hospitals under Health

Hon. Speaker  
You may approve  
arap kimi  
15/11/20

Services Conditional Grant as contained in the Division of Revenue Act, 2020.

**Honourable Members**, the petitioners are additionally convinced that the criteria used by the Ministry of Health to determine Level 5 hospital status such as availability of facilities and bed capacity is improper since it ignores other critical factors including hospital patients' attendance rates.

It is on this premise, **Honourable Members**, that the petitioners seek the intervention of this August House in securing Health Services Conditional Grants for Uasin Gishu County and in undertaking other investigative, legislative and budgeting interventions to safeguard the health standards of the people of Uasin Gishu County through the Moi Teaching and Referral Hospital and other health facilities within the County.

**Honourable Members**, pursuant to the provisions of Standing Order 227(1), this Petition therefore stands committed to the Departmental Committee on Health. The Committee is requested to consider the Petition and report its findings to the House and the petitioners in accordance with Standing Order 227(2).

**I thank you!**



**THE HON. JUSTIN B.N. MUTURI, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

**Thursday, November 19, 2020**

# NATIONAL ASSEMBLY

## Directorate of Legislative and Procedural Services

MEMO

**TO: DIRECTOR, LEGAL SERVICES**

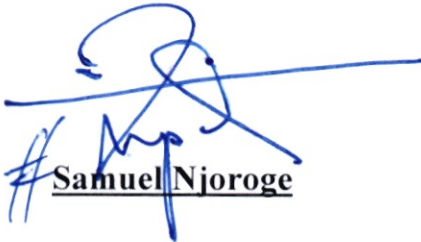
**FROM: DIRECTOR, LEGISLATIVE & PROCEDURAL SERVICES**

**DATE : OCTOBER 15, 2020**

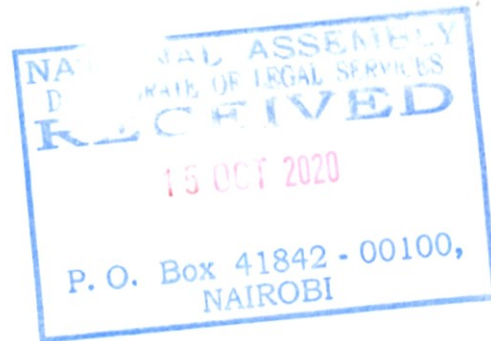
**SUBJECT: LEGAL OPINION ON PETITION BY COUNTY GOVERNMENT OF UASIN  
GISHU ON HEALTH SERVICES CONDITIONAL GRANT**

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Kindly advise on the enclosed Petition from the County Government of Uasin Gishu regarding Health Services Conditional Grant with respect to, among other areas, its admissibility in the National Assembly (vis a vis admissibility in the Senate), aspects of Devolution therein, implementability of the prayers sought, capacity for setting precedent, and other legal issues thereof.

  
Samuel Njoroge

//Encl.



Ms. Lynette

You are dealing.  
JMN  
21/10/2020

Page 1 of 1

Ms. Jennifer Nderitu  
Please assign and  
supervise 15/10/2020

④ Petitions  
Please deal  
A/c.

③ O/D - LSP  
No proposals  
Involve  
Speaker  
11/11/20

INTERNAL MEMORANDUM

TO: THE DIRECTOR LEGISLATIVE AND PROCEDURE, NA

THRO': THE DIRECTOR, LEGAL SERVICES- NA

Formulated the petition meets the requirements set under the Act and the Standing Orders and may be considered for tabling and consideration. 11/11/20

THRO': PRINCIPAL LEGAL COUNSEL

The petition as presented and the prayer sought are within the ambit of the roles of National Assembly as stipulated in the Constitution Art. 119, 95(4) & 95(5)

FROM: LEGAL COUNSEL I and may be forwarded to the Hon. Speaker for tabling in the House. 11/11/20

DATE: 2<sup>ND</sup> NOVEMBER, 2020

RE: LEGAL OPINION ON PETITION BY COUNTY GOVERNMENT OF UASIN GISHU ON HEALTH SERVICE CONDITIONAL GRANTS 2/11/20

The above matter and your instruction to the Directorate of Legal Services to give a brief on the petition by Uasin Gishu County refers.

