



**MEMORANDUM ON**

**THE PUBLIC PARTICIPATION BILL, 2024**

**Submitted to:**

The Office of the Attorney General & Department of Justice

Submitted By:

**Kenya ICT Action Network (KICTANet)**

**30 October 2024**

## Cover Letter

30 October 2024,

Office of the Attorney General and Department of Justice,  
10th Floor, Cooperative House,  
Room 1008 Haile Sellasie,  
P.O. Box 40112-00100,  
Nairobi

Submitted via email to [publicparticipation@ag.go.ke](mailto:publicparticipation@ag.go.ke)

Dear Sir/Madam,

### **Re: Memorandum on The Public Participation Bill 2024**

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Greetings from [KICTANet](#)!

We submit this memorandum with expertise on human rights and Information and Communication (ICTs).

We submit this memorandum in response to the call for input on The Public Participation Bill 2024.

We have included herein a matrix presentation that captures our concerns, and highlights our proposals on relevant provisions of each of the Bills for your review and consideration. We would be glad to provide further input and perspectives on the Bills, as and when required.

We have included herein a matrix presentation that captures our concerns, and highlights our proposals on relevant provisions of the Bills for your review and consideration. We would be glad to provide further input and perspectives on the Bill, as and when required.

We look forward to your response.

Regards,

Dr. Grace Githaiga

*Kenya ICT Action Network (KICTANet)*

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**The Public Participation Bill 2024**

Clause No.	Provision	Issue/Concern	Proposal/Recommendation	Justification
2	Interpretation	<p>The Bill lacks explicit definitions for key terms such as "public participation" and "public," leading to potential ambiguity in understanding the scope and</p> <p>The authorities responsible for public participation in the institutions are set in Section 5 and not Section 6 of this Bill.</p>	<p><b>Include elaborate definitions for key terms:</b></p> <p>Explicitly define "public participation" as a substantive engagement process and outline penalties for failure to adhere to this principle. Ensure that public bodies adopt and document steps demonstrating active public engagement to meet legal requirements.</p> <p>1. <b>"Public Participation"</b>: Public participation is the active involvement of individuals and communities in decision-making processes that affect their lives, ensuring their voices and perspectives contribute to shaping policies, laws, and public projects.</p> <p>2. <b>"Public"</b>: Define as "all persons, communities, or stakeholders affected by or interested in a particular decision or policy, encompassing diverse demographics and</p>	<p>Clear definitions are crucial to ensuring that public participation is not merely a formality but a meaningful engagement process. By articulating what constitutes public participation and who is considered part of the public, the Bill can foster genuine involvement and dialogue.</p> <p>This approach will help build trust, enhance accountability, and ensure that the needs and perspectives of all stakeholders are adequately represented in decision-making processes.</p> <p>The authorities responsible for public participation in institutions in this Bill are outlined in Section 5, and not Section 6.</p>

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			<p>backgrounds to ensure inclusivity.”</p> <p>"responsible authority" means the authority responsible for public participation in the institutions set out under <b>Section 5</b>;</p>	
3	Object of the Act	Ensuring Mandatory and Meaningful Public Participation	<p>The Bill should enshrine public participation as a mandatory component in governmental decision-making processes, especially for policies, laws, and projects that impact the public.</p> <p>The Bill should mandate that public participation processes be designed to ensure substantive input from the public. This could include: establishing clear objectives for the public participation process, ensuring that decisions are informed by public input, and making the decision-making process transparent and accessible.</p>	<p>Courts have reinforced that public participation is mandatory, not optional. Participation should be genuine, meaningful and engage stakeholders actively, not merely a formality or tick-box exercise.</p> <p>Recent judicial pronouncements underscore the importance of mandatory, substantive public participation as a constitutional principle under Article 10 of the Constitution. Courts have observed that perfunctory or token participation does not meet the constitutional standard and risks undermining public trust.</p> <p>Courts have emphasized the need for active engagement, not tokenism, in</p>

