



Bloggers
Association
of Kenya

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AI BILL MEMORANDUM

TO: The Clerk of the Senate, P. O. Box 41842-00100, Nairobi.

VIA EMAIL: clerk.senate@parliament.go.ke

COPY: ictcommittee.senate@parliament.go.ke

DATE: May 4, 2026

**RE: SUBMISSION OF REPRESENTATIONS ON THE ARTIFICIAL INTELLIGENCE BILL,
2026 (SENATE BILLS NO. 4 OF 2026)**

1. INTRODUCTION

This memorandum is submitted by the Bloggers Association of Kenya (BAKE), a community organization representing content creators in Kenya.

While we acknowledge the Senate's effort to safeguard the digital landscape, we believe the Artificial Intelligence Bill, 2026 in its current form poses a significant threat to Freedom of Expression (Article 33), Artistic Creativity, and the Socio-Economic Inclusion of marginalized digital workers in Kenya.

2. CORE PERSPECTIVE

As stakeholders who use technology to advocate, entertain, and educate, we view this Bill not just as a technical document, but as a social contract. We are particularly concerned that the Bill:

- **Criminalizes Creativity:** Vague deepfake rules fail to distinguish between malicious fraud and legitimate satire or digital art.
- **Excludes the Small Player:** High compliance costs and Ksh. 5M fines will silence local NGOs and independent creators while leaving Big Tech largely untouched.
- **Enables Digital Censorship:** Broad definitions of misinformation create a chilling effect on democratic discourse ahead of the 2027 General Election.

3. SPECIFIC CLAUSE-BY-CLAUSE RECOMMENDATIONS

Clause / Section	Concerns (Human Rights & Creative Lens)	Proposed Amendment
Clause 2: Definition of "Synthetic Media"	Creators: The definition is overly broad. It risks labeling even basic filters or AI-enhanced photography as "deceptive" if not perfectly disclosed.	Amendment: Refine definition to only include content "intended to cause measurable harm or deceive the public on matters of public interest."
Clause 34: Deepfakes & Misinformation	Creatives: This clause could end political satire and parody in Kenya. A comedian using a "face-swap" filter for a joke could face 2 years in prison.	Amendment: Insert a Mandatory Exemption for: 1. Satire & Parody; 2. Artistic expression; 3. Educational/Research use.
Part II: AI Commissioner's Power	Non-Profits: The power to "inspect records" without a warrant threatens the safety of whistleblowers and civil society data.	Amendment: Mandate that all inspections require a High Court warrant and strictly adhere to the Data Protection Act (2019).
Clause 51: Penalties & Fines	Creators/SMEs: A Ksh. 5M fine is an "extinction-level" penalty for a YouTube creator or a local NGO. It is disproportionate and unjust.	Amendment: Remove custodial (prison) sentences for non-malicious errors. Introduce a Sliding Scale based on turnover, with exemptions for non-profits.
Clause 25: High-Risk AI Systems	Advocates: Many "High-Risk" areas (Education, Finance) are where AI can help the poor. Over-regulation here will halt "AI for Good" projects.	Amendment: Define "High-Risk" based on the severity of the impact rather than the sector alone. Conduct Mandatory Equality Impact Assessments.
Section 33: Workforce Impact	Digital Workers: While reskilling is good, the Bill lacks protection for "Ghost Workers" (data annotators) who power AI.	Amendment: Include protections for Platform Workers' Rights, ensuring fair pay and mental health support for Kenyans training global AI models.

4. THE TRUSTED VOICES CALL TO ACTION

Kenya's creative economy is a Trusted Voice in our democracy. For this Bill to be successful, it must move from a policing mindset to a protection mindset:

1. **Protect Parody & Satire:** Do not allow the fight against deepfakes to become a tool for silencing the creative community.
2. **Tiered Compliance:** Ensure that a teenager in Eldoret experimenting with Generative AI is not held to the same standard as a global corporation.
3. **Human Rights First:** AI audits must focus on identifying Bias and Discrimination against Kenyans, not just technical compliance.

5. CONCLUSION

We urge the Senate Standing Committee on ICT to prioritize the Bill of Rights in its final report. We request an opportunity to provide oral evidence and showcase how AI is currently being used for artistic and social good in Kenya.

SUBMITTED BY:

James Wamathai,
Director, Partnerships and Advocacy,
Bloggers Association of Kenya

A handwritten signature in black ink, reading "James Wamathai", written in a cursive style.