We have perused the Constitution, the Petitions to Parliament (Procedure) Act, 2012 ( the Act ) and the National Assembly Standing Orders and advise as hereunder:

Article 201 of the Constitution stipulates the principles of public finance. It provides for an equitable society promoted by the public finance system. This results from, among other factors,

the equitable sharing of revenue raised nationally in Kenya. Further, Article 202 (2) provides that

*County governments may be given additional allocations from the national government's share of the revenue, either conditionally or unconditionally."*

Conditional allocations have terms under which county government should spend. The county governments cannot reallocate the money for other purposes. The county governments receive conditional grants from the national government's equitable share. That is, after both levels of government receive their share of the revenue raised nationally, the county governments receive additional funding from the national government's share.

Article 95(4) of the Constitution provides that

*The National Assembly—*

*(a) determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve;*

*(b) appropriates funds for expenditure by the national government and other national State organs; and*

*(c) exercises oversight over national revenue and its expenditure.*

In view of Article 202(2) of the Constitution that provides that conditional grants emanate from the national government's share of the revenue and noting the role of the National Assembly to determine allocation of revenue between two levels of government and appropriate expenditure for the national government under Article 95(5). The prayer by the Petitioners seeking allocation of a conditional grant for health care falls within the ambit of matters the National Assembly has powers to consider.

In this regard the Petition is admissible noting that it also complies with all other provisions of the Constitution, the Petitions to Parliament (Procedure) Act, 2012 and the National Assembly Standing Orders and may therefore be forwarded to the Speaker for tabling in the House.



**LYNETTE A. OTIENO.**



① DLSP.  
15/10/2022

② FM  
please process  
*[Signature]*  
15/10/2022

**COUNTY GOVERNMENT OF UASIN GISHU**

Dated the <sup>rd</sup> 23 day of September 2020 at ELDORET

TO:

The Clerk  
The National Assembly  
Parliament Buildings  
Tel: (254-2) 2221291 or 2848000  
P. O Box 41842 - 00100  
NAIROBI, KENYA

CC: The Chairperson,

The National Assembly Committee on Health, Labour and Social Welfare

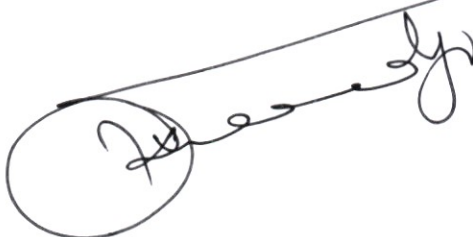
The Chairperson,

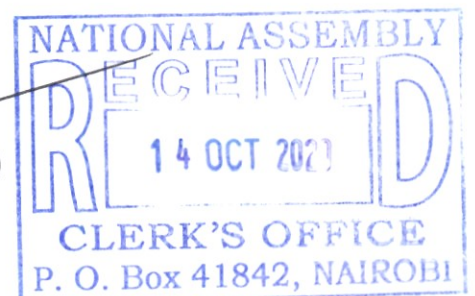
The National Assembly Committee on, Commerce and Economic Affairs

RE: PETITION TO THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37 AND ARTICLE 119 AND ARTICLE 202 OF THE CONSTITUTION AND AS PER PETITION TO PARLIAMENT (PROCEDURE) ACT AND PART XXIII OF THE NATIONAL ASSEMBLY STANDING ORDERS: ON HEALTH SERVICES CONDITIONAL GRANT TO COUNTY GOVERNMENT OF UASIN GISHU

BY

THE COUNTY GOVERNMENT OF UASIN GISHU





**RE: PETITION TO THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37 AND ARTICLE 119 AND ARTICLE 202 OF THE CONSTITUTION AND AS PER PETITION TO PARLIAMENT (PROCEDURE) ACT AND PART XXIII OF THE NATIONAL ASSEMBLY STANDING ORDERS: ON HEALTH SERVICES CONDITIONAL GRANT TO COUNTY GOVERNMENT OF UASIN GISHU**

**WE, the undersigned,**

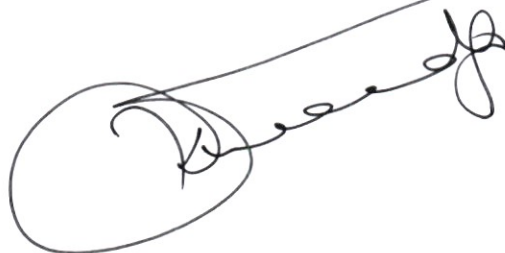
**The County Government of Uasin Gishu** in representation of the Citizens of the Republic of Kenya and residents of Uasin Gishu County;

**DRAW the attention of the National Assembly to the following:**

**THIS** Petition concerns the non-allocation of Health Services Conditional grant to the County Government of Uasin Gishu, as per the *Article 202 (2)*, as read with *Article 6(2)* of the Constitution of Kenya 2010. These grants are one option for increasing funding flows to counties to improve service delivery, while enabling the Ministry of Health and other national government actors to set standards and develop accountability frameworks for the use of these funds.