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				public consultations, particularly in matters of significant public interest.
4	A state organ or public office shall facilitate public participation on matters relating to— (a) formulation of policies; (b) budgeting and financial management; (c) law-making processes; or (d) any other matter as may be prescribed by law.	The current clause limits public participation primarily to policy formulation, budgeting, financial management, law-making, or other prescribed matters, which may restrict public involvement in significant but unlisted matters.	Expand the clause to encompass a broader range of governance activities, including strategic planning, development activities (e.g. infrastructure development or project implementation), environmental impact assessments, and other major public interest decisions.	Broader scope aligns with global best practices, as seen in countries like Canada, where public participation is required for diverse public interest activities. This expansion would foster comprehensive engagement and enhance public trust.
5	5. A responsible authority shall consider the following when undertaking public participation—  (a) nature of the matter under consideration;  (b) urgency of the matter;	The list provided is definitive and limited, whereas the clause aims to offer recommendations.  Include other considerations e.g., number of persons and ability/capacity of the public.  The bill designates specific responsible authorities for each sector but lacks	There are various types and formations of government agencies, and it is not practical to list all the different formations. It might be useful to designate the head or the person responsible for the executive functions of the entity to be responsible.  Add considerations such as: the number of persons required and the threshold for public participation; and	The use of "shall" implies a strict requirement. "Should" is more appropriate than "shall" in this context, as it emphasizes the recommended nature of the list. This allows for flexibility in implementation, enabling inclusion and the adoption of specific items on a case-by-case basis, as circumstances dictate.  Accountability structures are essential to prevent cursory participation

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	<p>(c) impact of the matter on the public;</p> <p>(d) need for inclusive and effective representation;</p> <p>(e) number of persons likely to be affected;</p> <p>(f) ability of the members of the public to access the necessary information and the public participation forum; and</p> <p>(g) integrity and transparency of the process.</p>	<p>mechanisms for oversight and accountability for these authorities in conducting effective public participation.</p>	<p>the ability of members of the public to understand the matter under consideration.</p> <p>State bodies that have boards or commissions, such organs should have oversight functions over the implementation of public participation by the body. The secretariats should be required to report on their implementation of public participation to their oversight bodies on an regular or annual basis.</p>	<p>practices. Countries with successful frameworks, such as South Africa, include oversight mechanisms that enforce participation standards across different sectors.</p>
6	<p>Considerations when undertaking public participation.</p>	<p>While the clause outlines considerations, it lacks specificity regarding human rights considerations e.g., non-discrimination,</p>	<p>Include human rights and public interest as key considerations. It does not also cover principles under art. 10 of the constitution.</p>	<p>The values under article 10 of the constitution require these to be part of the considerations when an institution is considering or making any public policy decision.</p>

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		inclusivity, equity, etc.		
7	<p>(1) A responsible authority shall give the public adequate notice to make their input on the issue.</p> <p>(2) For purposes of sub-section (1), a responsible authority shall establish mechanisms to enable the widest reach which may include publication of notices in—</p> <p>(a) television stations;</p> <p>(b) information communication technology centers;</p> <p>(c) websites;</p> <p>(d) community radio</p>	<p>The bill requires notice through various media but lacks a stipulated minimum notice period and detailed accessibility standards. Clause 7(1) does not define what constitutes “adequate time”</p> <p>The clause includes several traditional and digital communication channels but lacks a centralized e-governance portal for public participation, which can streamline access to all notices, documents, and feedback mechanisms in one place.</p> <p>The Bill does not provide for the integration of digital</p>	<p>The Bill should mandate specific timeframes for public notices and require notices to be issued in accessible formats and languages, tailored to diverse audiences. Adequate time should be given for public review and comment.</p> <p>Include provisions that require government bodies to notify the public at least 30 days in advance of participation events, using accessible channels such as local media, community meetings, and digital platforms.</p> <p>Outline the need for simplified language in notices to foster inclusivity.</p> <p>Require that information is provided to the public in accessible formats for notices, including translations and simplified language.</p>	<p>Adequate notice and accessibility standards align with global best practices, such as the US’s Administrative Procedure Act, ensuring informed and inclusive participation. These measures facilitate meaningful engagement by providing sufficient time for public response. Defining the minimum notice period would ensure predictability and prevent manipulation or rushed public participation processes.</p> <p>Courts have stressed that stakeholders must be given adequate notice to participate meaningfully in public processes. In addition, they have ruled that without adequate notice and accessible avenues for engagement, public participation lacks credibility. Timely, clear communication is essential for meaningful engagement.</p> <p>Digital engagement platforms make</p>

