

## Item 1.2 Participation of vulnerable and marginalized groups in decision-making

### **Uncategorized and miscategorised public participation stakeholders**

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Dear Madam Chair, Dear Stakeholders,

As an independent legal advocate my goal in this session is to raise awareness of two categories of stakeholders neglected by the majority of the Parties, and, to a lesser degree, by the legal provisions in the Aarhus Convention and its guidelines. They are not neglected because they represent an insignificant number of persons. Quite the reverse: their security, their prosperity and the amount of interest they receive could, to an extent, determine whether the objectives of the Convention are realized—or not realized.

The first group of neglected stakeholders falls under the category of marginalized stakeholders. This is:

#### **Future Generations**

The Aarhus Convention recognizes the duty to protect the environment for the benefit of present *and* future populations. The very *objective* of the Convention is the protection of the right of every person of present and future generations to live in a healthy environment (Art. 1). But since the Convention entered into force this objective has very often been neglected in the context of participatory processes at the national and EU governance level; the identification of future generations as stakeholders in the process is all too frequently overlooked, though we recognize that they are to bear the ecological brunt of all of our contemporary decisions.

There are, of course, excellent models of legal mechanisms to incorporate the interests of future generations. In Wales, policy proposals have to be considered with regard to their impact 30 years on; Finland's Parliamentary Committee scrutinizes proposals that may be hazardous to the environment; Germany has two young persons on its National Advisory Board<sup>i</sup>. There are a growing number of movements, including a Japanese initiative to found a "Ministry of the Future"<sup>ii</sup>.

Regrettably, we are also seeing some backward trends. After one term in operation, Hungary's Office of the Parliamentary Commissioner for Future Generations was transformed in 2011<sup>iii</sup> from an effective and well-respected mechanism to one that holds virtually no power. After one term in operation, Israel's Knesset too abolished its Commission for Future Generations,<sup>iv</sup> reportedly, because it too, had been successful in protecting the rights of future populations.

Decision-makers and citizens possess only vague and fragmented knowledge of ecosystem balances or the long-term effects of radiation or radioactive waste,<sup>v</sup> and it is logical that political leaders may not be motivated to sacrifice short-term political benefits for long-term aims. Surely, education is important, but we would argue, insufficient to stem the tide of technologically risky projects or go from bureaucratic inertia to collective action.

To recognize a duty is also to recognize a responsibility to act. Given the stakes, one would hope that a movement for the rights and interests of future generations will gain momentum, but as things currently stand, Parties may benefit from more prescriptive guidance from this Committee.

#### **Corporate-funded NGOs**

Another pressing challenge involves a second category of stakeholders.

In environmental justice circles we are seeing a deluge of lobbyists presenting themselves as green non-profit advocates concerned with climate issues. They may petition government authorities or be elected to committees and boards, and influence policy through referendum campaigns. They may disparage renewable resources and succeed in inhibiting investment in this area.

Their growing presence and influence in public participation processes are noticeable and effective.

What impact does it have on the participatory process to have the interests of an industrial polluter represented by a supposed environmental NGO, or to have an industry-backed green energy expert provide objective expert testimony? There are consequences that are alarming in their scope.

The best way to illustrate the power of the surrogate stakeholder is by considering the influence of The International Life Sciences Institute, or ILSI. It presents itself as conducting “science for the public good”, “safeguarding the environment” and “improving human health and well-being”. But it is an entity concerned with public health regulations and not with public health. Three years ago it reported 17 million dollars in expenses for one year of operation<sup>vi</sup>.

The ILSI has generated, promoted and publicized industry-friendly science<sup>vii</sup>, has supplied arguments to policymakers in the EU<sup>viii</sup>; it saw one of its members thwarting tobacco control efforts in the World Health Organization<sup>ix</sup>, and two of its members placed inside the UN as chairs of a panel on glyphosate. It even operated within the Chinese government’s Centre for Disease Control and Prevention<sup>x</sup>, shaping „decades of Chinese science and public policy on obesity” and related diseases<sup>xi</sup>.