Whereas the County Government of Uasin Gishu in collaboration with the National Government of Kenya, through the Departments and Ministries for Health respectively, is tasked to provide integrated, efficient and high quality health care services that are reasonable, equitable and affordable to all Kenyans and in accordance with the Constitution and all relevant legislation;

The County Government of Uasin Gishu in the discharge of the mentioned functions has embarked on an assessment, rehabilitation, improvement, appraisal of pre-existing health facilities. Notwithstanding the various

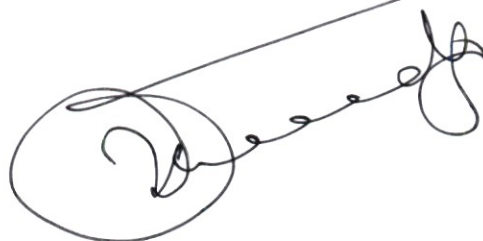
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RE: PETITION TO THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37 AND ARTICLE 119 AND ARTICLE 202 OF THE CONSTITUTION AND AS PER PETITION TO PARLIAMENT (PROCEDURE) ACT AND PART XXIII OF THE NATIONAL ASSEMBLY STANDING ORDERS: ON HEALTH SERVICES CONDITIONAL GRANT TO COUNTY GOVERNMENT OF UASIN GISHU

challenges over the years on Health provisions, the following was ascertained;

1. That the County Government of Uasin Gishu had its level five (5) Hospital which is the **Moi Teaching and Referral Hospital**. The said Hospital has never received a Conditional grant as envisaged by the *Article 202 (2)* and the various Division of Revenue Allocation Acts even after the new Constitutional dispensation. The County Government of Uasin Gishu contends that it is within the rights of the people of Uasin Gishu to benefit from such a grant and without which **Moi Teaching and Referral Hospital** should relocate to enable the residents of the County remain with their level 5 Hospital.
2. With the status put on the **Moi Teaching and Referral Hospital** to be a Level 6 Hospital and thereby a referral Hospital, the residents of Uasin Gishu County have been left with no proper Hospital to provide emergency, outpatient and inpatient services. As a matter of fact, the said Hospital serves residents from the Rift Valley, Western Kenya and also from East and Central Africa therefore denying the residents from the County proper health services.
3. The **Moi Teaching and Referral Hospital**, has been struggling with underfunding, neglect and budget cuts and therefore deserves a Conditional grant to uplift its services and in the event such a grant is not given then the grant should be given to the County Government of Uasin Gishu to improve its health centres to a higher level.

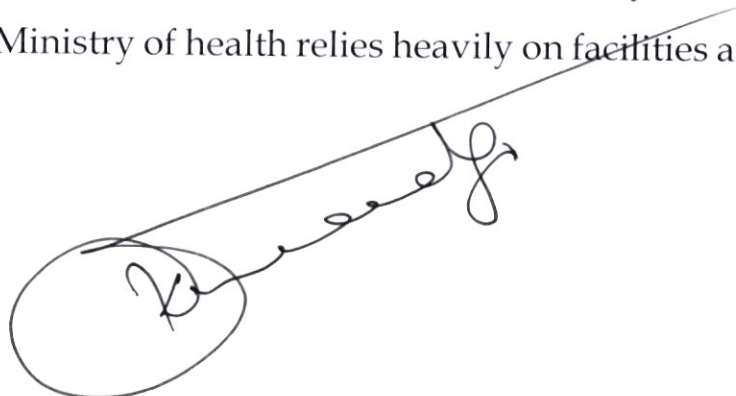
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4. That the Ministry of Health uplifted the **Moi Teaching and Referral Hospital** to be also a level 6 Hospital without considering the residents of Uasin Gishu County as the same is their level 5 Hospital.