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	<p>stations;</p> <p>(e) public meetings; or</p> <p>(f) newspapers.</p> <p>(3) A public participation programme under sub-section (1) shall clearly identify—</p> <p>(a) specific purposes for consultation;</p> <p>(b) the community, profession or groups to be consulted;</p> <p>(c) the length of the consultations;</p> <p>(d) whether submissions should be made orally, in writing or both; and</p>	<p>platforms, which limits accessibility for those who may benefit from virtual engagement options. The exclusion of digital spaces limits the reach of participation to those able to attend physical sessions, missing engagement on popular digital platforms in Kenya.</p>	<p>Add a section mandating the establishment of digital participation platforms to broaden public access. Specify that platforms must be accessible on mobile devices and include features like virtual consultations, online document access, and real-time feedback submission.</p> <p>Require the establishment of e-participation portals dedicated to public participation, enabling timely publication of notices, access to relevant documents, and submission of feedback in a centralized location.</p> <p>Expand the clause to recognize digital platforms, such as social media, as formal channels for public participation.</p>	<p>participation more inclusive and accessible, especially for youth and geographically isolated populations. They also simplify access to information and enhance transparency, especially for citizens who rely on digital platforms. Countries like Estonia have successfully integrated digital platforms, enhancing public reach and participation. Similar systems are used in countries like Rwanda where centralized digital governance platforms enable continuous engagement, thereby improving participation rates and accessibility.</p> <p>Many Kenyans, particularly youth, engage primarily through digital platforms like Twitter, WhatsApp, and Facebook for civic discourse. The 2024 Finance Bill debate showed the importance of social media in gauging public sentiment, making it crucial to incorporate these platforms formally.</p>



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	(e) the issues or matter for consultation.			
8	A responsible authority shall ensure that the public has fair and equal access to the public participation process and the opportunity to give views on the matter under consideration. A responsible authority shall take reasonable measures to facilitate the participation of women, persons with disabilities, youth, ethnic and other minorities and marginalized communities.	<p>The bill provides for access but lacks clarity on what constitutes "fair and equal access" and omits digital engagement platforms.</p> <p>The provision lacks specific methods to reach marginalized groups and rural communities, many of whom face connectivity or language barriers.</p> <p>Guaranteeing Inclusivity and broad representation</p>	<p>Define "fair and equal access" to include digital participation platforms and provide resources for remote communities to engage.</p> <p>Require hybrid methods (in-person, online, SMS, and community radio) to ensure equal participation access, and mandate interpretation for non-official languages when needed.</p> <p>The Bill should require public bodies to make specific efforts to engage all relevant demographics, particularly marginalized and vulnerable populations.</p> <p>The Bill should include provisions for targeted outreach programs and community-based engagement mechanisms to ensure all demographics, including women,</p>	<p>Including digital platforms and remote engagement resources aligns with practices in countries like Estonia, where digital participation enhances accessibility and broadens reach, especially for tech-savvy populations.</p> <p>During the COVID-19 pandemic, the Kenyan government effectively used SMS and local radio to reach rural areas, demonstrating that alternative channels can bridge digital divides. Hybrid approaches help include those without stable internet access, ensuring no one is left out.</p> <p>Public participation processes should be accessible to all, regardless of socioeconomic status, disability, or location. This may involve using multiple channels of communication, such as physical meetings, online</p>

