

**PANEL 6:
GOOD GOVERNANCE AND THE RULE OF LAW**

Moderator: Alex Wang, Project Director, Natural Resources Defense Council, China

Panelists: Justice Suryakant Sharma, Punjab & Haryana High Court, India

Lawrence Sperling, Senior Adviser, Bureau of Oceans, Environment and Science, State Department, United States

Antonio Oposa, President, The Law of Nature Foundation, The Philippines

Rapporteur: Gustaaf Biezeveld, National Prosecutors Office, The Netherlands

Summary Report:

Justice Suryakant presented good governance and the rule of law in the context of sustainable development. In his view, good governance can be defined as decision-making in a manner essentially free of abuse and corruption and with due regard to the rule of law. Rule of law is the *sine qua non* for good governance. Essential to this is a fair legal framework, enforced impartially as well as with full protection of human rights, particularly those of minorities. These require an independent judiciary and an impartial and incorruptible police force.

Perhaps the most important application of the rule of law is the principle that governmental authority is legitimately exercised only in accordance with written, publicly disclosed laws, adopted and enforced in accordance with established procedural steps that are referred to as due process. The principle is intended to be a safeguard against arbitrary governance, whether by a totalitarian leader or by mob rule. Thus, the rule of law is hostile both to dictatorship and to anarchy.

Justice Suryakant felt sustainable development is the method that governments must adopt to set a balance between the pressures that are forced upon both developed and developing countries. Changes in the world's economic, political, and social systems have brought unprecedented improvements in human living conditions in both developed and developing countries, but these changes have also brought new uncertainties and challenges. Signs of breakdown are everywhere in the form of disintegration of families; destruction of indigenous societies; degradation and annihilation of plant and animal life; pollution of rivers, oceans, and the atmosphere; crime, alienation, and substance abuse; higher unemployment; and a widening gap in incomes and capabilities.

Justice Suryakant concluded his presentation by saying that the art of sustainable development is to preserve order amid change and to preserve change amid order. This can be achieved only by making people 'sit up' and not 'sit down.' Our only hope for a better and sustainable world is human ingenuity, but it can not flower in a vacuum and has to be managed with a cohesive approach.

Mr. Lawrence Sperling focused his presentation on the relation between rule of law and the environment in a globalized world. Mr. Sperling noted that before the World Summit on Sustainable Development in Johannesburg in 2002, the focus of most nations and politicians had already shifted to security and the global war on terror due to 9/11. Globalization has led to more decentralization and demands for greater accountability in governments. It has also lead to a greater quest by some countries for resources and an increase in illegal smuggling, as well as daunting new global problems such as climate change.

Mr. Sperling cited the book, *Illicit: How Smugglers, Traffickers and Copycats are Hijacking the Global Economy* (2005) by M. Naim, to illustrate how smuggling operations have moved away from fixed hierarchies and toward decentralized networks: "away from controlling leaders and toward multiple, loosely linked, dispersed agents and cells, away from rigid lines of control and exchange and toward constantly shifting transactions as opportunities dictate. It is a mutation that governments in the 1990's barely recognized and could not, in any case, hope to emulate."

He also cited the *International Crime Threat Assessment 2000* by the U.S. Government, which characterized environmental crime as one of the fastest growing and most profitable areas of international organized crime with an estimated economic value of \$22-31 billion annually, including \$10 billion in wildlife trafficking.

He concluded his presentation with some suggestions to INECE. On the operational level, the network should address the full enforcement continuum in a comprehensive way, because the chain is only as strong as the weakest link. It should also build ground-level cooperation with the full range of agencies, because all are in the same boat. In his view, INECE should confront corruption and build in outcome measurements, or indicators, that feed back into marketing efforts. Above all, INECE should keep up the great work it has been doing.

Antonio Oposa showed an impressive documentary about the natural beauty of The Philippines and how it is endangered by the short-sighted behaviour of man. He followed the film with a parable about a man who had saved an enormous amount of money over 82 years. After his death, the inheritance he left was wasted in less than ten days. Oposa's main message was that man would ultimately realize that he can not eat money. Man is dependent on the vital organs of the Earth and its natural resources. It is in his own interest to protect the environment and to change his mindset, attitudes, and practices. If man is the problem, man also is the solution. He concluded his presentation by mentioning his initiative on global legal action on climate change.

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