In consideration of the aforementioned challenges the County Government of Uasin Gishu notes;

1. Health is a devolved function though bedeviled with challenges. That is not, however, a reason to state that the County Governments have failed, instead issues of funding, policy making and implementation, the role of the Ministry of Health in handing over should be addressed.
2. The County Government of Uasin Gishu contends that the *Article 6 (2)*, *Articles 202 (2)* of the Constitution as read with *Article 187* were not drafted in vain and the provision of services to the people should be a key determinant in allocation of a conditional grant.
3. The 2020/2021 Division of Revenue Act provides for Ksh.369,868,613,135 to be devolved to the counties, with health conditional grants for Level 5 Hospitals set at Ksh. 4,326,000,000. The County Government of Uasin Gishu shall miss out on the said grant as there is no level 5 Hospital within the County.
4. One of the solution to the problem would have been to allocate better status to the Health facilities in Uasin Gishu County but the criteria used by the Ministry of health relies heavily on facilities and

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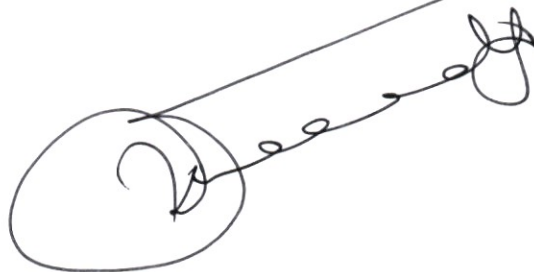
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bed capacity ironically which cannot be attained since grants are based on hospital status.

5. The criteria used by the Ministry of Health to refer levels to Hospitals throughout the Uasin Gishu County is greatly disadvantageous and prejudicial to the people of Uasin Gishu as it has denied them an opportunity to have their proper level 5 Hospital facility.
6. The distribution of funds and essentially conditional grants should be all-inclusive, equitable and evidence- based and not merely through assumption of hospital levels poorly categorized.
7. Attendance data of each Hospital in the Country should be a measure as to the need for Conditional grant in every County.

The County Government of Uasin Gishu therefore acknowledges the powers of the National Assembly to discuss issues of National importance.

The County Government thus seeks the intervention, guidance, wisdom, and recommendation of the National Assembly to protect the interests of the County Government of Uasin Gishu and its people; protect the objects of the Constitution and more so *Article 43* on fundamental rights to highest attainable standard of health, which includes the right to health care services, including reproductive health care; and subsequently ensure that the Conditional Grant so mentioned in this Petition is allocated to the County Government of Uasin Gishu and by extension the **Moi teaching and**

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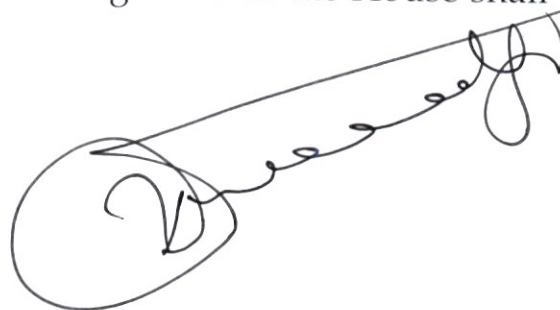
**Referral Hospital** for ultimate realization by the people of Uasin Gishu County and the people of Kenya.

**THAT**, we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.

**THAT**, the issues in respect of which the Petition is made are not pending before any Court of Law, Constitutional or legal body.

**HEREOF your humble petitioners PRAY that the National Assembly;**

- a) Duly and diligently respond to the matters raised in this Petition.
- b) That the Ministry of Health, in consultation with the County Government of Uasin Gishu embarks on a thorough assessment of the healthcare provision in Uasin Gishu County to which they shall confirm the allegations in this Petition.
- c) That this Petition be dealt with immediately in view of the urgency of this matter.
- d) Investigate, make inquiries and examine the issues raised herein.
- e) Exercise National Assemblys' authority to give directions to produce evidence, both oral and written and to answer, act and co-operate with such investigation to such persons and entities as the House shall think fit.
- f) Establish committees and/or tribunals and engage such professionals to conduct forensic and other investigations as the House shall think

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fit to ensure that the County Government of Uasin Gishu is given a healthcare Conditional grant as entitled to it.

