

SHOW US THE CONTRACTS

Why Okoa Mombasa is suing to obtain Kenya's Standard Gauge Railway (SGR) contracts

The Kshs 450B SGR is the most expensive infrastructure project in Kenya's history, and was financed mostly via loans from the Export-Import Bank of China. Despite the enormous cost and numerous calls for transparency, the government has refused to publish agreements related to the project's financing, citing confidentiality. On 21 June 2021, [we filed suit](#) to obtain those documents because Kenyans whose taxes are being used to pay for this overpriced project are entitled to know how the loans are structured, what obligations Kenya incurs and the consequences of default. To learn more about Okoa Mombasa, [see here](#).



#OKOAMOMBASA

HOW HAS THE SGR AFFECTED KENYA & MOMBASA?



Thanks to the SGR loans, China is now Kenya's largest bilateral lender. Loan repayments are projected to exceed Kshs 90B in financial year 2021/2022, contributing to the country's large debt burden.

The SGR has been unable to break even, consistently making losses since its inception. In an effort to increase revenues, the government in 2020 directed that all containerized cargo destined inland (local and transit) be transported via the Standard Gauge Railway. This has led to the demise of Mombasa's economy by shifting logistical operations to inland container depots in Nairobi and Naivasha. The result has been thousands of job losses and revenue loss for Mombasa County government.

The financial viability of the SGR was questioned even prior to its construction. The procurement process for the SGR was found to be illegal and the issuance of the cargo directives, unconstitutional for lack of public participation.

WHAT HAVE WE DONE SO FAR?

In 2019 and 2020, Okoa Mombasa [submitted](#) Access to Information Act requests to several government agencies, seeking all relevant information related to the SGR project, including contracts, agreements, memoranda of understanding, and studies (feasibility, economic, social, cultural and environmental impact assessments, etc.). We have not received any substantive information responsive to our request to date.

WHAT DOES OUR PETITION DEMAND?

Given the government's lack of response, Okoa Mombasa petitioned the High Court of Kenya on 21 June 2021 to enforce the right of access to information. We believe that the failure to provide the information or to make it proactively available as required in the Constitution is a violation of the petitioner's right to access information. Without this information, the petitioner is further prevented from exercising their right to public participation. The refusal to provide the requested information contravenes public finance management principles of transparency and accountability protected by the Constitution.

We are asking the court to ensure that the SGR contracts are released by requiring the respondents to report back on compliance. Through this petition, we hope to reinforce the obligations of the government to provide information to its citizens on matters of concern. Access to information is central to public participation. Confidentiality of public finance documents goes against the principles of openness and accountability enshrined in the Constitution.

LEGAL BASIS FOR THE PETITION

Article 35 of the Constitution
(Access to Information)

Article 201 of the
Constitution
(Public Finance Management)

Article 10 of the
Constitution
(National Values and
Principles of Governance)

[Click to read the petition](#)