



FOR IMMEDIATE RELEASE

February 14, 2017 | Karetta Crooks Charles

PRESS RELEASE The Right to Environmental Justice

Access to justice provides the foundation of the ‘access rights’ as it facilitates the public’s ability to enforce their right to participate, to be informed, and to hold regulators and polluters accountable for environmental harm. Considering that, members of the public recently participated in an Intersessional Meeting of the Negotiating Committee to discuss Article 9 of the compilation text on access to



Members of the Public at the 5th Negotiations in Chile 2016

environmental justice. The text to be negotiated can be accessed at:

http://repositorio.cepal.org/bitstream/handle/11362/39051/S1601326_en.pdf?sequence=13&isAllowed=y. The aim of the virtual meeting organized by the United Nations Economic Commission for Latin America and Caribbean (UN ECLAC) was to identify consensus

and differences in this important article ahead of the sixth negotiations for a Regional Agreement on Principle 10 in Latin America and the Caribbean slated for March 20-24, 2017 in Brazil.

Of the 51 participants in attendance at the virtual meeting held on January 31, 2017, there were 15 governments; Argentina, Brazil, Chile, Colombia, Honduras, Mexico, Paraguay, Panama, Peru, Costa Rica, Ecuador, El Salvador and Guatemala, while Jamaica and Grenada were the only two Caribbean governments.

Gabriella Burdiles a member of the public from Chile outlined some of the key elements of Article 9 that the public believes should be maintained and improved at the upcoming negotiations. These include: access to courts and legal advice at reasonable cost; obtaining adequate and effective remedies; broad standing; independent and specialized courts and bodies; protection of environmental defenders; accessible precautionary measures and the reversal of the burden of proof. Examples were cited in Latin American countries such as Bolivia, Panama and Brazil whereby there was a removal of cost to facilitate adequate access to justice. Ms. Burdiles also noted that access to justice is important to achieving the Sustainable Development Goals since Goal 16 speaks to “Promoting peace, justice and strong institutions”.



Measures to protect Environmental Defenders are important to Article 9. Ms. Burdiles said that a Global Witness report stated that there were 185 cases in 2015 where environmental defenders were killed because their advocacy work in the energy, mining, construction and agriculture sectors predominantly in Brazil, Colombia, Peru, Nicaragua, Guatemala and Honduras.

Meanwhile, Nicole Mohammed a member of the public from Trinidad and Tobago reiterated the need for a removal of cost barriers and noted that the two dimensions to the problem of cost were the risk of cost award being made against someone in an unsuccessful case and secondly the high cost of bringing a case to the court - legal, technical advice, court fees and costs of experts among others.

Mrs. Mohammed used the opportunity to explain that because of the Caribbean's colonial past most English speaking countries have common law legal systems. Therefore, she encouraged delegates to review the compiled text to be negotiated ahead of the Brazil meeting in an effort to ascertain any conflicts in terminology between the Caribbean and Latin American legal systems. She further emphasized that the procedural rights being negotiated were rooted in fundamental rights such as due process and concepts like natural justice. "We are negotiating a rights based agreement and attempting to achieve a regional standard. As such it does not help if governments limit the negotiations to national circumstances," said Mrs. Mohammed. She went on to state that access to justice is therefore an important check and balance on acts of the executive and is vital to a functioning environmental democracy.

According to Karetta Crooks Charles, Communications & Advocacy Officer at the Saint Lucia National Trust and Alternate Elected Representative of the Public (Saint Lucia) for this process, "The public commends ECLAC and the Presiding Officers for this initiative and encourages the participation of more Caribbean countries in the preparatory stages ahead of the negotiations. Better yet, all non-signatory countries are encouraged to become more familiar with the process and sign on at the March meeting, as there are many good examples throughout the region of how the successful implementation of Principle 10 improves the relationship between the state and citizens who play a vital role in the decision making process."

-END-

What is the Declaration of Latin America and the Caribbean on Principle 10?



It is a political commitment made by several governments of the region to promote a change in the way decisions are made. This commitment seeks to ensure that all people in Latin America and the Caribbean participate in environmental decisions that affect them directly. This Declaration will help citizens to obtain information, participate in decision-making, prevent the development of projects that could damage their lives and livelihoods, and prevent the proliferation of social and environmental conflicts. Any country in Latin America and the Caribbean can sign the Declaration by contacting the Technical Secretariat for this process, the Economic Commission for Latin America and the Caribbean at principio10.lac@cepal.org.

Visit our website: www.lacp10.org and follow us on our social media:

Facebook: LAC P10 Regional Public Mechanism - ALC P10 Mecanismo Público Regional

Twitter: @LacP10info

For more information, please contact:

Andrea Sanhueza

Elected Representative of the Public (Chile)

andreasanhuezae@gmail.com

Danielle Andrade

Elected Representative of the Public (Jamaica)

dandrade.law@gmail.com

Karetta Crooks Charles

Alternate Elected Representative of the Public (St. Lucia)

karetta.charles@gmail.com