- g) Undertake a County wide process of seeking views from the public with regard to the subject matters.
- h) Liaise with national agencies, and more so with the Commission for Revenue Allocation and the National Treasury, in order to accomplish a full and detailed inquiry into these matters.
- i) To do all and anything necessary permitted under the law and Constitution of the Republic of Kenya to establish and enforce the law with regard to revenue allocation.

And your PETITIONERS will ever Pray.

Petitioned and Dated this 23<sup>rd</sup> day of September 2020 at ELDORET

PETITIONERS;

For and on Behalf of the People of Uasin Gishu County and the County Government of Uasin Gishu;

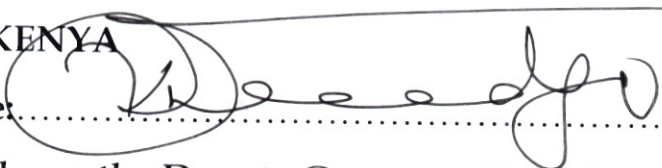
His Excellency The Governor Jackson K. Arap Mandago

I.D. No. 13206022

P.O Box 40-30100,

Eldoret, KENYA

Signature.....



His Excellency the Deputy Governor, Daniel K. Kiprotich

I.D. No. 4911481

RE: PETITION TO THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37 AND ARTICLE 119 AND ARTICLE 202 OF THE CONSTITUTION AND AS PER PETITION TO PARLIAMENT (PROCEDURE) ACT AND PART XXIII OF THE NATIONAL ASSEMBLY STANDING ORDERS: ON HEALTH SERVICES CONDITIONAL GRANT TO COUNTY GOVERNMENT OF UASIN GISHU

P.O Box 40-30100,

Eldoret, KENYA


Signature:.....

The County Attorney, Stephen K. Lel

I.D. No. ....6847791.....

P.O Box 40-30100,

Eldoret, KENYA

Signature:.....

County Executive Committee Member for Health

Everlyne Chepkemoi Rotich

I.D. No. ....13206545.....

P.O Box 40-30100,

Eldoret, KENYA

Signature:.....

County Executive Committee Member for Finance and Economic Planning

Julius K. Rutto

I.D. No. ....22443368.....

P.O Box 40-30100,

Eldoret, KENYA

Signature:.....

PETITION concerning the non-allocation of Health Services Conditional grant to the County Government of Uasin Gishu, as per the *Article 202 (2)*, as read with *Article 6(2)* of the Constitution of Kenya 2010. These grants are one option for increasing funding flows to counties to improve service delivery, while enabling the Ministry of Health and other national government actors to set standards and develop accountability frameworks for the use of these funds.

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**His Excellency Jackson K. Arap Mandago**

P.O Box 40-30100,  
Eldoret, KENYA

**Signature:.....**



① DLSP.

15/10/2020

② FM  
Please process  
MP

15/10/2020

COUNTY GOVERNMENT OF UASIN GISHU



CC: The Chairperson,

The National Assembly Committee on Health, Labour and Social Welfare

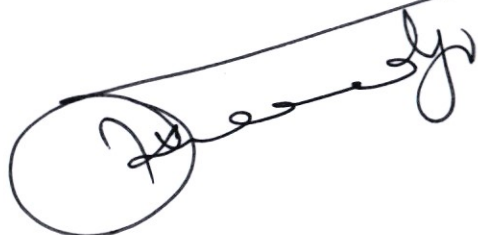
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BY

THE COUNTY GOVERNMENT OF UASIN GISHU

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NATIONAL ASSEMBLY  
RECEIVED  
14 OCT 2021  
CLERK'S OFFICE  
P. O. Box 41842, NAIROBI

RE: PETITION TO THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37 AND ARTICLE 119 AND ARTICLE 202 OF THE CONSTITUTION AND AS PER PETITION TO PARLIAMENT (PROCEDURE) ACT AND PART XXIII OF THE NATIONAL ASSEMBLY STANDING ORDERS: ON HEALTH SERVICES CONDITIONAL GRANT TO COUNTY GOVERNMENT OF UASIN GISHU