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			<p>youth, persons with disabilities, and minority groups, are represented.</p> <p>Additionally, mandate a regular assessment and reporting on inclusivity efforts by public bodies.</p> <p>A variety of methods are used to engage the public, including face-to-face meetings, online consultations, and community forums.</p> <p>Translation and interpretation services should be provided, as needed.</p>	<p>platforms, and local languages.</p> <p>Recent court decisions have reinforced the principle that public participation should be inclusive, capturing a broad spectrum of society. The importance of including marginalized and vulnerable groups in participation processes has been noted.</p> <p>A democratic process must reflect the voices of all groups affected by decisions, including those traditionally underrepresented.</p>
9	Adequate time	The clause calls for adequate time for public participation but does not define or specify minimum or recommended timeframes.	Provide explicit minimum timeframes for various processes, such as 30-60 days for written submissions and consultations.	Specified timeframes create consistency and ensure that the public has sufficient time to review and contribute meaningfully, reflecting best practices in EU member states, where minimum consultation periods are established.
10	A responsible authority shall facilitate access to	The clause mandates access to documents but lacks	Mandate proactive disclosure of key documents online, and require that	Proactive and accessible document provision aligns with best practices in

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	documents relating to the matter under consideration.”	<p>provisions for proactive transparency or accessibility in multiple languages.</p> <p>The clause does not specify digital access, which limits document availability to those able to attend physical meetings or access hard copies.</p>	<p>documents be provided in relevant local languages.</p> <p>The Bill should compel public bodies to provide detailed and relevant information at all stages of public participation, ensuring transparency.</p> <p>Establish a requirement that all relevant documents, including project details, draft policies, and financial information, are publicly available online and in physical copies.</p> <p>Mandate uploading of all relevant documents on official websites and require formats accessible on mobile phones. Distribute summaries through community channels like WhatsApp and SMS.</p> <p>Information should be provided in accessible formats, including local languages and digital platforms.</p> <p>Outline that failure to provide</p>	<p>New Zealand and the EU, enhancing transparency and enabling informed participation, especially for linguistically diverse populations.</p> <p>Access to information and documents is essential for participation. In 2022, limited online access to documents during Huduma Bill consultations restricted public engagement, showing the need for mobile-friendly formats to accommodate the digital reality of many Kenyans.</p> <p>Courts have ruled that for the public to participate meaningfully, they must be equipped with sufficient, accurate, timely and relevant information. This includes details about the proposed project or policy, its potential impacts, and the decision-making process. The absence of detailed information prevents the public from understanding and effectively contributing to consultations.</p>

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			adequate information invalidates the participation process.	
11	Processing of Responses	The clause mandates analysis of responses but does not specify transparency measures on how public feedback influences final decisions.	Require the body conducting the public participation to report to the public within a specified timeframe (e.g. 30-60 days) on how feedback was integrated into the final decision, including justifications for any rejected input.	Transparency on feedback impact builds public trust and accountability, aligning with practices in countries like New Zealand, where authorities publish summaries detailing the influence of public input on decisions.
12	(1) A person who attends a forum of public participation shall be courteous, respectful and civil. (2) The right to freedom of expression set out in Article 33 of the Constitution shall be limited to the extent that it is necessary to facilitate public participation under subsection (1). (3) A responsible authority may cause the removal	The clause emphasizes civility and allows removal for non-compliance, but it lacks protections for freedom of expression within participatory forums.  Lack of clear standards on what constitutes non-compliance or procedures for imposing fines could lead to inconsistent enforcement.	Include protections for freedom of expression within legal limits and specify grounds for removal to avoid subjective decisions.  Define explicit criteria for non-compliance and outline procedures for fair penalty assessment, including an appeals process for those penalized.	Protecting freedom of expression ensures democratic engagement and aligns with best practices, as seen in participatory frameworks in the EU, where civility standards must balance with expression rights.  If there are no protections for expression and access to information, then members of the public risk being denied access to public participation forums, or could be kicked out from the fora for expressing critical views.

