Madam Chair Nilufer Oral and Directors and Officers of the IUCN Academy of Environmental Law, Justices, Judges, resource persons and speakers, participants to this Colloquium, observers, guests; ladies and gentlemen:

I bring you warm greetings from the Philippines.

Let me forthwith publicly thank the Academy for inviting me to participate in its 13th Annual Colloquium.

I note that while the main theme of the Colloquium is “Forests and Marine Biodiversity,” the various topics for the five plenary and forty panel sessions and for the pre-colloquium workshops cover practically all major issues related to or connected with the gravest challenge of our generation and of those yet to come: CLIMATE CHANGE. I take special note of the plenary session treatment given to (1) Development of Global and Indonesian Environment with my highly respected friend Justice Christopher Weeramantry speaking on International Environmental Law and Global Wisdom; (2) Climate

* Lecture delivered by Chief Justice (Ret.) Hilario G. Davide, Jr. at the 13th Annual Colloquium of the Academy of Environmental Law of the International Union for the Consortium of Nature (IUCN), Jakarta, Indonesia, 7-12 September 2015.
Change and Biodiversity; and (3) Environmental Judges-Litigation. Truly, this Colloquium is a gathering of heavyweights in the field of environmental law, and of heroes in the war of wars: the war to protect and preserve Mother Earth. I congratulate the men and women of the IUCN Academy of Environmental Law for this event which could change and save the world. I commend the Atma Jaya Catholic University of Indonesia for hosting said event.

The timing of the holding of this Colloquium gains transcendental historic significance in relation to that greatest challenge of our generation and that war of wars. Firstly, it is held barely a few weeks after the promulgation by His Holiness Pope Francis of his encyclical letter on the CARE FOR OUR COMMON HOME entitled LAUDATO SI. This encyclical adds what could be the most profound positive contribution to our fight against Climate Change because Pope Francis makes it a moral, social justice and human rights issue. He injects into it spiritual moorings which are designed to touch, as they would inevitably do, the hearts, souls and minds of those who believe in God and even those who do not or who simply refuse to.. He calls Mother Earth our common home “like a sister with whom we share our life and a beautiful mother who opens her arms to embrace us” and tells us that “this sister now cries out to us because of the harms we have inflicted on her by our own irresponsible use and abuse of the goods with which God has endowed her.” He adds: “We have come to see ourselves as her lords and masters, entitled to plunder her at will. The violence present in our hearts, wounded by sin, is also reflected in the
symptoms of sickness evident in the soil, in the water, in the air, and in all forms of life. This is why the earth herself, burdened and laid waste, is among the most abandoned and maltreated of our poor.” He discusses the human roots of the ecological crisis; the integral ecology, cultural ecology; ecology of daily life, as well as ecological education and spirituality. He concludes in part that global warming can only be solved by common and purposeful action by governments and by “profound changes in lifestyles, models of production and consumption, and the established structures of power which today govern societies.” These spiritual moorings or foundation bring to a much higher level our war against Climate Change. Pope Francis has even declared the first day of September every year as World Day of Prayer for Care of Creation. He says that this day provides individual believers and the community a precious opportunity to renew our personal participation in this vocation as custodians of creation, raising to God thanks for the marvelous works that He entrusted to our care, invoking help for the protection of creation and his mercy for the sins committed against the world in which we live.

Undoubtedly, with science working hand in hand with moral principles, justice and the spiritual moorings – the war against Climate Change may yet be won sooner. This papal encyclical reminds me of what I said as then the Philippines` Permanent Representative to the United Nations in New York at the Interactive Thematic Dialogue of the General Assembly on Energy Efficiency,
Conservation and Renewable Sources of Energy held on 18 June 2009. I said:

“Humankind is in great peril, and the world is groaning in travail and torment because of the crises we face today; crises perhaps unparalleled in terms of gravity, duration and rapid succession of occurrence that indicate something more than just accidental convergence but a retaliation in series, as an act of self-defense by an aggrieved Mother Earth which has been manipulated, abused, plundered and defiled by man. I refer, of course, to the ecological crisis called Climate Change, which has caused the food and energy crisis, and in turn – the financial and economic crisis.

