

Judicial Symposium on Climate Change Adjudication

7-8 October 2019 - Fiji

Distinguished Judges, Colleagues, Friends,

I think I have the best job in the world. I have the best job in the world as I get to work on an issue that I am passionate about – using the law to address our shared environmental challenges. I also have the best job in the world as from time to time I get to participate in events like this.

I'm excited about this event because I've seen first-hand the role that judges can have in helping to address the environmental and climate change crises we now find ourselves in.

Now normally when I give remarks on environment and climate change issues I try and stay positive. But I have to confess it is getting harder. It's getting harder because this region – and every other region in the world – is on the doorstep of ecological and climatic breakdown. Report after report – including UNEP's landmark Global Environmental Outlook, the Intergovernmental Panel on Climate Change assessment reports, and others – paint a bleak picture. We're on course to drive 1 million species to extinction, entire fish stocks are collapsing, and even the fish we do have contains harmful mercury contamination posing the brains and future of our children.

The environment constitutes the building blocks of life – air, water, food. When we manage them unsustainability, life on earth becomes unsustainable. Mass climate-induced displacement and migration, food shortages, lack of access to

sanitary water, and so much more. These are in our future if we continue the current course. And I should say ‘increasingly’ in our future, because some of these impacts are already happening. Climate change is real and present across the Pacific. You already know this.

So why does this matter for judges? Because you have a role in solving them. Judges apply the law. You breath life into the law. And in a climate stressed Pacific you will increasingly be asked to apply laws on the books that protect the environment and safeguard the climate. You will increasingly be asked to hear cases that uphold the rights of your citizens to a clean, safe, and sustainable environment. You will increasingly be asked to hold governments accountable to their commitments regarding climate adaptation in particular.

As I am sure you will hear from the various speakers across the next two days, we are at the start of an accelerating wave of climate litigation across the world. At last count in May 2019 there were over 1350 cases concerning climate change. This is up from 850 cases only a few years ago. Almost every month we see new cases being brought against governments – citizens holding them to account for existing commitments, or challenging the adequacy of their proposed commitments. We increasingly see cases brought against corporations for their actions or inactions, particularly the ‘carbon majors’ and investment entities under corporations law for not taking into account the impacts of climate change.

We also see an acceleration of cases brought by youth on their own behalf, and on behalf of unborn generations. I was in New York last week at the Climate Summit when Greta Thunberg and 15 other children – including two from Palau

and the Marshall Islands – brought a petition under the Third Optional Protocol to the United Nations Convention on the Rights of the Child. They are challenging five governments - Argentina, Brazil, France, Germany, and Turkey – for their inadequate action on climate. There are many other ongoing cases being brought by children in national and sub-national courts around the world.

When I was in New York I also met with the indigenous leaders from the Torres Strait Islands in Australia that are bringing a formal complaint against my government. They are making it to the UN Human Rights Committee in Geneva over the threat to their culture and their ability to live on their home islands.

With the exception of multiple cases in Australia and New Zealand, we haven't seen this growth in climate litigation in the Pacific yet. But it will almost certainly come in some way, shape or form. And judges need to be prepared for this. As shown in UNEP's global environmental rule of law report, effective environment and climate adjudication happens when judiciaries have fair proceedings, capable judges, efficient procedures, and reasoned decisions.

Our global environmental rule of law report also shows that almost all countries have environmental laws on the books. The more pressing challenge is implementation, and judges – alongside other actors in the enforcement chain - have a key role to play in being the ultimate implementors of the law.

This is why UNEP supports judges across the world to develop sustainable judicial capacity. We work with:

- national judicial training academies to build tailored courses on climate and environmental law;

- we support the Global Judicial Institute on the Environment;
- we develop judicial handbooks and other guidance documents such as global assessments on climate litigation;
- we operate a global online database of significant environmental legislation and jurisprudence;
- and we support countries and courts to develop specialized environmental courts, tribunals and benches.

Our judicial support programme has been in operation for decades, but to date our focus has been on Africa, Asia, and Latin America. We have done very limited work in the Pacific, and I truly hope this can change. So when the Asian Development Bank proposed that we do something together in the Pacific we jumped at the opportunity.

We really look forward to working with you and the ADB to map a way forward on how we can support judges across the Pacific region. We're honored by the opportunity to walk with you on this journey.

Let me conclude by thanking the Supreme Court and everyone involved in making this meeting happen.