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	of a person who fails to comply with subsection (1) from a forum of public participation.			
13	Development of Specific Guidelines for Public Participation	Specific guidelines are developed by individual authorities, which could lead to inconsistent standards across sectors.	This bill should elaborate on uniform, national guidelines and set minimum standards applicable to all authorities. This responsibility should not be transferred to responsible authorities.	<p>Uniform guidelines ensure consistent quality of public participation across sectors, as seen in countries like Australia, where national standards guide local practices while allowing for context-specific adaptations.</p> <p>The implementation of art. 10 of the constitution requires a framework law that defines the principles and minimum standards for public participation applicable throughout the country. This cannot further be delegated downwards, as it will not solve the problem in the realization of public participation as intended by the makers of the constitution.</p>
14	Publication of Specific Public Participation Guidelines	The publication requirement does not apply to Parliament and county assemblies,	Extend publication requirements to all branches of government, including Parliament and county assemblies,	Publishing guidelines enhances transparency and aligns with best practices globally, where transparency

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		creating inconsistencies in transparency.	with provisions for periodic updates.	is a standard in all legislative and executive participation guidelines. The wording of art. 10 of the constitution is in mandatory terms and no law should exclude any public body from implementing art. 10.
15	Public participation by Parliament.	The clause speaks to public participation by Parliament but lacks mechanisms for other relevant bodies.	Have this as a general provision that applies to all bodies.  Include provisions for inter-departmental coordination to streamline public inputs, especially for cross-cutting issues.	Coordinated approaches prevent redundancy, streamline engagement, and improve participation efficiency.
16	A person who, in conducting public participation, fails to adhere to the principles and obligations set out under this Act commits an offense and shall be liable upon conviction— (a) in the case of a natural person, to a fine not exceeding	The penalty for non-compliance is limited and may not serve as a strong deterrent.  Lack of clear standards on what constitutes non-compliance or procedures for imposing fines could lead to inconsistent enforcement.	Increase penalties and introduce tiered fines based on the severity of non-compliance or repeated offenses, and introduce penalties for institutional breaches.  Define explicit criteria for non-compliance and outline procedures for fair penalty assessment, including an appeals process for those penalized.	Tiered and enforceable penalties align with best practices in countries like Canada, where escalating fines ensure adherence and accountability across public bodies.

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	three hundred thousand shillings; and (b) in the case of a juristic person, to a fine not exceeding five hundred thousand shillings.			
17	Transitional Provision	The transitional clause lacks clarity on how ongoing processes will meet new standards under the Act.	Provide explicit guidance for aligning ongoing participation exercises with the Act's requirements, including timelines for compliance.	Clear transitional measures facilitate smoother implementation, as seen in South Africa's legislative transitions, ensuring compliance without disrupting ongoing public participation exercises.

## General Comments

issue/Concern	Proposal/Recommendation	Justification
<p>Lack of public participation standards and principles</p>	<p>The Bill lacks a dedicated section that defines clear, minimum standards for public participation, such as timelines, inclusivity metrics, and reporting requirements.<sup>1</sup></p> <p>Mandate that public participation processes be designed to ensure substantive input from the public, including clear objectives, informed decision-making, and transparent processes.</p> <p>Include a section detailing minimum public participation standards that all responsible authorities must meet. This section should define timelines for notice and feedback, requirements for inclusivity, and standards for the accessibility of information.</p> <p>Some principles to be embedded drawn from KICTANet’s research include:</p> <ul style="list-style-type: none"> <li>● <b>Open and accessible:</b> This is the extent to which participation in the processes are</li> </ul>	<p>Clear standards ensure consistency and transparency across all public participation efforts, aligning with best practices in countries like Australia and Canada, where minimum standards promote accountability.</p> <p>A study by KICTANet cited below, reviewed the extent to which the public participated in three ICT policy and law-making processes. These include the National Information Communications and Technology (ICT) Policy, 2019, the Computer Misuse and Cybercrimes Act, 2018, and the Data Protection Act, 2019.</p> <p>The study found that the lack of a holistic, multi-disciplinary, multi-stakeholder, mechanism for public participation affected the quality and outcome of public participation processes.</p> <p>The findings indicated that the transition to a more participatory, transparent, democratic,</p>

