

**Keynote Speech of Senator Loren Legarda
Third Asian Judges Symposium
on Law, Policy and Climate Change
26 September 2016 | ADB Headquarters, Mandaluyong City**

(Standard Greetings)

At the outset, allow me to thank and congratulate the Asian Development Bank and its partners, the Supreme Court of the Philippines and the United Nations Environment Programme, for making climate change the central theme of this symposium.

**Let me begin my presentation with a basic question:
What is justice?**

The answer is simple. Justice is giving everyone their due.

My next question is something I want each of us to reflect on and relate to the concept of justice.

Do the future generations, our children and grandchildren, deserve the Earth we are leaving behind for them?

In a landmark decision 23 years ago, the Philippine Supreme Court upheld the concept of intergenerational responsibility. I wish to share a quote from that decision:

“The day would not be too far when all else would be lost not only for the present generation, but also for those to come—generations which stand to inherit nothing but parched earth incapable of sustaining life.¹”

Who would have thought that such prophecy would happen in our lifetime?

We see it now unraveling right before our very eyes— sea level rise threatens to submerge island nations; ocean acidification is causing irreversible damage to our coral reefs, while the sudden shifts from hot temperatures to incessant rains pose uncertainties to agriculture, greatly affecting our food security. The

¹ Supreme Court en banc Decision, Oposa vs. Factoran, G.R. No. 101083 July 30, 1993.

warming climate is now one of the most significant risks for World Heritage Sites, including the Philippines' own Ifugao Rice Terraces. Extreme rainfall and heavy floods constantly threaten lives, livelihood and development.

In last year's climate change negotiations in Paris, the Philippines, as chair of the Climate Vulnerable Forum, led the call to limit warming to 1.5 degrees Celsius to be able to survive.

Governments conveyed the message that they are determined to act to achieve the goal of limiting the world's rise in average temperature to "well below 2 degrees Celsius above pre-industrial levels and pursuing

efforts to limit the temperature increase to 1.5 degrees Celsius."²

The 2015 Paris Agreement is a landmark agreement in this history of humankind. However, its aspirations will not happen on its own.

Bending the global warming curve to 1.5 degrees Celsius is a moral imperative, because it means saving the lives and livelihoods of hundreds of millions of people; it means upholding the human rights of the poor and vulnerable; it means ensuring the integrity of our ecosystems.

²The Paris Agreement, Conference of Parties 21. Article 22.1 (a).

The Philippines has committed to a conditional 70% reduction in greenhouse gas (GHG) emissions by year 2030 from the sectors of energy, transport, waste, industry and forestry.

While the Paris Agreement acknowledges that developing nations like the Philippines will take time to decarbonize and will be able to do so only with external support, we should not stick to 'business as usual' in the way we pursue development, especially since we have also committed to building the resilience of our communities and promoting sustainable and inclusive growth in accordance with the Sendai Framework for Disaster Risk Reduction and the Sustainable Development Goals.

We must deliver on these commitments. Unfortunately, here in the Philippines, consumption of coal has been on the upswing, increasing by 27% between 2012 and 2014.³

Others argue that coal is cheap. I say, it is not. Coal affects our health, kills biodiversity and the environment, affects our waters and pollutes the air we breathe.

Before coal can be used in power plants, it must first be mined, washed and transported. This process alone, without a single watt of electricity generated yet, already produces pollution.

³ Key Coal Trends: Excerpt from Coal Information 2015. International Energy Agency.

Coal is burned to generate electricity and its by-product, in the form of ash, is either recycled into cement or construction products, stored or disposed in dry or wet landfills. Leakage from these landfills can contaminate ground and surface water with arsenic, cadmium and lead, just to name a few.

The World Health Organization (WHO) concluded in 2014 that air quality in most cities worldwide “fails to meet WHO guidelines for safe levels, putting people at additional risk of respiratory disease and other health problems.”⁴ This study covered 1,600 cities across 91 countries. It had attributed the air quality decline to a

⁴World Health Organization. News Release 7 May 2014. Geneva.

host of factors, including reliance on fossil fuels such as coal-fired power plants.

The United Nations estimates that 26% of global mercury emissions come from the combustion of coal in power plants.⁵

Beyond the health impacts of coal-based energy production lie the severe and irreversible impacts of climate change across the world.

Two of the major greenhouse gases contributing to climate change are produced by coal combustion—

⁵ Pacyna J, Sundseth K, Pacyna E, Panasiuk ND. Study on Mercury Sources and Emissions Analysis of Cost and Effectiveness of Control Measures: " UNEP Paragraph 29 Study." 2010 November. UNEP (DTIE)/Hg/INC.2/4:17.

carbon dioxide and nitrous oxide. As concentrations of these gases in the atmosphere accumulate, global temperature increases, setting in motion absolute consequences of climate change.

