Natural resources law in Papua New Guinea: Balancing biodiversity loss, climate change, development and the rule of law

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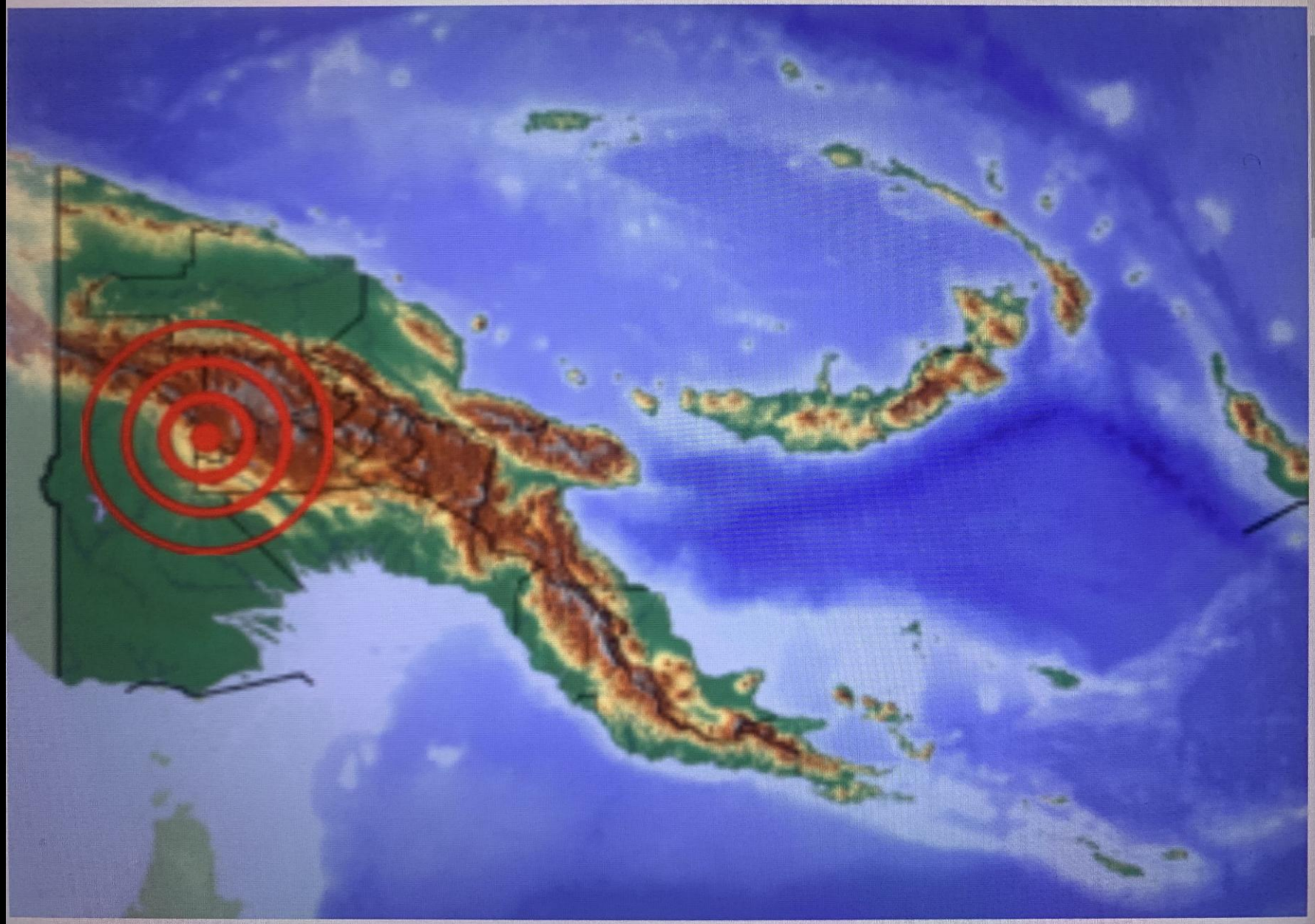
Introduction

In this session we explore the critical intersection of natural resources law in Papua New Guinea (PNG), biodiversity loss, climate change, development and international environmental rule of law.

Also, we will consider if we have achieved the right balance between protecting PNG's rich natural resources and sustainable development.