<sup>1</sup> Public participation: An Assessment of Recent ICT Policy Making Processes in Kenya - <https://www.kictanet.or.ke/?mdocs-file=43918>; Promoting Policy Impact and Inclusive Cyber Policy Making in Kenya 2017 - <https://www.kictanet.or.ke/?mdocs-file=40184>; Assessing Internet Development in Kenya. Using UNESCO’s Internet Universality ROAM-X Indicators - <https://www.kictanet.or.ke/?mdocs-file=42734>  
*KICTANet Memorandum on The Public Participation Bill 2024*



	<p>open and accessible to stakeholders. It includes the presence of active measures to enable participation such as notice given well in advance and distributed via relevant channels, and the efforts taken to address obstacles or barriers that may have prevented or discouraged participation, including financial, geographical and language barriers.</p> <ul style="list-style-type: none"> <li>● <b>Diverse:</b> This is the degree to which the processes are diverse and the extent to which the different views and interests of the stakeholders are allowed, heard and considered, the opportunity given to stakeholders to contribute, and the level of consideration given to their inputs.</li> <li>● <b>Collaborative and Consensus Driven:</b> This is the extent to which the processes are consensus-driven, and whether the participants act with common purpose, in a collaborative manner and, as far as is possible, take decisions by general agreement. It also includes the willingness of stakeholders to cede ground and compromise, and the treatment of dissenting voices was also considered. It also includes the extent of collaboration, commitment to the common purpose and</li> </ul>	<p>multi-stakeholder approach in ICT policy-making fell below the standard envisaged in the Constitution. The study found that the three ICT processes were marked by cross-cutting inconsistencies in the interpretation and application of public participation. State agencies failed to:</p> <ul style="list-style-type: none"> <li>● <b>Inform</b> the public with objective, baseline research to enable stakeholders to understand the problem or need to be addressed by a process, and solutions proposed;</li> <li>● <b>Consult</b> stakeholders, and provide them with sufficient time to contribute to public calls for input, or give feedback on the consideration of stakeholder submissions;</li> <li>● <b>Involve</b> stakeholders to contribute to the processes from the beginning, avail equal opportunities for different stakeholders to contribute to the processes, or avoid duplication of processes; and,</li> <li>● <b>Collaborate</b> with stakeholders in decision-making to ensure consensus and balancing special interests against stakeholders' inputs, evidence and facts.</li> </ul> <p>These principles create a foundation for genuine, impactful engagement that respects and values</p>
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	<p>whether the participants built trust and strong relationships.</p> <ul style="list-style-type: none"> <li>● <b>Evidence Based:</b> This focus on the balance of expertise and research in the process, including the existence of relevant and balanced expertise, and baseline research to support the processes. This also includes the level of agreement on the interpretation and use of evidence and facts, and the extent to which decisions were made based on the available facts and evidence.</li> <li>● <b>Transparent &amp; Accountable:</b> This includes whether there are clearly defined and transparent procedures and mechanisms and the extent of compliance with the procedures. It also includes aspects such as the disclosure of stakeholder interests and affiliations; existence of clear systems of records management and documentation; clarity and adequacy of the lines of accountability internally between the leadership and group, as well as externally between stakeholders and their wider communities.</li> </ul> <p>Principles of meaningful public participation that</p>	<p>public input in shaping decisions.</p> <p>Their adoption would ensure improved decision-making due to the incorporation of diverse perspectives and expertise, increased legitimacy of decisions due to involvement of affected persons, enhanced social cohesion due to feeling of ownership and community engagement, and greater accountability of decision makers.</p>
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	<p>any body implementing public participation process should include:</p> <ul style="list-style-type: none"> <li>● <b>Meaningful participation:</b> Ensuring that public input is genuinely considered and can influence decision-making.</li> <li>● <b>Inclusivity:</b> Ensuring all affected groups, especially marginalized and vulnerable populations, have access to participate, regardless of socio-economic, geographical, or demographic barriers.</li> <li>● <b>Timely and adequate information:</b> Providing the public with sufficient, accurate, and timely information to enable informed participation.</li> <li>● <b>Adequate Notice and Timing:</b> Giving sufficient notice and time for stakeholders to review information and participate, ensuring they can contribute thoughtfully.</li> <li>● <b>Accessibility and inclusivity:</b> Making public participation processes accessible to all, regardless of socioeconomic status, disability, or location.</li> <li>● <b>Transparency:</b> Providing clear, accessible information about the purpose, scope, and potential impacts of decisions, allowing the public to engage meaningfully.</li> <li>● <b>Accountability:</b> Ensuring that officials and responsible authorities adhere to</li> </ul>	
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	<p>participatory commitments and are answerable to the public for how participation is conducted and how input is used.</p> <ul style="list-style-type: none"> <li>● <b>Independence of decision-making bodies:</b> Ensuring that decision-making bodies are independent and free from undue influence.</li> <li>● <b>Enforcement of public participation rights:</b> Providing legal remedies and other mechanisms to protect public participation rights.</li> <li>● <b>Continuous Engagement:</b> Treating participation as an ongoing process with multiple opportunities for input throughout decision-making phases rather than a one-time event.</li> <li>● <b>Responsiveness:</b> Demonstrating how public input influences decisions by sharing feedback on how views were considered and integrated or explaining why some input was not adopted.</li> <li>● <b>Capacity Building:</b> Empowering both the public and officials with the necessary knowledge, resources, and skills to engage effectively in participation processes.</li> </ul>	
Recognizing Public Participation as an Ongoing Process	The Bill should mandate sustained public engagement at all stages of significant projects and	Feedback loops ensure that public contributions are valued and considered, fostering trust.

