



PETITION MADE TO THE SENATE PURSUANT TO ARTICLE 119 OF THE
CONSTITUTION OF KENYA AND PART XXIV OF THE
SENATE STANDING ORDERS

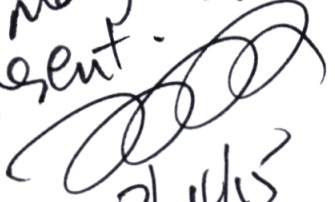
BY

THE INSTITUTE FOR SOCIAL ACCOUNTABILITY (TISA)

CONCERNING PUBLIC PARTICIPATION ON THE PUBLIC FINANCE
MANAGEMENT REGULATIONS AND OTHER MATTERS BEFORE THE SENATE

Approved

28/4/15

Hon. Speaker
You may approve &
present.

23/04/15

APRIL, 2015

PETITION TO THE SENATE BY THE INSTITUTE FOR SOCIAL ACCOUNTABILITY (TISA) CONCERNING PUBLIC PARTICIPATION ON THE PUBLIC FINANCE MANAGEMENT REGULATIONS (2015) AND OTHER MATTERS BEFORE THE SENATE

Honourable Senators,

1. Pursuant to Standing Orders 220 (1) (a), and 225(2) (b), I hereby report to the Senate that a petition has been submitted by a civil society initiative known as The Institute for Social Accountability (TISA), through the Clerk, requesting the Senate to review the procedure and timelines for advertisements and receipt of views from the public on Bills and other matters under consideration by the Senate.
2. As you are aware, under Article 119(1) of the Constitution, and I quote:-“*Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.*”
3. The petitioner is a civil society registered in Kenya, and the petition is signed by Ms. Wanjiru Gikonyo, the National Coordinator of the initiative.
4. Honourable Senators, in its Petition, the petitioner wishes to bring to the attention of the Senate the following issues for its consideration, and to take the necessary measures to address the same:
 - i) That information on Bills and other matters under consideration by the Senate, and invitations thereof to the public to submit views and memoranda, are only placed in national newspapers. This limits public participation on such matters to the small minority that has access to newspapers;
 - ii) That the timelines given to the public to review the matter under consideration, prepare memoranda and submit the same before the relevant Senate committee is too short to allow sufficient informed participation; and
 - iii) That, further to ii) above, instances arise where the documents under review are unavailable on the Senate website as stated in the adverts, thus further limiting public participation on the same.
5. In reference to the Public Finance Management Regulations (2015), the petitioner prays that the Senate Sessional Committee on Delegated Legislation defers consideration of the same, until the public have been well informed of the proposed regulations through advertisements in all the 47 counties, and been allowed sufficient time to interrogate and give their input on the draft Regulations.

6. Honourable Senators, pursuant to standing order 226, I shall now allow comments, observations or clarifications in relation to the petition for not more than thirty minutes.

[after comments by Senators]

7. Honourable Senators, as you are aware [and as most of you have already mentioned], public participation is a right which is enshrined in our Constitution and, particularly in our case, Article 118 of the Constitution requires that we '*facilitate public participation and involvement in the legislative and other business of the Parliament and its committees*'.
8. Article 96 of the Constitution further provides that '*The Senate represents the counties, and serves to protect the interests of the counties and their governments*'.
9. I therefore direct that the relevant committee, in this case the Standing Committee on Legal Affairs and Human Rights thoroughly examines this matter and comes up with proposals, including legislative proposals, on how the Senate can best discharge its role of facilitating public participation and involvement in the legislative and other business of the Senate.
10. In terms of standing order 227(2), the Committee will be required, in not more than sixty days from the time of reading the Prayer, to respond to the Petitioner by way of a Report addressed to the Petitioner and laid on the Table of the Senate.

② Charles

Please peruse
and prepare for
presentation.

9/2/15

9/2/15

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The Clerk,
J.M Nyegenye,
The Senate,
P.O Box 41842 - 00100,
Nairobi - Kenya,
Parliament Buildings

② Mrs Kioko, DLS

Kindly process this
as a petition.

(b) Ms. Kiungu

Please bring to the
attention of the committee.

URGENT

DLS
Please study and
advise. Note the
timelines in the law for
the Senate to deal!

02/04/15

Monday 30th March, 2015

**REF: PETITION ON PUBLIC HEARINGS/RECIPT OF MEMORANDA ON THE PUBLIC
FINANCE MANAGEMENT REGULATIONS**

We the undersigned, who are citizens of the republic of Kenya and interested members of the public, wish to draw the attention of the House to the following

- (a) That the Senate Committee of Delegated Legislation, Through the Senate, has embarked on inviting public submissions on the ;
 - i. The Public Finance Management (National Government) Regulations,2015;
 - ii. The Public Finance Management (County Government) Regulations,2015;
 - iii. The Public Finance Management (Equalization Fund) Guidelines,2015;
- (b) The invitation was placed in a national newspaper in an economy where the majority poor do not have access to newspapers¹. Limiting the notice to only that specific communication channel means that the fora as unavailable to inform the widest number of citizens

"I don't buy newspapers. I only read a newspaper when I visit an office."

A resident in Sarang'ombe ward, Kibra Constituency Nairobi County

¹ TISA MTEF report 2014/15, 15/16



REF: PETITION ON PUBLIC HEARINGS/RECEIPT OF MEMORANDA ON THE PUBLIC FINANCE MANAGEMENT REGULATIONS

- (c) The invitation was placed on the 27th March, 2015 calling for submissions on the above matter on 1st April 2015, meaning that interested members of the public had only four (4) days to read, review and give input on a 270 page document. This is insufficient notice
- (d) The regulations (270 page document) as of 30th March was not available on the senate website as indicated by the advertisement meaning that interested members of the public will only have 2 days to prepare their submissions and present them on the 1st April, 2015

The regulations are going to implement provisions of the PFM Act, 2012 as the legal framework in exercising controls on public spending and improving the quality of public expenditure. For that reason we the petitioner pray that the Senate to;

- (a) Stop the intended Sessional committee on delegated legislation public hearings on the Public finance regulations and guidelines slotted for 1st April, 2015 and/or;
- (b) Re-advertise not only in the newspaper but other key channels of communication in all 47 county offices
- (c) Defer it to a later date that will allow the citizen atleast 14 days from date of notice to date of submission
- (d) The public must have access to all the relevant documents atleast 14 days from the date of notice to the date of submission

The Constitution 2010, Articles 10, 174, 196 and 201 affirm that public participation is a constitutional and statutory requirement that ensures that, over and above the people electing their representatives, they have an opportunity to make direct input into decisions.

Other

1. This matter is not pending before any court of law or other constitutional or legal body
2. A similar letter has been addressed to the Chair of the Committee of Delegated Legislation and the Speaker of the Senate

I further wish to bring to your attention public participation guidelines developed by the Ministry of Devolution and Planning for County Governments. I strongly suggest the Senate undertake an urgent process to demonstrate the same.



**REF: PETITION ON PUBLIC HEARINGS/RECIPT OF MEMORANDA ON THE PUBLIC
FINANCE MANAGEMENT REGULATIONS**

Signed
Wanjiru Gikonyo
National Coordinator,
The Institute for Social Accountability,
P.O Box 48353-00100
I.D number 9089030.....


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CC

**The Speaker,
Ekwe Ethuro,
The Senate,
P.O Box 41842 - 00100,
Nairobi – Kenya,
Parliament Buildings**

**The Chair,
Committee on Delegated Legislation,
The Senate,
P.O Box 41842 - 00100,
Nairobi – Kenya,
Parliament Buildings**