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## **The Significance of Public Participation in Environmental Conservation in South Sudan**

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### **Abstract**

*Public participation is often defined as a process and not a single event. This is because it is an ongoing and dynamic process usually incorporated into decision-making processes. For meaningful public participation, all stakeholders must be involved and the process carried out transparently and impartially.*

*The paper aims to determine whether the right to public participation is entrenched in the resource governance of South Sudan concerning environmental conservation. Whether the views and the needs of the people are taken into consideration in the oil concession agreements. If so, its elaborate procedures, and whether the people feel included in such decision-making processes?*

*The underlying principles of public participation are mainly transparency, inclusion, and the right to information. This is a requirement espoused in the Constitution of South Sudan. The right is also guaranteed in other domestic legislations. Consequently, its significance cannot be overlooked. Various groups of people, in this case, the local communities, civil society groups, oil exploration companies, and the government play a crucial role in ensuring that every affected party is included in crucial decision-making processes.*

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## **Introduction**

Every living organism relies on its habitat for sustenance. The environment is this very habitat that nurtures life. With our ever-growing needs, it is paramount that we utilize our natural resources responsibly. If left unchecked, our activities will eventually result in environmental degradation.<sup>1</sup>

To curb this looming danger, numerous efforts have been made towards the preservation of the environment. Various organizations in collaboration with other people have planted trees, adopted the use of renewable energy, and environment-friendly farming methods in a bid to prevent the depletion of natural resources.<sup>2</sup> To achieve this milestone, certain mechanisms were put in place. These mechanisms aim to enhance environmental protection through international and domestic laws. At the heart of these is participation.<sup>3</sup>

Public participation is a human right; a procedural element in the right to a clean, healthy, and sustainable environment.<sup>4</sup> If the latter is

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<sup>1</sup> *What is the Right to a Healthy Environment?* United Nations Environment Programme (UNEP)

<sup>2</sup> *What is the Right to a Healthy Environment?* United Nations Environment Programme (UNEP)

<sup>3</sup> "Achieving Sustainable Development and Promoting Development Cooperation"

<sup>4</sup> *What is the Right to a Healthy Environment?* United Nations Environment Programme (UNEP)

infringed or is threatened to be infringed, the aggrieved party can seek legal recourse. Furthermore, being a multifaceted right, he/she is entitled to the right to information which would only flow from having participated in the decision-making process that involved the very thing that infringed or threatened to infringe on the right to a clean environment.<sup>5</sup> As demonstrated above, public participation is intertwined with other rights such that it cannot be realized without others.

### **What is public participation?**

Public participation is the process by which stakeholders (affected parties) express their views about an act or omission that may have a direct impact on their lives.<sup>6</sup> It is a legal requirement for governments or companies to carry out public participation before embarking on projects that may adversely affect certain target groups.<sup>7</sup> For example, the Constitution, 2011 of South Sudan, requires its government to adhere to the procedure. The same is buttressed by the Environment Policy of South Sudan, 2010 (Draft) as well as the Environment and Social Management Framework (ESMF).<sup>8</sup>

Public participation in this context, basically entails free, active, and meaningful participation of the affected people in environmental matters. It emanates from the concept of Procedural Justice and Social Learning which focuses on aiding communities affected by environmental degradation in identifying hidden issues and inspiring creative but practical solutions.<sup>9</sup> It achieves this through;

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<sup>5</sup> "What are the principles of the right to access information"

<sup>6</sup> "Public Participation Guide: Introduction to Public Participation"

<sup>7</sup> Ibid

<sup>8</sup> *Citizen Participation in Natural Resource Governance: A Case of Oil in South Sudan*, Esther Kibe, Maria Nzomo, and Fred Jonyo

<sup>9</sup> Megan J. "Procedural Justice and Social Learning"

fairness, voice (public participation), transparency, and impartiality. Hence, people are more likely to take part in the decision-making process only if it is a fair process.<sup>10</sup>

The concept of Procedural Justice stresses the procedures rather than the outcome. Therefore, if the participants perceive the process as irregular or rather unfair, they will not pay regard to the outcome. They will likely oppose it.<sup>11</sup>

To adhere to these procedural requirements, one must be cognizant of the following underlying principles: -<sup>12</sup>

### **1. Representation**

Ensuring that all affected groups or communities are fairly represented throughout all stages of the process.