Corporate entities masquerading as non-profit environmental advocacy groups possess the wealth to engage intensively in an extremely broad array of public participation processes. These are “corporate-funded NGOs” or “corporate-organized civil society organizations”, and referred to as CONGOs.

It is very easy for political leaders to move away from genuine critical associations towards CONGOs and claim that they are having dialogue with civil society. Their interventions also encourage government authorities and agencies to see environmentalists as adversaries.

The Convention provides that both a transparent and a fair framework be established by the Parties which ensures that the necessary information is conveyed to the public (Art. 7) so that it may “prepare and participate effectively in environmental decision-making”. This framework must pay more attention to the function of lobbyists in public participation procedures.

Public participation processes related to environmental issues must be guarded from the presence of surrogate stakeholders in order to remain credible and sustainable. The potentially promising avenue to climate action consensus may fail otherwise.

The Aarhus Convention has proven tremendously helpful in ensuring that environmental activists can assert their influence in environmental decisions, but these efforts are being thwarted by these emerging players.

We need only consider how many decades of consensus science on tobacco use was systematically ignored or discredited to realize that we may have to wait just as long due to the disproportionate voice of industry.

## **Conclusion**

We would urge other stakeholders to acknowledge these categories and to signal to governments that a re-established balance with genuine stakeholders is necessary.

Once a threat is recognized it calls for some kind of management according to the Precautionary Principle. We do perceive a legitimate threat to the environment in ignoring these stakeholders.

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- <sup>i</sup> [www.nationales-begleitgremium.de/SharedDocs/Artikel/DE/Artikel\\_NBG-Mitglieder\\_Gestatten/Gestatten\\_Jorina-Suckow\\_4\\_12\\_2018.html?nn=51810](http://www.nationales-begleitgremium.de/SharedDocs/Artikel/DE/Artikel_NBG-Mitglieder_Gestatten/Gestatten_Jorina-Suckow_4_12_2018.html?nn=51810)
- <sup>ii</sup> [www.european.economicblogs.org/voxeu/2018/interests-future-generations](http://www.european.economicblogs.org/voxeu/2018/interests-future-generations)
- <sup>iii</sup> [www.jno.hu/en/?menu=home](http://www.jno.hu/en/?menu=home)
- <sup>iv</sup> [www.fdsd.org/ideas/kneset-commission-future-generations/](http://www.fdsd.org/ideas/kneset-commission-future-generations/)
- <sup>v</sup> G. Mavrommati et al., Representing future generations in the deliberative valuation of ecosystem services, *Elementa: Science of the Anthropocene* (2020) 8: 22, [www.online.ucpress.edu/elementa/article/doi/10.1525/elementa.417/112769/Representing-future-generations-in-the](http://www.online.ucpress.edu/elementa/article/doi/10.1525/elementa.417/112769/Representing-future-generations-in-the)
- <sup>vi</sup> <https://s3.amazonaws.com/iisweb/iisi/wp-content/uploads/2019/01/AR2018/index.html#22>
- <sup>vii</sup> S. Steele et al, Are industry-funded charities promoting “advocacy-led studies” or “evidence-based science”? a case study of the International Life Sciences Institute.,: 36: 2019, [www.globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-019-0478-6](http://www.globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-019-0478-6)
- <sup>viii</sup> [www.theguardian.com/us-news/2019/jun/03/science-institute-that-advised-eu-and-un-actually-industry-lobby-group](http://www.theguardian.com/us-news/2019/jun/03/science-institute-that-advised-eu-and-un-actually-industry-lobby-group)
- <sup>ix</sup> [www.who.int/tobacco/en/who\\_inquiry.pdf](http://www.who.int/tobacco/en/who_inquiry.pdf)
- <sup>x</sup> G. Sacks et al. How food companies influence evidence and opinion – straight from the horse’s mouth, *Critical Public Health*, 09.13.2017
- <sup>xi</sup> S. Greenhalgh, Making China safe for Coke: How Coca-Cola shaped obesity science and public policy in China, *British Medical Journal*, January, 2019