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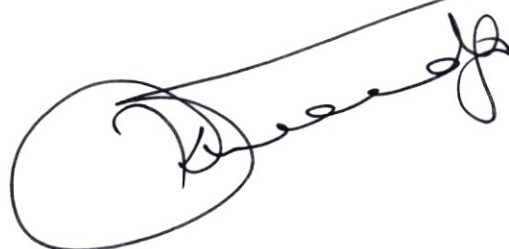
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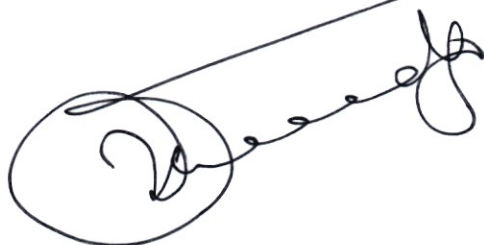
REPORT ON THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37  
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Over the years on Health provisions, the following was needed;

That the County Government of Uasin Gishu had its level five (5) hospital which is the **Moi Teaching and Referral Hospital**. The said hospital has never received a Conditional grant as envisaged by the *article 202 (2)* and the various Division of Revenue Allocation Acts even after the new Constitutional dispensation. The County Government of Uasin Gishu contends that it is within the rights of the people of Uasin Gishu to benefit from such a grant and without which **Moi Teaching and Referral Hospital** should relocate to enable the residents of the County remain with their level 5 Hospital.

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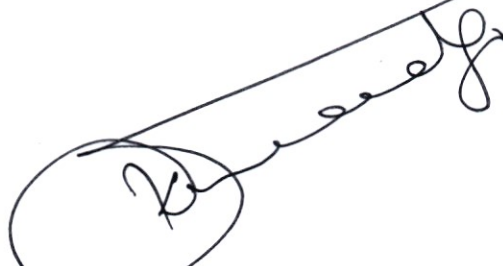
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4. That the Ministry of Health uplifted the **Moi Teaching and Referral Hospital** to be also a level 6 Hospital without considering the residents of Uasin Gishu County as the same is their level 5 Hospital.

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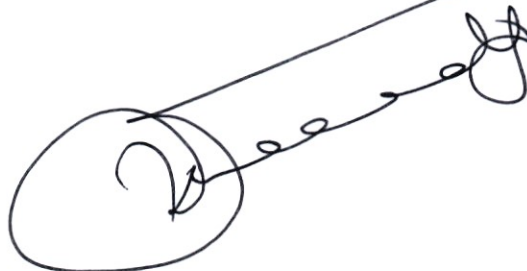
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The County Government of Uasin Gishu therefore acknowledges the powers of the National Assembly to discuss issues of National importance.

The County Government thus seeks the intervention, guidance, wisdom, and recommendation of the National Assembly to protect the interests of the County Government of Uasin Gishu and its people; protect the objects of the Constitution and more so *Article 43* on fundamental rights to highest attainable standard of health, which includes the right to health care services, including reproductive health care; and subsequently ensure that the Conditional Grant so mentioned in this Petition is allocated to the County Government of Uasin Gishu and by extension the **Moi teaching and**

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RE: PETITION TO THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37 AND ARTICLE 119 AND ARTICLE 202 OF THE CONSTITUTION AND AS PER PETITION TO PARLIAMENT (PROCEDURE) ACT AND PART XXIII OF THE NATIONAL ASSEMBLY STANDING ORDERS: ON HEALTH SERVICES CONDITIONAL GRANT TO COUNTY GOVERNMENT OF UASIN GISHU

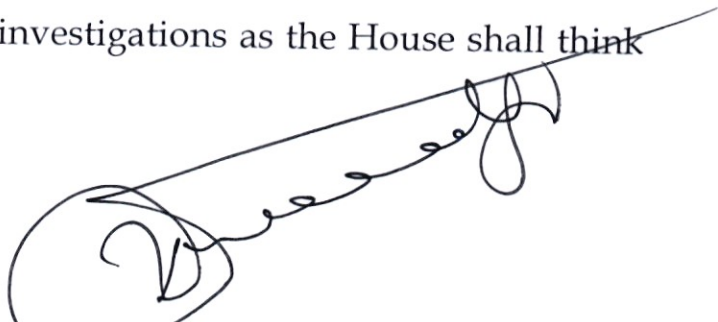
**Referral Hospital** for ultimate realization by the people of Uasin Gishu County and the people of Kenya.

THAT, we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.

THAT, the issues in respect of which the Petition is made are not pending before any Court of Law, Constitutional or legal body.

