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Expert Analysis

The Insolence of Office? Exposing the Politics of Perception In Copenhagen

By Richard O. Faulk, Esq.

*For who would bear the whips and scorns of time,
The oppressor's wrong, the proud man's contumely,
The pangs of dispriz'd love, the law's delay,
The insolence of office and the spurns
That patient merit of the unworthy takes,
When he himself might his quietus make
With a bare bodkin?*

—William Shakespeare, Hamlet, Act III, Scene 1

Despite the malaise that seemed to overlay the United Nations climate change conference before opening day, the summit began Dec. 7 with a flourish of rhetoric and apparent optimism by a host of attendees. In a statement titled “Governments set to seal ambitious international climate change deal in Copenhagen,” Yvo de Boer, the U.N.’s top climate change official, practically overflowed with enthusiasm, sounding supremely confident that an international climate change deal was within reach.

“Within two weeks from Monday, governments must give their adequate response to the urgent challenge of climate change,” de Boer said. “Negotiators now have the clearest signal ever from world leaders to craft solid proposals to implement rapid action.”

He further claimed that there was “unprecedented political momentum to clinch an ambitious deal.”

Clearly, something happened soon before the conference to inspire de Boer and others, including Michael Zammit Cutajar of Malta, chairman of the Long-Term Cooperative Action Group, and John Ashe, the ambassador of Antigua and Barbuda and the chair of the working group dealing with the

Kyoto Protocol, to reach such optimistic heights. But what was it? Nothing was evident from pre-conference developments other than that the United States would “do its part” in joining others to assist developing nations, and even then, the developing nations were skeptical. Could it be that the U.N.’s excitement was all spin and no substance?

Certainly, anyone who visited Copenhagen’s impressive Bella Center, where the conference is being held, would never suspect anything other than success. Other than the comparatively few protesters outside the entrance area, the extravaganza of exhibits, products, resources, materials, and simultaneous meetings and press conferences — not to mention the spontaneous interviews and videotaped casual exchanges throughout the hall, including the food areas — might persuade even jaded observers that victory is at hand or, at the very least, that resistance is futile. The U.N. estimates that more than 34,000 people are either attending or attempting to get in — more than twice the 15,000 originally forecast.

But behind the scenes, problems and conflicts still remained, especially between the developed nations such as the United States, which are, according to the rest of the planet, responsible and financially liable for fouling the world, and the developing nations, such as those in Africa and islands in the South Pacific, which claim that the very existence of their populations is threatened without significant financial relief to support infrastructure and adaptation.

The poorer nations are strident about their needs. In a press conference late Tuesday Dec. 8, four ambassadors from Pacific island nations stressed the importance of a prompt and legally binding agreement, one they say will save their nations from disastrous erosion and, indeed, submersion as sea levels rise. In a separate written statement, ambassador Masao Nakayama of the Federated States of Micronesia pulled no punches.

“It is more and more clear that the voices of those already being affected by dangerous climate change are those least likely to be heard when establishing climate change policies,” the statement said. “What’s too often missing from these discussions is the human element. Ultimately, we must remember that we are not discussing dollars, temperatures and atmospheric

concentrations. We are discussing human suffering and the scale on which ‘we’ can tolerate it.”

As the “Climategate” controversy rages, some may doubt the existence or extent of global warming, and they may challenge the reliability and the credibility of the underlying science, but one thing is clear. Countries like the small Pacific nations are deeply concerned and tremendously motivated because, based upon the studies that underlie the urgency of this conference, they may lose everything — their entire nations — and without help, they lack the resources to save themselves. Significantly, each of the ambassadors admirably and bravely refused to discuss resettlement as an option. Such a concept comes somewhat easier off the tongues of those who live comfortably on higher ground.

These men are admirably doing what they believe is necessary to preserve their cultures and ways of life. The gap between them and the developed world is vast indeed. What must be done to bridge that chasm? Shall the financial powers once again take them paternalistically under their wing, expect them to conform to the financiers’ expectations, and thereby deprive them of their identity as a people by forcing them to give up something we all have, namely, their homeland? These are profound questions that cannot be ignored — not by the U.N., not by national leaders who think they know best and certainly not by the rest of the world’s population. It would be the ultimate “insolence of office” to ignore the fears and plight of those who, according to the U.N.’s climate theories, are the most vulnerable among us.

