

Health NGO's Network
HENNET
08 NOV 2024
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NATIONAL ASSEMBLY
MAIN RECORDS UNIT
08 NOV 2024
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NAIROBI - KENYA

HENNET CSO Petition for the Enactment and Expedited Passage of the Public Participation Bill (No. 52 of 2023) with Kenya Key Amendments.

Presented to

Speaker of the National Assembly

Copied to The Clerk of the National Assembly

Parliament Buildings,
P.O. Box 41842-00100,
Nairobi, Kenya.

Date: 8th November 2024

RE: HENNET CSO Petition for the Enactment and Expedited Passage of the Public Participation Bill (No. 52 of 2023) with Kenya Key Amendments.

Dear Hon. Speaker,

We, as Health NGOs in Kenya under the umbrella of HENNET, submit this petition to the National Assembly calling for the urgent enactment of the Public Participation Bill. Public participation is a constitutional requirement and a cornerstone of our democracy, enshrined in Article 10 of the Constitution of Kenya 2010. However, without a clear legislative framework, public participation has often been inconsistent and unstructured resulting in numerous laws being deemed unconstitutional due to insufficient involvement of the public, which has led to the legal challenges to different health laws therefore affected the timely implementation of these laws which affect the access to affordable and quality health care with the overall goals of improved health outcomes in Kenya.

As civil society organizations, we have already submitted a detailed memorandum to the National assembly on 13th February 2024 on the Public Participation bill, The Public Participation Policy on 22nd May 2024 to the Senate and Public participation bill to the Office of the Attorney General 29th October 2024. We respectfully request that our inputs be incorporated into the final version of the Bill, and that its enactment be expedited to address the critical gaps currently affecting the legislative process.

In addition to the general provisions in the Bill, we believe that the following key changes are necessary to ensure that public participation in Kenya is meaningful, inclusive, and in line with the Constitution:

- 1. Strengthen Minimum Standards for Public Participation**
We recommend that the Bill include clear and enforceable minimum standards for public participation. These standards should outline the number of public hearings, the format for engagement, public sensitization on the matter of interest, the required notice period, and how public feedback is to be collected and documented. These measures will prevent tokenistic engagement and ensure uniform adherence to meaningful participation processes.
- 2. Expand the Scope of Public Participation**
The Bill should not only mandate public participation in legislative processes but also extend these requirements to major administrative decisions, policy development, and significant public projects. Public participation must be comprehensive and applied to all decisions that have a direct impact on citizens' lives.
- 3. Mandatory Consideration of Public Input**
It is essential that public institutions be required to show how public input has influenced their final decisions. This would increase transparency and public trust, ensuring that public contributions are not disregarded. The Bill should require a formal feedback mechanism that informs the public how their views have been incorporated into decision-making.
- 4. Introduce Penalties for Non-Compliance**
To ensure compliance, the Bill should include penalties for public bodies that fail to carry out meaningful public participation. These could range from fines to the nullification of decisions made without adequate participation. Without clear consequences, there is a risk that public participation will remain a mere formality.
- 5. Stronger Provisions for Marginalized Groups**
The Bill should specifically address the inclusion of marginalized groups, such as

persons with disabilities, women, youth, and those in remote areas. Public bodies should be required to ensure these groups are actively engaged, using methods such as targeted outreach and participation materials in accessible formats, including local languages.

6. Framework for Digital Participation

In this digital age, and especially in light of the COVID-19 pandemic, the Bill should include provisions for online public participation. This would ensure greater accessibility, allowing citizens who are unable to attend physical meetings to engage through virtual platforms.

7. Adequate and Timely Notice for Public Engagement

The Bill should require that sufficient notice (not less than 21days) be provided before any public participation event. Currently, short, or last-minute notices reduce the effectiveness of participation, limiting the ability of the public to prepare and contribute meaningfully.

Conclusion

In light of the critical importance of public participation in governance, we respectfully urge the National Assembly to:

1. Incorporate the changes outlined above into the final version of the Public Participation Bill.
2. Expedite the deliberations and enactment of the Bill in 2024 to prevent further instances of laws being rendered unconstitutional due to insufficient public involvement.
3. Ensure the Bill provides for meaningful, inclusive, and transparent engagement of citizens in legislative and policy-making processes.
4. Incorporate health NGOs and stakeholders in the physical and virtual public engagement on this bill.

We are confident that the adoption of these key amendments will strengthen our democracy, uphold constitutional principles, and foster a more engaged and empowered citizenry. We look forward to your timely action and remain open to further engagement to support this process.

Yours faithfully,



Dr. Margaret Lubaale

Executive Director, ED

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This memo is submitted on behalf of Registered HENNET Member Organizations