**HEREOF your humble petitioners PRAY that the National Assembly;**

- a) Duly and diligently respond to the matters raised in this Petition.
- b) That the Ministry of Health, in consultation with the County Government of Uasin Gishu embarks on a thorough assessment of the healthcare provision in Uasin Gishu County to which they shall confirm the allegations in this Petition.
- c) That this Petition be dealt with immediately in view of the urgency of this matter.
- d) Investigate, make inquiries and examine the issues raised herein.
- e) Exercise National Assembly's authority to give directions to produce evidence, both oral and written and to answer, act and co-operate with such investigation to such persons and entities as the House shall think fit.
- f) Establish committees and/or tribunals and engage such professionals to conduct forensic and other investigations as the House shall think

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RE: PETITION TO THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37 AND ARTICLE 119 AND ARTICLE 202 OF THE CONSTITUTION AND AS PER PETITION TO PARLIAMENT (PROCEDURE) ACT AND PART XXIII OF THE NATIONAL ASSEMBLY STANDING ORDERS: ON HEALTH SERVICES CONDITIONAL GRANT TO COUNTY GOVERNMENT OF UASIN GISHU

fit to ensure that the County Government of Uasin Gishu is given a healthcare Conditional grant as entitled to it.

- g) Undertake a County wide process of seeking views from the public with regard to the subject matters.
- h) Liaise with national agencies, and more so with the Commission for Revenue Allocation and the National Treasury, in order to accomplish a full and detailed inquiry into these matters.
- i) To do all and anything necessary permitted under the law and Constitution of the Republic of Kenya to establish and enforce the law with regard to revenue allocation.

And your PETITIONERS will ever Pray.

Petitioned and Dated this 23<sup>rd</sup> day of September 2020 at ELDORET

PETITIONERS;

For and on Behalf of the People of Uasin Gishu County and the County Government of Uasin Gishu;

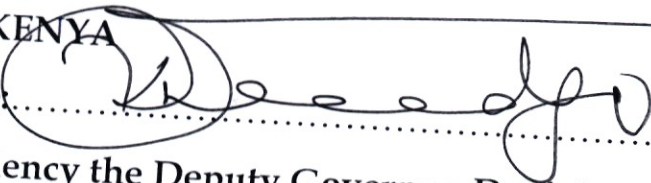
His Excellency The Governor Jackson K. Arap Mandago

I.D. No. 13206022

P.O Box 40-30100,

Eldoret, KENYA

Signature



His Excellency the Deputy Governor, Daniel K. Kiprotich

I.D. No. 4911481

RE: PETITION TO THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37 AND ARTICLE 119 AND ARTICLE 202 OF THE CONSTITUTION AND AS PER PETITION TO PARLIAMENT (PROCEDURE) ACT AND PART XXIII OF THE NATIONAL ASSEMBLY STANDING ORDERS: ON HEALTH SERVICES CONDITIONAL GRANT TO COUNTY GOVERNMENT OF UASIN GISHU


P.O Box 40-30100,  
Eldoret, KENYA

Signature:.....

The County Attorney, Stephen K. Lel

I.D. No. ....6847391.....

P.O Box 40-30100,  
Eldoret, KENYA

Signature:.....

County Executive Committee Member for Health

Everlyne Chepkemai Rotich

I.D. No. ....13206545.....

P.O Box 40-30100,  
Eldoret, KENYA


Signature:.....

County Executive Committee Member for Finance and Economic Planning

Julius K. Rutto

I.D. No. ....22443368.....

P.O Box 40-30100,  
Eldoret, KENYA

Signature:.....

PETITION concerning the non-allocation of Health Services Conditional grant to the County Government of Uasin Gishu, as per the *Article 202 (2)*, as read with *Article 6(2)* of the Constitution of Kenya 2010. These grants are one option for increasing funding flows to counties to improve service delivery, while enabling the Ministry of Health and other national government actors to set standards and develop accountability frameworks for the use of these funds.



RE: PETITION TO THE NATIONAL ASSEMBLY, PURSUANT TO ARTICLES 37  
AND ARTICLE 119 AND ARTICLE 202 OF THE CONSTITUTION AND AS PER  
PETITION TO PARLIAMENT (PROCEDURE) ACT AND PART XXIII OF THE  
NATIONAL ASSEMBLY STANDING ORDERS: ON HEALTH SERVICES  
CONDITIONAL GRANT TO COUNTY GOVERNMENT OF UASIN GISHU

His Excellency Jackson K. Arap Mandago

P.O Box 40-30100,  
Eldoret, KENYA

Signature:.....