Yet on the same afternoon of the islanders’ press conference, insolence raised its head and struck them and other developing nations unexpectedly, according to a report in the U.K.’s Guardian newspaper. The report revealed a leaked draft agreement (now known as the “Danish text”) that, if implemented, would vastly enhance the power of richer nations and effectively remove the U.N. from all prospective negotiations. The agreement would set widely disparate limits on per-capita carbon emissions by developed and developing countries, ultimately allowing richer nations to almost double the permissible limits allowed to poorer countries.

The uproar from the developing world regarding this proposal — about which they were not consulted

— was intense. Delegates from various nations expressed extreme anger over the surreptitious arrangement. Only a few countries were apparently involved in its creation, including the United States, the United Kingdom and Denmark, leading to an impression that a small group of nations was attempting to take over the issue in a self-serving manner.

The impression was strengthened when a report surfaced Dec. 10 that China had penned an alternative draft of its own, also allegedly unknown to the developing countries. If true, the Chinese involvement suggests that the “big emitters” may have formed their own negotiating group outside the auspices of the U.N., thereby depriving the poor nations of any formal voice in the outcome.

The U.N.’s response to the outcry was tepid, at best.

“This [the Danish text] was an informal paper ahead of the conference given to a number of people for the purposes of consultations,” de Boer said in a press release. “The only formal texts in the U.N. process are the ones tabled by the chairs of this Copenhagen conference at the behest of the parties.”

What he doesn’t say, of course, is why the U.N. failed to share this disturbing draft with many developing nations that will be vitally affected by it.

The obvious answer, of course, is that the document wasn’t shared because the U.N. knew its ideas would cause precisely the uproar that it did. Moreover, disclosure would have surely spoiled the atmosphere of optimism the U.N. encouraged for the opening of the conference. At this point, if the delegates truly represent members of the “family of nations,” the family is distinctly dysfunctional.

According to the Guardian report, the “Danish text” proposes to abandon the Kyoto Protocol’s mandate that richer nations bear the primary burden of reducing emissions, replacing it by transferring control of the process from the U.N. to the World Bank. Its terms reportedly include:

- Imposing new emission reductions and other measures on developing nations that were not negotiated in earlier international agreements;
- Creating a new subdivision of developing countries called “the most vulnerable”; and

- Restricting emissions from poorer nations to 1.44 tons of carbon per capita by 2050, despite allowing developed nations to emit almost double that amount.

The full terms of the Danish text, translated into English, are now posted for general review at <http://www.guardian.co.uk/environment/2009/dec/08/copenhagen-climate-change>. Whatever the intentions behind its development, it is understandable that the developing nations feel ignored and marginalized and that they are angry that the future of their cultures is being decided by powerful interests that seem indifferent to their concerns. Although China’s involvement is a positive sign, that country, with its booming economy and significant financial resources, cannot adequately represent the interests of developing nations, and its concerns are entirely remote from the concerns of the Pacific island nations.

Of course, as I argued earlier in this series, the U.N. is not necessarily the best body to deal with these issues. Even if it maintains its involvement, powerful standards and supervision will be needed to ensure that remedial measures are performed effectively and that funds entrusted to its control are reliably managed. Perhaps the Danish text was developed to deal with these concerns, but if so, excluding many critically concerned voices from its preparation was ill-advised, and its revelation has created the most serious political problems of the conference. The impression, like it or not, is that the document represents the “insolence of office” that characterizes the attitude of many leaders of the advantaged world.

Unlike Hamlet, however, the developing nations are not considering resigning themselves to their fate. With Dylan Thomas, they have no intention of “going gentle into that good night,” and they can be expected to “rage, rage against the dying of the light.” They have a moral imperative that mandates their consultation and participation in any solution — and the dire risks posed by prophesied climate change amplify their voice beyond the power of any microphone. As Micronesian ambassador Nakayama said: “We must do what is in the interest of the human community, not just what looks easiest or less costly from our home country’s perspective. ... We should be bound to each other and to the commitments we recognize are necessary to solve the problem we all

face together. We must be allies in the war against climate change, not rivals in drafting the war plan.”

Is anyone listening? At this point, the paternalistic monoliths are silent. Their politics, however, which depended so much on positive perceptions, are now viewed by many as transparent opportunism. Whether their image can be rehabilitated will be decided as the conference proceeds.



Richard Faulk chairs the litigation department, environmental practice group and climate change task force of **Gardere Wynne Sewell LLP** in Houston. He is a credentialed attendee of the United Nations climate change conference in Copenhagen, Denmark. The opinions stated herein are solely those of the author. © 2009. All rights reserved.

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