<p>The Bill lacks a structured mechanism for providing feedback to the public and for revisiting consultations based on initial input.</p>	<p>policies, from initial planning to implementation and monitoring.</p> <p>Include a provision requiring public bodies to create feedback loops or feedback mechanisms and maintain an open channel for the public to provide input at multiple stages.</p> <p>Require government agencies to provide follow-up reports on how public input influenced final decisions and outcomes.</p> <p>Require responsible authorities to report back to the public on how input was used and, if necessary, re-consult on significant project changes.</p>	<p>Iterative consultations, used effectively in the EU, allow authorities to adapt policies based on evolving public input.</p> <p>Public participation is not a one-time event but an ongoing dialogue, as emphasized in <i>African Centre for Rights and Governance (ACRAG) &amp; 3 others v Municipal Council of Naivasha</i>. Continuous engagement allows for evolving public feedback and input throughout the decision-making lifecycle. For decisions impacting public interests, sustained engagement and feedback loops are essential to meet the constitutional threshold.</p>
<p>Transparency and accountability</p> <p>Public confidence in participation processes is reduced when there is no transparency about how input influences final decisions.</p>	<p>The Bill should require that:</p> <ul style="list-style-type: none"> <li>● Require the maintenance of public participation records, which are made accessible to the public.</li> <li>● Require government agencies to publish a "Public Participation Report" after consultations, detailing how public feedback shaped the final decisions.</li> <li>● Mechanisms are in place to hold decision-makers accountable for their use of public input.</li> <li>● Independent oversight mechanisms are</li> </ul>	<p>Transparency and accountability are essential to ensure the integrity of public participation processes. Decision-makers must be transparent about the public participation process, including how public input is considered and how decisions are made. There should be mechanisms for accountability if public participation requirements are not met.</p> <p>Transparency builds public trust and encourages future engagement. New Zealand's model demonstrates how documenting public input impact enhances accountability in governance.</p>

