

**MINISTRY OF WATER, LAND, ENVIRONMENT & CLIMATE
CHANGE**

Remarks for

Hon. Robert Pickersgill, M.P.

Minister of Water, Land, Environment & Climate Change

At

The Inter-American Congress on the Environmental Rule of Law

On

Monday, March 30, 2015

At

The Secrets Hotel

Montego Bay, St. James

- Mr. Chairman
- Most Hon. Portia Simpson Miller, Prime Minister, Jamaica
- HE Albert Ramdin, Assistant Secretary General, Organisation of American States
- Sir Charles Byron, President, Caribbean Court of Justice
- Hon. Justice Antonio Benjamin
- Hon. Justice Zaila McCalla, Chief Justice of Jamaica
- Ms. Elizabeth Mrema, Director, Environmental Law & Conventions, UNEP
- Delegates
- Members of the Press
- Ladies and Gentlemen

I am pleased to be asked to make remarks at this prestigious Organization of America Congress on Environmental Rule of Law.

At the RIO+20 Declaration on Justice, Governance and Law for Environmental Sustainability it was adopted that **“Environmental law is essential for the protection of natural resources and ecosystems and reflects our best hope for the future”**.

I was privileged to participate in the First United Nations Environment Assembly (UNEA) held 23-27 June 2014 in Nairobi, Kenya. The organizers United Nations Environment Programme (UNEP), convened a Global Symposium on Environmental Rule of Law as a central feature of the UNEA. The Presenters included leaders in the jurisprudence which included the Region’s own Justice Roy Anderson of the Caribbean Court of Justice (CCJ). The idea of the symposium was “to discuss the ways and means by which the further development and implementation of environmental rule of law can help ensure just and sustainable development outcomes. This included adequate and implementable laws, access to justice and information as well as public participation to support these objectives”.

Personally, the symposium provided excellent sensitization and learning and I must say that the participation and experience continues to undergird my view and handling of the environmental portfolio.

It is an undisputed fact that lack of enforcement of environmental law undermines the achievement of all dimensions of sustainable development and environmental sustainability. It is widely accepted and practised that the rule of environmental law is a foundation for environmental sustainability. In light of the growing environmental pressures, including our own experiences in Jamaica, action must be taken to stem the violations.

In fact, my Ministry and environmental agency, the National Environment and Planning Agency (NEPA), have taken tangible steps to deal with environmental breaches and to encourage and integrate stakeholder participation in the process.

For example, NEPA through a fiat to assist the Director of Public Prosecutions (DPP), actively prosecute offences through the Courts using the provisions of the Natural Resources Conservation Authority (NRCA) and the Town and Country Planning Authority (TCPA) Acts.

Over the past eight years court actions have increased thirty-fold, while the use of cessation orders, notices, stop orders, and the use of other environmental instruments have seen a six hundred percent increase in enforcement actions. We have had successful prosecutions in the areas of: possession of protected animals, pollution of our water bodies, such as rivers and harbours, breaches of the Beach Control Act and operating facilities without the required permit/licence.

Mr Chairman, our courts have not been distant in supporting the rule of environmental law. Our Supreme Court has not been a distant bystander in guarding the environmental rule of law. The Court in two memorable landmark cases through the Judicial Review process came down on the side of environmental non-government organizations and private citizens twice. Once in 2007, in what is widely called the Pear Tree Bottom Case and again in 2010 a case widely known as the Palisadoes Shoreline Project.

In the Pear Tree Bottom case six litigants were successful against the NRCA/TCPA in the matter quashing a decision of the NRCA due to a faulty public consultation process and environmental impact assessment review.

In the Palisadoes case Justice Straw in 2011, though upholding the NRCA decision, criticised the public consultation process for coastal modification pursuant to the Beach Control Act Breach. The Judicial Review was sought by the Jamaica Environment Trust.

Jamaica operates a vibrant jurisprudence and can demonstrate tangible examples of making and strengthening legislative provisions to support the environmental rule of law. Some examples are:

- During the Most Hon. PJ Patterson administration of the party to which I am affiliated, developed and promulgated legislation in 2002 for the Access to Information Act. This Act opened the door for civil society and Non-Government Organisations to access government documents and information, including environmental reviews, except of course for Cabinet minutes, national security documents and a few others.

- Another example is; over the last eleven years, beginning in 2003, the Natural Resources Conservation Authority and the National Environment and Planning Agency, with the kind support from Canadian International Development Agency (CIDA), the Court Management Services and the UWI Faculty of Law have convened three Judicial Symposia for members of the Judiciary, the DPP the Clerk of Courts. The objective is to sensitize practitioners to the environmental legislation and to discuss strategies to strengthen the environmental rule of law.
- Additionally, the consultation process has also significantly improved over the past decade thereby allowing greater access and participation. Under the NRCA Act, members of the public can now participate in the decision making process prior to finalization on any environmental permitting decision. The process spans the publication of environmental impact assessments reports, notification to the public through various media by wide-scale publication of notices of public meetings, public consultation and other avenues for stakeholders to provide comments.

- Last year NEPA proposed and dispatched to the Chief Parliamentary Council drafting instructions for Environment Impact Assessments (EIA) Regulations. These regulations will incorporate the tenets of the NRCA guidelines and solidify the participatory and consultative process.
- As an ongoing activity is that NEPA trains members of the marine police, coast guard, fishery inspectors and marine and national park rangers to assist in the enforcement of environmental laws.
- A final example is the partnership between the NEPA and two non-governmental organisations, the World Resource Institute the Jamaica Environment Trust. NEPA provides information on developments centering on permits, enforcement thrusts and other issues which are placed on the NGOs websites. This allows for greater sharing of the information and access rights as members of public can also interface with the website by uploading questions, reports and pictures.

Let me end by commending the OAS for convening this Congress. I am committing the unequivocal support of my Ministry and Agencies to the process of the Environmental Rule of Law and pledge to continue the initiatives started.

I wish for you a successful Congress.