### **2. Equality**

This entails applying fair procedures to all the participants by treating everyone equally without bias.

### **3. Accessible and accurate information**

Ensuring that the necessary information is accessible and available to everyone, taking into consideration their age group, literacy skills, ethnicity, and gender among other things.

### **4. Suppression of bias/Impartiality**

One's self-interest should not cloud their judgment and mar the process with irregularities.

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<sup>10</sup> *Procedural Justice and Social Learning*, Megan Justice

<sup>11</sup> *Procedural Justice and Social Learning*, Megan Justice

<sup>12</sup> *Procedural Justice and Social Learning*, Megan Justice

## 5. Ethics

The process and the applied procedures should be compatible with the participants' moral values.

On the other hand, public participation also originates from the concept of Social Learning which suggests that fully engaged participants often gain a holistic view of the matter and acquire the requisite skills needed to participate effectively in the decision-making process. And it is through active engagement that they come up with mutually acceptable solutions. This concept is divided into two limbs: -<sup>13</sup>

- a. Cognitive enhancement; and
- b. Moral development

### Cognitive Enhancement

Under cognitive enhancement, the participants gain technical competence and collectively learn each other's values and preferences.<sup>14</sup> This involves learning about: -

- a. The state of the problem;
- b. The likely outcomes/possible solutions;
- c. Required communication skills; and
- d. Other people's interests in the matter.

### Moral Development

This is often someone's ability to make reasonable judgments about right or wrong.

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<sup>13</sup> *Procedural Justice and Social Learning*, Megan Justice

<sup>14</sup> Ale M. and Gabriel P. "Smarter Than Thou, Holier Than Thou: The Dynamic Interplay Between Cognitive and Moral Enhancement"

After meeting this threshold, the stakeholders are under a duty to make informed decisions about the effects of the actions or inactions of the government or companies in light of prevailing circumstances. One can only make informed decisions based on the information divulged. As such, full disclosure is expected.<sup>15</sup> Taking into account the participants' age, sex, literacy, et cetera, the government or companies should give access to information to all the participants. For instance, if the public participation is about the set-up of an oil exploration company, the government has a primary duty to safeguard the well-being of its citizens. It should make full disclosure on whether the affected groups will be fully and promptly compensated in the event of relocation or pollution, whether their right to a clean and healthy environment will be protected, and whether their right to justice will be upheld if the corporations fail to uphold its end of the bargain.

The local communities should be fully aware of the extent of the risks involved. It will only be after they have appreciated the risks that one may presume, they gave their informed consent.<sup>16</sup> Further, the process of public participation is a perpetual activity.<sup>17</sup> It only ends at the termination of the project or in this case, closure of the oil exploration company.<sup>18</sup>

Public participation has also been known to improve the quality and legitimacy of the decision-making process.<sup>19</sup> The process is expected

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<sup>15</sup> "The New York State Department of Financial Services (the "Department") promulgated the First Amendment to Insurance Regulation 187 (11 NYCRR 224)."

<sup>16</sup> *Ibid*

<sup>17</sup> "Challenges of Public Participation"

<sup>18</sup> *Ibid*

<sup>19</sup> *Ibid*

to be meaningful so that it does not lead to the perception of illegitimacy. If the rules are not upheld, the original objective of the exercise will be lost.<sup>20</sup>

It has also been established that those who live close to natural resources are better suited to the management and conservation of the environment.<sup>21</sup> Their participation in the exercise would prove useful.<sup>22</sup> These platforms give them an audience to be heard and explore alternative solutions. Having been near natural resources, the local communities may have better insight on how to improve the depleted areas by coming up with friendly ways of utilizing the remaining resources.<sup>23</sup> Hence, playing a crucial role in promoting a clean, healthy, and sustainable environment.