These are all irretrievably linked to each other, to one another. In short, the primary cause is Climate Change. On the other hand, the principal culprit of Climate Change is man. In his quest for ‘progress;’ in his madness to amass power, fame and fortune; and with his avarice, greed or selfishness, man has forgotten that the Creator of the universe has so designed the Earth to have a perfect balance in everything.

It is a balance that assures an independent web of life that is wonderfully self-sustaining and productive.” This last sentence is taken from World Scripture: A Comparison of Anthology and Sacred Text 1995 ed., 221.
I hope and pray that Pope Francis` LAUDATO SI would strike and hit hard the conscience of world leaders and of governments to ensure that the Conference of Parties (COP 21) this coming December in Paris, France, would take to heart the message and challenge of LAUDATO SI.

The second milestone that lends to the beautiful timing of this Colloquium is the celebration of the 55th founding anniversary of the Atma Jaya Catholic University. The message is clear: it is to be the Center of Pope Francis` LAUDATO SI in Indonesia.

The third milestone that enhances the timeliness of this Colloquium is its being held on the 60th year anniversary of that seminal meeting of twenty-nine Afro-Asian nations in Bandung, Indonesia (April 1955) which discussed the post-colonial vision of a new world economic order fashioned out by the gains their independence obtained. I understand that, per the program, the Research Workshop on Forest Value Claims in the Global Economy, Social Justice and Sustainability Considerations focused on the aspirations of the seminal conference and the forestry sector considered the problems concerning the shrinking of the forests in the last 60 years and its impact on sustainable development. I attended that workshop last Monday.

What a coincidence that while waiting for the departure from Manila of my and Mrs. Davide`s flight for Jakarta last Sunday, I read in one of the Philippine national daily newspapers (Business Mirror)
this screaming headline: “Earth’s Trees Now at 3.04 Trillion Only” based on the latest study. The researchers of this latest study say that before humans began clearing forests, the Earth was home to nearly twice as many trees. But the number of trees cut down is almost three trillion since the start of human civilization. The study further reveals that the planet is losing 15 billion trees a year and replacing only 5 billion of them. The net loss is clearly staggering. In a previous article in another Philippine daily newspaper (Philippine Star, 26 July 2015) its author, Paul Polman, CEO of Unilever and Chairman of the World Business Council for Sustainable Development, maintains that if we want a climate deal and new development agenda that is good for the economy, for the poor, and for businesses, the path forward needs to include forests. Thus, the December Paris Conference must do so. He mentioned that at the UN Secretary General’s Climate Summit in September 2014 over 175 countries, companies and organizations representing indigenous peoples signed the New York Declaration on Forests committing to cutting global natural forest loss in half by 2020, and ending it entirely by 2030, while also increasing forest restoration.

He further said that achieving the goals will cut between 4.5 and 8.8 billion tons of carbon pollutants per year by 2030 – about the same as ending all climate pollution from every car in the world. We should not forget that per report of the UN Secretary General for the tenth session of the UN Forum on Forestry, forests cover nearly 31% of the global land area or approximately 4 billion hectares. It is my hope that the December Paris Conference of Parties consider
seriously the Forum`s eleventh session recommendation on International Arrangements on Forests beyond 2015.

The timing of this Colloquium and on the issue of forests, could also be a meaningful celebration on the 22\textsuperscript{nd} year anniversary of the landmark 1993 decision of the Supreme Court of the Philippines in the case of Minors Oposa, et al vs. Factoran, Jr., Secretary of the Department of Environment and Natural Resources, et al (G.R. No. 101083, 30 July 1993). This is a case initiated by a lawyer who is with us now – Atty. Antonio (Tony) Oposa, Jr. (Tony, please rise). A short flashback of said case.

At a very young age, shortly after Tony became a lawyer and very concerned with the decimation of Philippine forests, he took a very bold move to initiate an unprecedented legal action in a court of law. Naming his own children and 40 children all over the Philippines as petitioners acting on their own behalf and on behalf of children of generations yet unborn, he petitioned a trial court to cancel all logging concessions in the country. He reasoned that as the rampant legal logging was being done in the country`s remaining 800,000 hectares of tropical virgin forests at the rate of some 120,000 hectares per year, nothing will be left for children-petitioners of their generation and unborn generations.

The theory was radical, ridiculous, and totally heretical of established legal convention. It was even more revolutionary considering that the corporations that held these logging concessions
were then at the height of the financial and political power, all of whom had their own private armies.