	<p>established to monitor and enforce public participation standards.</p> <ul style="list-style-type: none"> <li>Decision-making bodies should be independent and free from undue influence, ensuring that public input is considered objectively.</li> </ul>	<p>Independent oversight ensures accountability and continuous improvement in participation practices, as seen in the UK, where independent bodies assess and report on public engagement outcomes.</p>
<p><b>Digital Participation and Technology Integration</b></p> <p>The Bill does not provide for the integration of digital platforms, which limits accessibility for those who may benefit from virtual engagement options. Limited access to participation platforms excludes segments of the population, especially youth and tech-savvy citizens, from engaging meaningfully in governance.</p>	<p>Add a section mandating the establishment of digital participation platforms to broaden public access. Specify that platforms must be accessible on mobile devices and include features like virtual consultations, online document access, and real-time feedback submission.</p> <p>Establish a centralized digital participation portal that is mobile-friendly and accessible in multiple languages, allowing for real-time updates, document access, and online feedback submission.</p>	<p>Digital engagement platforms make participation more inclusive and accessible, especially for youth and geographically isolated populations.</p> <p>Digital platforms enable wider, more inclusive access to public participation, leveraging Kenya's high mobile penetration and addressing the need for flexibility in participation. Countries like Estonia and Brazil have shown success with such platforms, fostering direct citizen engagement.</p>
<p><b>Grievance Redress Mechanism</b></p> <p>The Bill lacks a mechanism for the public to report grievances or appeal decisions if they feel that participation requirements were not met.</p>	<p>Include a section that outlines a formal grievance redress mechanism, allowing individuals to report non-compliance or lodge complaints regarding the public participation process.</p>	<p>A grievance mechanism ensures accountability and gives the public a recourse if they believe participation processes are inadequate. This aligns with best practices in jurisdictions like South Africa, where citizens have clear channels to address grievances about public engagement processes.</p>
<p><b>Provision for Regular Training and Capacity Building</b></p>	<p>Add a section mandating regular training programs for government officials on conducting public</p>	<p>Capacity-building initiatives create a well-informed citizenry and skilled officials who</p>

<p>Public officials and citizens may lack awareness and understanding of effective participation processes, reducing the quality of engagement. The Bill does not mention any initiatives for training public officials or educating citizens on effective participation practices.</p>	<p>participation and raising awareness within communities about their participation rights.</p> <p>These can be implemented in collaboration with non-state actors.</p>	<p>can engage meaningfully. Training also improves the quality of engagement and fosters informed participation. South Africa and the Philippines have included capacity-building initiatives to improve public officials' skills in facilitating engagement and ensure citizens understand their participatory rights.</p>
<p>Funding and Resource Allocation for Participation Activities</p> <p>The Bill does not address the allocation of funding or resources required to conduct meaningful public participation.</p>	<p>Include a provision mandating that public bodies allocate budgetary resources specifically for participation activities, ensuring adequate funding for public notices, forums, translations, and outreach.</p> <p>Grassroots participation is often limited, as communities lack the resources and support to lead initiatives.</p>	<p>Allocated funding is critical for effective participation, especially for reaching marginalized and remote populations. Countries like Brazil, which allocates resources for participatory budgeting and engagement, exemplify how dedicated funding strengthens public participation.</p>
<p>Public Participation Impact Assessments</p> <p>The Bill does not require assessments to gauge the impact of public participation on decision-making processes.</p> <p>Complex or controversial issues often lack sufficient, informed public input, limiting balanced decision-making.</p>	<p>Add a section mandating periodic impact assessments of public participation practices, including public access to results and recommendations for improvement.</p> <p>Encourage the use of diverse means to facilitate participation include perception surveys and similar research and evidence-gathering tools.</p> <p>Encourage the use of citizen assemblies and deliberative polling, especially for policies with</p>	<p>Impact assessments increase transparency and encourage refinement of participation methods. In Canada, assessments of public engagement efforts ensure that participation is effective and genuinely impacts policy decisions.</p> <p>Supporting community-led initiatives encourages localized ownership and empowerment. The UK's <a href="#">Localism Act</a> serves as a model, demonstrating how government-backed support for community-led projects can enhance civic</p>

	long-term or controversial impacts.	involvement.  Deliberative methods gather diverse, informed input and provide a democratic means to address complex issues. Countries like Ireland and Canada use these practices to foster in-depth public engagement.
Enforcement of public participation rights	Provide for legal remedies, administrative sanctions, and public awareness campaigns to enforce public participation rights.	Strong enforcement mechanisms are needed to protect public participation rights.