Times we are living in

- "Climate Change is the defining issue of our time and we are at a defining moment.
- From shifting weather patterns that threaten food production, to rising sea levels that increase the risk of catastrophic flooding, the impacts of climate change are global in scope and unprecedented in scale.
- Without drastic action today, adapting to these impacts in the future will be more difficult and costly."
- (from UN home page)



Times we are living in

- Triple planetary crisis
- Inadequate response
- COP28
- Our region's contribution and vulnerability
- UNEP, ADB programs – REDD+ scheme
- Environmental rule of law principles
- Lawyers and judge's role

Critical Barriers

- Shorter project time frames resulting in fragmented efforts with little effect.
- Weak coordination and rigidity of donor institutions rendering cooperation and partnership difficult with limited impact.
- Lack of stronger political leadership, improved monitoring and evaluation, availability of user-friendly data and information will enable informed decisions, integration into development plans and budgets resulting in well-designed and delivered interventions.

Solutions

- Grounding risk considerations in development and coordinating them at all levels;
- Making political authority, leadership, and accountability more robust and effective, at regional and national levels; and
- Making coordination and partnerships between the PICs as relevant partners stronger.
- Clear International Environmental Law Principles and consistent application by all nations

Climate Change Impacts - PNG

- Climate change poses a severe risk to PNG's environment and communities. Rising sea levels, changing weather patterns, and increased frequency of natural disasters threaten livelihoods, particularly for rural communities.

- The government has acknowledged these challenges through the National Climate Change Policy, which aims to mitigate and adapt to climate change impacts.

- However, the effectiveness of these policies is often hampered by resource constraints and inadequate infrastructure.

An Overview of Natural Resource Laws in PNG

- PNG is endowed with vast natural resources, including forests, minerals, and marine resources and biodiversity compared to our smaller neighbours.

- The legal framework governing these resources includes:

An Overview of Natural Resource Laws in PNG Cont'd

- National Goals and Directive Principles No. 4
- The Environment Act 2000 (as amended)
- The others like the Mining, Forestry and other Acts
- The EA20000 provides a comprehensive framework for environmental governance in Papua New Guinea, focusing on sustainable development and environmental protection.
- This is achieved through a requirement for all development projects to consider their environmental impacts and require Environmental Impact Assessments (EIAs) and seek and securing Environmental Permits to undertake activities that have an impact on the environment.

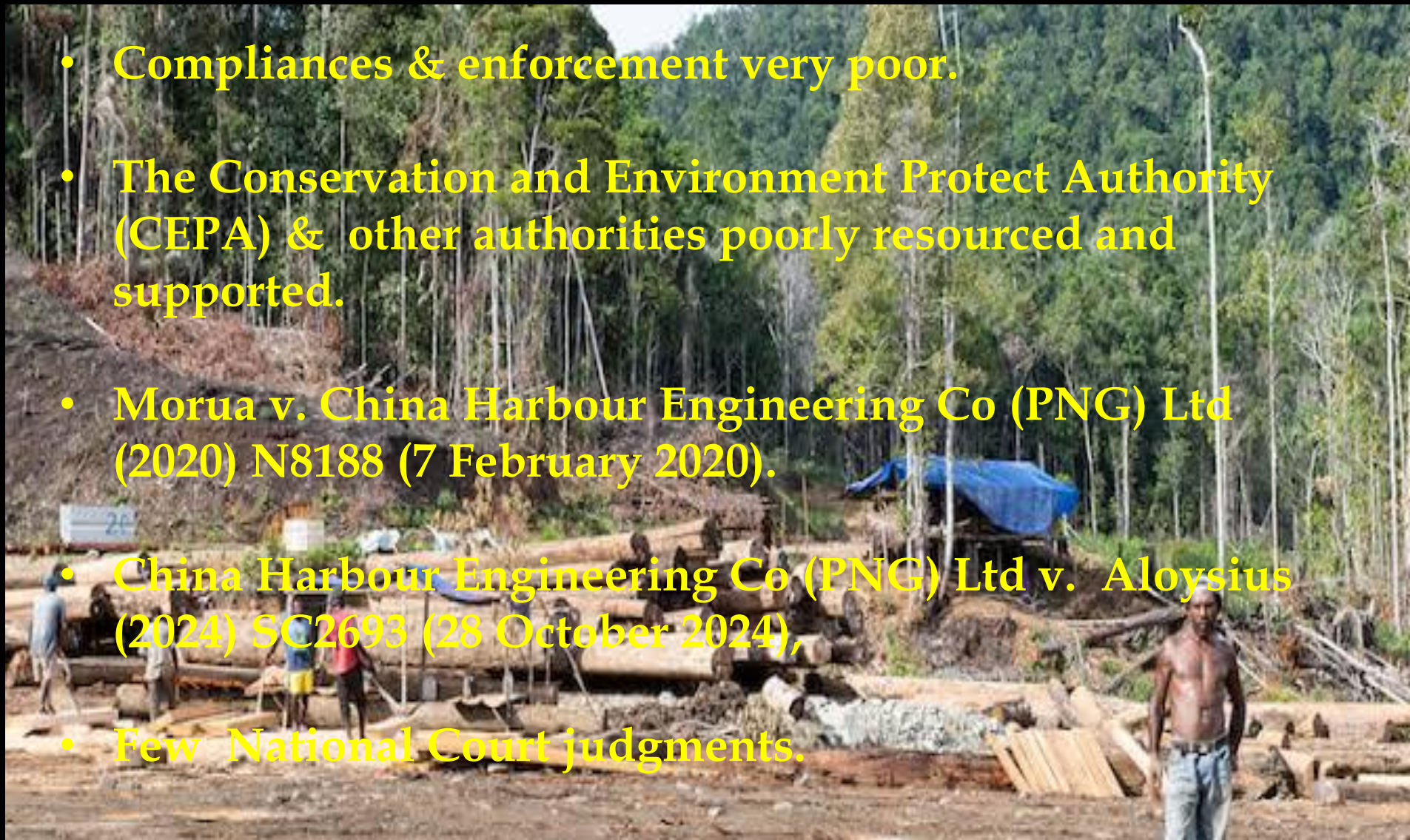
An Overview of Natural Resource Laws in PNG Cont'd