Here he was, a young unknown lawyer taking on not just one giant but 92 giant logging corporations, practically the entire logging industry.

But he was strategic in his framing of the legal action. Instead of taking on the 92 corporations, he sued the government agency that was responsible for the issuance of this logging concessions – known as timber license agreements (TLAs).

True enough, this legal heresy was not taken well by the trial court. Even without a hearing on the merits, the case was dismissed outright for “failure to state a cause of action.”

Perhaps it is the measure of Tony’s tenacity that he did not give up. Undaunted and with no funding whatsoever, he took the case to the Philippine Supreme Court.

The Supreme Court granted the children- acting on their own behalf and on behalf of children of generations yet unborn – the legal personality to initiate an action in a court of law despite the absence of personal damage to them, a requirement in the conventional legal regime.
While initially unheard of and unappreciated in the Philippines, the case and its message has since resonated around the world. The simple message is that we in this generation have a responsibility to our children and of generations unborn to ensure that the life-support systems are kept intact and sustained. This is the doctrine of intergenerational responsibility or intergenerational justice and is founded on the provision of the Constitution of the Philippines which states: The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature (Art. II, Section 16). To my knowledge the Philippine Constitution is the first Constitution in the world to enshrine this provision. I was a member of the Constitutional Commission which drafted this Constitution.

Expounding on this right, the Court declared:

“Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation…..the advancement of which may even be said to predate all governments and all constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of Humankind. If they are now explicitly mentioned in the fundamental charter, it is because of the well-founded fear of its framers that unless the rights to a balanced and healthful ecology and to health are mandated as state policies by the Constitution itself, 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 a parched earth incapable of sustaining life.”

I know this case quite intimately because when it made its way to the Supreme Court, I was the youngest member of the Court. I was then 58 years old. I was tasked by the Court en banc to write the Court’s opinion. If you ask, I am now 79, 80 by December.

This decision has inspired a host of environmental legal actions all over the country and all over the world, including the teenagers` cases filed around the United States of America (Alec Lopez vs. the US government) In fact, it is said to have also inspired the landmark Urgenda case recently decided in the Netherlands holding the Dutch government responsible to take serious action against climate change.

The practical significance of the case in the Philippines was a turning point on the fate of its virgin tropical rainforests. Using the case as his reason, the respondent Secretary Factoran cancelled all the logging concessions in the remaining 800,000 hectares of old-growth forests and moved the logging into the regrouping secondary growth forests. While the case was pending in the Supreme Court, a law was passed that declares the remaining old-growth forests as the initial component of the country`s national protected areas system.
It took the beginning of another generation for the radical objective of the case to be realized. It was only in 2012 that all logging in natural forests in the Philippines was totally banned.

Presently, the very popular and highly respected intellectual giant on Environmental Law, Mr. Nick Robinson of IUCN and the Pace University School of Law in New York and Tony Oposa and others equally minded, are leading a high profile crusade to convince the General Assembly of the United Nations to approve a Resolution asking the International Court of Justice to render an Advisory Opinion on this question, to wit: “Under International Law, what are the legal duties of States to protect humankind of the present and future generations from the climate crisis?” They call this as intergenerational climate justice, hence the attractive acronym ICJ in the ICJ – Intergenerational Climate Justice in the International Court of Justice. Mr. Justice Weeramantry, who was a Vice President of the International Court of Justice until his term ended and who can be called to act as ad hoc Judge of the Court, can help us a lot in this crusade. Justice Weeramantry was also the Chair of a group of Chief Justices which formulated the Bangalore Principles of Universal Judicial Standards. I participated in its meetings in the Hague and in Sri Lanka.

Let me now dwell on the plenary session topic: Environmental Judges – Litigation. The war against Climate Change, the war for the care of our common home per Pope Francis, cannot be won without the active participation of and support by the Judicial branch of
government. We must have, in a manner of speaking, “green courts” or courts with judges who shall have preferential option for the environment. The Philippine experience may be found enlightening and may serve as a model. The landmark decision in the case of Minors Oposa I earlier mentioned which enshrined the doctrine of intergenerational responsibility was the first act to make the Court a “green court.” It was the first evidence of this preferential option. Then, during my stewardship as Chief Justice, the Supreme Court hosted the Southeast Asian Justices’ Symposium on the Law on Sustainable Development held in March 1999 in Manila whose final topic was on “Measures for Continuing Judicial Cooperation on Environmental Law in Southeast Asia.” Later, the Court entered into a Memorandum of Agreement with the Department of Environment and Natural Resources for a joint effort to maximize cooperation to achieve effective adjudication of environmental cases. We also established special courts for environmental cases.

