

Third Asian Judges Symposium on Law, Policy and Climate Change

The Honorable Maria Lourdes Sereno, Chief Justice of the Supreme Court of the Philippines; the Honorable Senator Loren Legarda; Honorable Chief Justices and judges; Mr. Yakehiko Nakao, President of the Asian Development Bank; distinguished guests; ladies and gentlemen:

Welcome to the Third Asian Judges Symposium on Law, Policy, and Climate Change on behalf of UN Environment. Yes, this is already the third Symposium and I would like to sincerely thank you for the leadership that you, Mr. President, and the ADB have provided not only to this forum but also to the Asian Judges Network on Environment as a whole. UN Environment is proud to support these efforts and we wish to thank the ADB and the Supreme Court of the Philippines for the excellent cooperation leading up to this Symposium.

Judges are increasingly called to the frontlines of difficult debates at the heart of environmental sustainability and sustainable development. You are the real guardians of environmental rule of law and the gatekeepers of environmental justice. The world trusts you, honorable judges, to adjudicate on environmental questions that have profound impacts on millions of people around the world.

The stakes could not be higher. Geologists currently are engaged in a debate about whether or not humanity has entered the age of the

anthropocene, in other words whether or not for the first time in our planet's history a single species, humans, and human activity has been the dominant influence on the Earth's geology and ecosystems. In many parts of the world these changes are already clearly being felt with very real consequences, in Asia perhaps more than any other region in the world.

These changes will have a profound impact not only on the environment, but on sustainable development and poverty eradication. One aspect that is often overlooked in connection with climate change is the ethical aspect or the justice aspect. In order to ensure the just achievement of sustainable development and tackle climate change as a critical part of the 2030 Sustainable Development Agenda we need stronger environmental rule of law and must afford all people equality in terms of environmental protection. Only then can we ensure equal rights of access to sustainable development and the resilience of the poor and those in vulnerable situations to climate-related extreme events.

In fact, goal number 16 – or SDG number 16 – is the very foundation for sustainable development in a just and equitable context: the achievement of peaceful and inclusive societies, access to justice for all, and effective and capable institutions. While this goal of course quite rightly stands on its own, it is a powerful recognition of the systemic changes still required to address climate change, other environmental challenges and for societies to develop sustainably and justly.

The bottom line is this:

- Our destruction of free natural services is driving us towards less productivity, with higher ecologic, economic and social costs.

- Increasingly debates about the fair distribution of environmental benefits as well as harm, such as harm triggered by climate change enter the work of judiciaries the world over.

- The skills, knowledge and authority of the entire judicial community are needed in this effort, especially as we have now embarked on an ambitious path of the 2030 Agenda towards achieving the Sustainable Development Goals.

If we fail to make this just and fair transition imposed upon us by the age of the anthropocene, then by 2050, when the population reaches 9 billion:

- More than 40% of those people will be living in water-stressed areas, while small islands states disappear from the map.

- The emergence of zoo-nautical diseases, like zika or avian flu, will be far too regular an occurrence.

- And the humanitarian, security and logistical issues created by 60 million migrants today, will be a walk in the park – including the devastating effects of extreme weather related events, such as Typhoon Yolanda or Hurrican Katrina which we know effect primarily already disadvantaged groups of populations in a disproportionate manner.

The critical nexus between environmental rule of law and sustainable development was already highlighted at the Rio+20 Conference in 2012, most notably by a World Congress of Chief

Justices, Attorneys General and Auditors General on Justice, Governance and Law for Environmental Sustainability that UN Environment organized.

This was followed by Decision 27/9, on Advancing Justice, Governance and Law for Environmental Sustainability, adopted by the first universal session of UNEP's Governing Council in February 2013, which recognized the growing importance of rule of law in the field of the environment in order to reduce violations of environmental law and to achieve sustainable development overall. It held that 'the violation of environmental law has the potential to undermine sustainable development and the implementation of agreed environmental goals and objectives at all levels and that the rule of law and effective governance play an essential role in reducing such violations'.¹ Decision 27/9 is the first internationally negotiated document to establish the term 'environmental rule of law'.

And the notion continues to gain ground through resolutions taken at the United Nations Environment Assembly as well as through events and gatherings of judges around the world like this Symposium here in Manila.

And rightly so! The UN Security Council has already recognized the growing security implications of cracks in the environmental rule of law and extended sanctions to those 'providing support for armed groups and criminal networks through the illicit exploitation of natural resources, including diamonds and wildlife and wildlife products' in a

¹ Decision 27/9 is the first internationally negotiated document to establish the term 'environmental rule of law', paragraph 6 (a).

Resolution concerning the conflict in the Central African Republic. In a subsequent Resolution on the Democratic Republic of Congo the Council employed similar language. And just last Friday, during the UN General Assembly, UN Environment and Interpol raised the awareness about the implications of environmental crime in terms of our ability to cope with climate change, achieve sustainable development and uphold peace and security, and the rule of law.

Illegal activities harming the environment are fast evolving and growing in sophistication. Led by vast financial gains and facilitated by a low risk of detection and scarce conviction rates, criminal networks and organized criminal groups are becoming increasingly interested in such illicit transnational activities. Environmental crime is now the 4th largest form of organized crime. Environmental law has no place to be considered 'soft' or less important than other legal fields.

Sustainable development provides a big opportunity to make societies more just, especially in light of exposure and vulnerability to climate-related extreme events. But: it will require further resources to be channelled to promoting and developing legal and practical means to increase transparency, strengthen access to information and enhance public participation in environmental decision-making processes, including through the implementation of existing mechanisms. Increased efforts are required in particular with regard to the capacity of courts and other tribunals, enforcement agencies, auditing institutions and other stakeholders to implement environmental rule of law at the national, sub-regional and regional levels. These efforts are needed to address emerging and growing issues such as environmental crime; promote progress in key areas such as the

human rights and environment nexus and to further strengthen the implementation of key environmental law principles and the use of existing mechanisms.

The rule of law is a principle of governance and as such, should be seen broadly, as a means of organizing societies in a way that maximises political, social, economic and environmental justice. The rule of law delivers justice through a range of institutions and processes that ensure the promulgation and application of fair, just and equitable laws binding on all, including the State itself; and through the transparent, predictable and fair enforcement and adjudication of these laws through a means accessible to the whole population.

Applying a rights-based approach to environmental management in this context constitutes a means for addressing the interrelationship of environmental protection and human rights, dealing with its complexity, and ensuring that achieving one goal does not negatively affect the achievement of the other, with the overall aim of promoting the realization of conservation with justice.

The third Asian Judges Symposium on Law, Policy and Climate Change is an opportunity to strengthen judiciaries around Asia to meet legal challenges posed by climate change and an to make an important contribution towards environmental justice in Asia.

Environmental matters are not simple matters. They are complicated. There is a convergence of a multitude of issues, players, interests and priorities.

But who, other than yourselves, honourable judges, can safeguard environmental justice in the Anthropocene, ensure that laws are upheld, that there exists a level playing field and: that environmental rule of law prevails overall?

Thank you very much!