### **Public Participation in South Sudan**

In an ideal society, public participation should mirror the above description. However, more often than not governments do not adhere to these principles.<sup>24</sup> They enter into contracts with corporations at the expense of their citizens.<sup>25</sup> This ultimately results in rogue companies polluting the environment while endangering the lives of the citizens, and wildlife.<sup>26</sup>

Due to the political instability of South Sudan implementation of the

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<sup>20</sup> "Justifying Limitations on the Freedom of Expression"

<sup>21</sup> *Ibid*

<sup>22</sup> *Citizen Participation in Natural Resource Governance: A Case of Oil in South Sudan*, Esther Kibe, Maria Nzomo, and Fred Jonyo

<sup>23</sup> "The Sustainable Use of Natural Resources: The Governance Challenge"

<sup>24</sup> "Public Participation Guide: Introduction to Public Participation"

<sup>25</sup> *Ibid*

<sup>26</sup> *Ibid*



existing laws is impossible.<sup>27</sup> The World Bank's Environment and Social Management Framework (ESMF) meant to conserve the country's environment is rarely adhered to.<sup>28</sup> Even in the wake of this framework, the citizens of South Sudan are still being overlooked.<sup>29</sup> They have no say in the process of resource governance. They take no part in these decisions, yet they bear the consequences. Alienating the citizens from these dialogues only emboldens the corporations while their actions are left unchecked. It is inevitable that after depleting the environment, these companies relocate to other places spreading the pollution.

The lack of public participation in the decision-making process poses serious challenges to the people of South Sudan as well as the environment. With the trajectory the country is taking, one may imply that the government is deliberately secluding its citizens from these important decisions to assert control and avoid public scrutiny.<sup>30</sup>

### **Conclusion**

Every citizen in South Sudan is entitled to the Right to Public Participation as it is enshrined in their Constitution, 2011, it is provided for in the Environment Policy of South Sudan, 2010 (Draft) and the Environment and Social Management Framework (ESMF).

Sadly, the government alienates its citizens in critical matters such as the environment. Lack of participation in such arenas may bring about feelings of helplessness and discord to the people. Their

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<sup>27</sup> Ibid

<sup>28</sup> "Environmental and Social Framework"

<sup>29</sup> Ibid

<sup>30</sup> Ibid

engagement is limited and sometimes completely lacking but the government continues to make decisions on their behalf with no disregard for their well-being.<sup>31</sup> On the other hand, the environment is gradually depleting and pollution quickly spreading due to the lack of strict laws, regulations, implementations, and the stifling of Civil Society Organisations.

Hopefully, with time the government will encourage collective participation and every stakeholder will be actively incorporated in the process. With public participation, they can air their concerns, express preferences, and bring about accountability in the operations of the corporations.

### **Recommendations**

In light of the above discussion, the following are the recommendations for the current role of public participation in South Sudan: -

1. Strict implementation of the existing laws and regulations- the Constitution, 2011, and the Environment and Social Management Framework (ESMF);
2. The Legislature to pass the Environmental Management Bill;
3. Civil Society Organisations to bring attention to the environmental degradation in the country;
4. The government to facilitate public participation in the decision-making process;

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<sup>31</sup> "Emerging Recognition Of The Importance Of Participation"  
<https://www.un.org/esa/socdev/unyin/documents/ch10.pdf>

5. The government to conduct environmental assessment;
6. The government to finance regulatory institutions; and
7. The government to conduct fair and transparent public participation.

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### **Constitution**

Constitution of South Sudan, 2011

### **Legislations**

Environment Policy of South Sudan, 2010 (Draft)

### **International Laws/Regulations**

Environment and Social Management Framework (ESMF)

### **International Journals**

*Citizen Participation in Natural Resource Governance: A Case of Oil in South Sudan*, Esther Kibe, Maria Nzomo, and Fred Jonyo  
*What is the Right to a Healthy Environment?* United Nations Environment Programme (UNEP)

### **Online Article**

*Procedural Justice and Social Learning*, Megan Justice



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