After my retirement as Chief Justice on 20 December 2005 upon reaching the constitutionally mandated compulsory retirement age of 70, the Philippine Supreme Court continued its pro-active role in the dispensation of environmental justice, thereby greening further the judicial system. It crafted and promulgated the Rules and Procedure for Environmental Cases (A.M. No. 09-6-8 SC) which took effect on 29 April 2009. Especially notable about this new Rules of Procedure are the two special civil actions that the Court adds to the Rules of Court, namely: (1) The Writ of Kalikasan or the Writ of Nature, and (2) The Writ of Continuing Mandamus. The Writ of
Kalikasan is available when the environmental damage is of such magnitude that it prejudices the life, health, or property of inhabitants in two or more cities or provinces. The writ is issued either by the Supreme Court or the Court of Appeals within three days after the filing of application. The writ of continuing mandamus is an extensive, persistent and continuing order of the Court to implement the action plan to remedy environmental degradation.

In the Philippines, one great advocate for the greening of the Judiciary is here with us now – Atty. Gloria Estenzo-Ramos. In a conference in Cebu City, Philippines held on 27 May 2014 on Mainstreaming Environmental Justice Through Science-Based Participatory Governance and Effective Law Enforcement and Adjudication, she ordered me to talk on “Greening the Judicial System.”

For your information, there exists no constitutional or statutory obstacle for the Supreme Court of the Philippines to promulgate rules of procedure for the protection of the environment because under the Constitution it has the power to promulgate rules concerning the protection and enforcement of constitutional rights (Sec. 5 (5), Article VIII). Of course, the right to the environment or to the sources of life is a component of the right to life.

May the IUCN Academy of Environmental Law move forward toward the greening of the judiciaries worldwide taking into account these three-fold duty of the courts, namely: first, the creative
application of environmental law; second, the timely disposition of environmental cases; and third, a commitment to continuing judicial education for courts to be able to keep themselves abreast with the developments in environmental law, a field that grows at an incredible rate. Nick Robinson can help us a lot in this matter because he was one of the principal architects in the establishment of an International Judicial Institute for Environmental Adjudication. Nick, tell us more about this project.

May I now end, first with a hope that after collating, analyzing, digesting and synthesizing the products of the toils of the participants in the various plenary and panel sessions and the pre-colloquium workshops, the Academy will share the wondrous fruits of knowledge, enlightenment and wisdom on environmental law and justice to the rest of mankind, and to save it from the scourge of Climate Change.

Second, with a prayer that the Academy be further strengthened in its resolve to accomplish its vision and goals in safeguarding, strengthening, promoting and enhancing globally environmental law and justice – serving as a conscience in all deliberations on environmental law and Climate Change. May our voices in this Colloquium, be heard to encourage and inspire peoples, States, Governments and government leaders to move vigorously forward as one and to nurture a political will to protect this our common home per Pope Francis, as well as to pray with him this “Prayer for our Earth” which he composed, to wit:
“All powerful God, you are present in the whole universe and in the smallest of your creatures. You embrace with your tenderness all that exists, pour out upon us the power of your love, that we may protect life and beauty.

Fill us with peace, that we may live as brothers and sisters, harming no one.

O Lord of the poor, help us to rescue the abandoned and forgotten of this earth, so precious in your eyes, bring healing to our lives, that we may protect the world and not prey on it, that we may sow beauty, not pollution and destruction.

Touch the hearts of those who look only for gain at the expense of the poor and the earth.

Teach us to discover the worth of each thing, to be filled with awe and contemplation, to recognize that we are profoundly united with your creation as we journey towards your infinite light.

We thank you for being with us each day, encourage us, we pray, in our struggle

For justice, love and peace.”
Finally, my friends, I pray that the 2017 Annual Colloquium of the Academy be held in the Philippines. I understand that the 2016 will be at the University of Oslo in Norway.

Thank you. All the best.