- Most important provisions are the:
- Preamble
- Section 2 - Objects of the Act
- Section 3 - Matters of National Importance
- Section 4 - Achievement of Objectives
- In short, the EA2000 serves as a foundation for promoting environmental stewardship, sustainable development, and community involvement in Papua New Guinea, addressing both immediate and long-term environmental challenges.

Status of PNG's compliance of environmental rule

- Comprehensive legislative framework especially the Environment Act 2000 (as amended).
- The Conservation and Environment Protect Authority (CEPA) & other authorities poorly resourced and supported.
- Lack of sufficient and adequate resourcing
- Corruption

Status of PNG's compliance of environmental rule of law



- Compliances & enforcement very poor.
- The Conservation and Environment Protect Authority (CEPA) & other authorities poorly resourced and supported.
- Morua v. China Harbour Engineering Co (PNG) Ltd (2020) N8188 (7 February 2020).
- China Harbour Engineering Co (PNG) Ltd v. Aloysius (2024) SC2693 (28 October 2024),
- Few National Court judgments.

Mayur Renewables Ltd v. Mirisim & Ors

Cancellation of 1st ever REDD+ project permits.

Case of systematic and institutional failures

Continuing Injunctive Orders

Forestry Related

OS. No. 09 of 2020 – Robin Kami & Others v. Aset Meriah PNG Ltd, & Ors

OS No.192 of 2020 Wisa Susapie and Tumu Timbers v. PNGFA

And orders OS 14 of 2025 and OS 37 of 204

Continuing Court Orders

Water pollution related

In WS 1395 of 2008 – Jacob Moiya & Ors v. PNG Water Board & Others and

WS 1080 of 2015 – David Kansa & Ors v. PNG Water Board & Ors

What is being done?

- Establishment of RECC Track.
- RECC Track - Rules in draft
- International Conference on Environmental Rule of Law – CLA/Lawasia and PNG Judiciary – August 19 -21

Summaries and Conclusion

- Climate change and the risks that presents is real
- Only two kinds of response advance, mitigation and adaptation
- All of us are contribution to the global warming and climate change so all of us must act.
- Climate change related disputes poses a security risk by reason of which they need to be properly identify, managed and resolve promptly
- Specializing training and equipping of Judges and lawyers is a must to (1) appreciate the principles and (2) correctly apply them.

Happy Lawyering and Judging in environmental and human and other species survival Justice

THANK YOU