Now I wish to ask: Is everything lost?

The Philippines is a country rich in renewable energy – the amount of sun and wind is more than enough to power our entire country many times over. We have the Renewable Energy Law of 2008 and though we may not totally ban coal, we should have a good energy mix where there is a bias for renewables.

The nation can no longer afford to have short-sighted and myopic plans. We must rethink socio-economic development beyond expediency and short-term gains.

Taking the path of low carbon development is the just and right way. It presents enormous opportunities for green growth, green jobs and ensures a sustainable, secure and resilient future for all.

The Philippine Development Plan should define clearly how the country will thread the low carbon development pathway and how our sectors will pursue the transition our sustainable development goals entail.

It is on this note that I laud the world's first climate change and human rights petition in the Philippines against the Carbon Majors or the world's biggest polluters, including the largest fossil fuel companies, which are responsible for an estimated 65 percent of all anthropogenic carbon dioxide emissions between 1751 and 2013. The petition was filed by environmental groups and individuals led by Greenpeace Southeast Asia-Philippines before the Commission on Human Rights (CHR) of the Philippines.

The CHR sent copies of the petition to the Carbon Majors last July 27, 2016. The companies are expected to submit their reply to the Commission within this month.

In the Philippine Senate, I have filed a Resolution calling for an inquiry in aid of legislation on the alleged detrimental and health impacts and human rights infringements arising from the operation of coal-fired power plants in the country.

We seek to determine the viability of imposing a moratorium on the issuance of Environmental Compliance Certificates for the construction of additional coal-fired power plants and the development of a clear policy towards a low carbon economy in light of the Philippines' international commitments.

I have likewise urged the Philippine Senate to lead the conduct of an environmental audit of relevant national

agencies and local government units in relation to their compliance to and enforcement of environmental laws. Our goal is to introduce measurable indicators and targets, identify where implementation can be supported, and encourage public accountability of all government officials.

The Philippines has numerous laws and policies focused on addressing issues on environment, public health and disaster resilience. Among these are the Philippine Environmental Impact Statement System, Marine Pollution Control Law, Clean Air Act, Clean Water Act, Ecological Solid Waste Management Act, Renewable Energy Act, Environmental Awareness and Education Act, Climate Change Act, Disaster Risk Reduction and

Management Act, Toxic Substances and Hazardous and Nuclear Wastes Control Act, the Act Creating the People's Survival Fund, among many others. These laws, however, do not guarantee effective action.

The United Nations once lauded the country's laws on climate change adaptation and disaster risk reduction as model legislation. However, it also noted that the challenge is to translate national policies, plans and programs into local action with measurable gains.

One concrete example is the Ecological Solid Waste Management Act. Fifteen years since this law was enacted, we have not achieved even a 50% compliance rate among local government units (LGUs).

The Office of the Ombudsman of the Philippines has taken steps to push for stronger compliance, even launching a program that encourages voluntary compliance with the law.

However, many local government units still failed to heed the warnings. In response, the Ombudsman filed cases against non-compliant LGUs, particularly those that still operate open dumpsites, have not built materials recovery facilities, do not implement segregation at source, or have not submitted the 10-year Solid Waste Management Plan required by the law.

Fifteen years is too long for a grace period and there should be no acceptable excuse for non-compliance.

As the famous legal maxim goes, “the law may be harsh, but it is the law,” thus, let cases be filed to enforce compliance by those who are failing to do their duty.

Climate change is the greatest humanitarian challenge of the century and we must do everything in our power to address this crisis now.

The presence of international agreements and local laws may not be enough to keep us alive. We need effective and fair enforcement of our environmental laws for the Earth to be able to sustain life in the succeeding

centuries. We must uphold the rule of law for the sake of the planet.

For the vulnerable, we seek climate justice now to restore the dignity of those suffering and to strengthen the resilience of the poor and recovering. For the sake of future generations, we seek a commitment to act now and to implement a holistic solution.

Reducing disaster risk and adapting to climate change effectively is social justice in action. We are called upon to do more for the poor -- the marginalized and disenfranchised -- who are bound to suffer most from apathy and inaction with the increasing prevalence of climate change and disaster risks.

As we respond, we ask: How can local risk governance be strengthened? How can resilience of livelihood be enhanced? How can we preserve the integrity of our ecosystems? How do we ensure the resilience of our culture and the indigenous peoples?

Let us use the power of the law while we still have ecosystems to rehabilitate and species to protect; because if we have already lost all these, our laws will only be as good as an expired license.

The future of humanity and of the Earth depends on what we do now and what we will fail to do. Let us not

make failure an option. Let us make resilience and sustainability our future.

Thank you.