

Mandate of the Independent Expert on the promotion of a democratic and equitable international order

REFERENCE: AL
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Dear Ms. Figueres,

I have the honour to address you in my capacity as Independent Expert on the promotion of a democratic and equitable international order pursuant to Human Rights Council resolution 27/9.

In this connection, I would like to bring to your attention my concerns about the need for full civil society participation at the stage of elaboration and negotiation of any agreements on effectively combatting climate change and addressing its human rights impacts and impacts on the international order.

I would like to request that you bring my concerns to the attention of the co-chairs Mr. Ahmed Djoghlaoui (Algeria) and Mr. Daniel Reifsnyder (USA), the co-facilitators of the contact groups, and the present President of the Conference of the Parties Peruvian Minister of State for Environment and President of the COP20 that was held in Peru Mr. Manuel Pulgar-Vidal as well as incoming President and French Foreign Minister Mr. Laurent Fabius.

I wish to emphasize the importance of meaningful public participation in decision-making related to the well-being of our planet. In this respect I urge every possible effort be made to ensure that civil society representatives, known as observers in the processes of the United Nations Framework Convention on Climate Change, are permitted to take part in all stages of the process of negotiations, except, if at all, those which because of their extraordinary sensitivity must be discussed by States in private. I wish to stress that article 25 of the International Covenant on Civil and Political Rights mandates public participation in the conduct of public affairs -- *a fortiori* public participation in global decision-making concerning policies which will affect all of humanity and future generations.

Please note that the Rules of Procedure of the UNGA call for meetings to be held in public, with exceptions. The Rules of Procedure of the COP (here under the UNFCCC)

have not been adopted but are applied, except for voting in art. 40 and I consider them to be vague. A decision of the Conference of the Parties meeting as the Conference of the Parties under the Kyoto Protocol, namely, decision 18/CP.4 contained in FCCC/CP/1998/16/Add.1(25 January 1999) at page 66, indicates that observers should be allowed into any meeting unless 1/3 of States convening the meeting object.

According to the information I have received, there is currently some resistance to ensure the participation of civil society in these instances. A Government has allegedly publicly objected to the participation of civil society, while the chair has reportedly informally said that 60 States object. There are 196 State Parties to the UNFCCC and 164 at this meeting, but the chair figure seems inaccurate as it is reported that 134 States of G77 have agreed that observers should be present as they reportedly publicly stated they have.

It is my intention to publicly express these concerns in the near future in the form of a press release as I am of the view that this matter warrants immediate attention. The press release will indicate that I had expressed previously these concerns to you. .

Your response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Ms. Figueres, the assurances of my highest consideration.

Alfred De Zayas
Independent Expert on the promotion of a democratic and equitable international order