

PRESS STATEMENT

SAFEGUARDING INDIGENOUS PEOPLES' RIGHTS TO EFFECTIVELY PARTICIPATE IN
THE CLIMATE CHANGE LEGISLATION

NANYUKI, 25th August 2023.

We the leaders of indigenous peoples from Laikipia County have become increasingly concerned that indigenous peoples are being excluded from critical climate action conversations in the country. This has resulted in their rights being disregarded in the formulation of critical laws, like the just-passed Climate Change (Amendment) Bill 2023.

For starters, the Climate Change Act 2023 has been rushed through parliament without effective public participation from key stakeholders. While the Ministry of Environment and Forestry invited views on the Bill once it was published, Parliament also had an obligation to ensure public participation before passing the Bill. This did not happen, and any invitation for views on the bill was cosmetic, because of the short time between the publication of the Bill and the time it was passed. Because of this, the safeguarding of the rights of indigenous peoples was ignored.

Indigenous peoples' efforts to engage in the Climate Change (Amendment) Act 2023 were supported by the Centre for Minority Rights Development (CEMIRIDE), Transparency International-Kenya, and the Africa Group of Negotiators Expert Support (AGNES).

And now, before even the ink has dried on this snub, Parliament on 22nd August 2023 published the National Resources (Benefits Sharing) Bill (Senate Bill 6 of 2022) and called for public views, with the window ending on 4th of September 2023. This is a two-week window, which cannot enable effective public participation. Given the critical importance of natural resources to the indigenous people, who occupy more than 85% of our land mass, and hold most of the natural resources, they are a critical constituency in the natural resources conversation. We are concerned that these bills are being passed without our effective involvement and participation, contrary to our rights as stipulated in the Constitution of Kenya, 2010. Public participation is an extremely critical constitutional principle that is supposed to enhance good and transparent governance. There can, therefore, be no progressive conversation on natural resources without indigenous peoples. However, the period allowed is too short for effective public participation. Why the rush?

Indigenous peoples have over the years, been exposed to the most devastating impacts of climate change and environmental degradation. Their resilience to climate change impact has been affected due to exclusion from climate change programming and action. Women and persons with disabilities mostly bear the heaviest burden. Indigenous peoples' situation has further been worsened by the continued loss of their lands to displacements induced by mega projects and or conversation programmes and projects across their lands. This has in effect impacted their ability to be able to effectively rely on their long-tested social protection system that had enabled them to effectively navigate the dry and wet seasons.

Public Participation is a key principle to ensure that Kenyans are involved in decision-making. For minorities and indigenous peoples (marginalised communities) this is even strengthened by

provision in Article 56 (a) which requires the State to provide affirmative action programmes to ensure that minorities and marginalised communities participate and are represented in governance and other spheres of life.

The Climate Change Amendment Bill 2023 passed as it was, without giving ambient room for effective public participation with indigenous peoples, and providing only two weeks for engaging with the public on the National Resources (Benefits Sharing) Bill (Senate Bill 6 of 2022), is a direct violation of the right to public participation as enshrined in the Constitution of Kenya 2010, buttressed by several pronouncements of the Kenyan judiciary on the issue.

Given that indigenous peoples for long been excluded from decision-making, the government should be deliberate in providing specific avenues and strategies, including frameworks that will ensure the public participation and inclusion of indigenous persons in the climate change action.

We call for very deliberate actions to ensure that indigenous peoples are included in all climate change decisions and actions that directly impact their livelihoods. Public participation should be effective and must ensure that the targeted public is involved in an informed and transparent manner.

We also want to appeal to the president to intervene and join the movement and lead from the front to ensure the rights of the indigenous peoples are protected and respected in all policies and legislations. The president for the longest time has been affiliated with the indigenous peoples. He has supported them in many ways, demonstrated by his recent gracing of the Maasai Cultural

Festival, in Narok. Just as he has supported these communities' cultural rights, we call upon him to extend this goodwill to ensure that indigenous peoples in Kenya are effectively engaged in critical climate change action, and their rights protected.

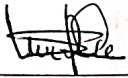
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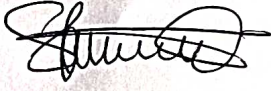
Signed:

Name:

Sign:

Date:

1. Hon Paul Leitch 
2. Hon LemDain R. Nchi Das
3. Hon Eunice S. Muli
- A HON SARIM FOUNG

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