

Welcome to Turning Conscience Into Action, the Earth Charter podcast. Join Mirian Vilela, Earth Charter International Executive Director, in her fascinating conversations with great thinkers, scholars and activists from around the world who are working in the fields of sustainability, ethics, education and social transformation. Our purpose is to generate new insights on how to face current global challenges and inspire informed action.

I want to welcome everyone to today's podcast interview and conversation where we'll explore the concept of Earth Trusteeship and the crucial responsibility we have to protect the planet for future generations.

Our two guest speakers will delve into the rights of future generations for a clean and healthy environment and how we can all contribute to this effort. So for this conversation, we have invited two special guests, Neshan Gunasekera and Justin Sobian. Welcome Neshan and Sobian, and thank you so much for joining us today. Thank you very much, Mirian. Great pleasure to be here. So Neshan Gunasekera is a lawyer and an educator from Sri Lanka. He has spent years pursuing experiential learning to build trust and healing between communities, including through the utility of the normative framework set out in principles of the Earth Charter.

He is currently a co-chair of the Earth Trusteeship Initiative, working group and a counselor of the World Future Council. Thank you, Neshan, for being here. Thank you, Mirian. I'm also happy to welcome Justin Sobian, who is a graduate from the University of West Indies from Trinidad Tobago, and he holds a master degree in international law from the University of Cape Town, South Africa. And last year he concluded his PhD in environmental law at the University of Auckland. Thank you, Justin, for being here.

Thank you again. So let me start by inviting Neshan if you could share a bit your personal journey and how you got involved with the wonderful work you are doing, Neshan. Thank you, Mirian. It's a wonderful pleasure to be here with you and Justin, my friend. And first and foremost, thank you for the invitation and congratulations to you and the wonderful family behind the Earth Charter Initiative, celebrating 25 incredible years of inspiration, not merely in education, but also inspiring probably two to three different generations of leaders across the planet.

So congratulations again. I'm looking forward to our discussion here. So I think my memory of connecting to this is quite a privileged part of my life, both as a young lawyer, but also as a young learner. So it takes me back to the year 2007, where I had just moved from being an active practicing lawyer to be the director of a foundation set up by late Judge Christopher Vera Mantri, who was a former judge of the International Court of Justice, but also a huge inspiration for our work on Earth Trusteeship that me and Justin will get into later on.

And after his retirement from the court, he came to Sri Lanka and set up foundation to work on peace, education, and international law. And this is where I had the privilege of starting a program for experiential learning called Training for Trustorship. And that was inspired by many, many people, but I must mention here, during the founding Congress

of the World Future Council that Judge Vera Mantri was part of, there was an incredible grandmother from the Maori world view. Her name is Pauline Tangiora.

And Pauline was an incredible inspiration from the time I met her till today. And her blessings mean a lot to me. And I know her blessings are very much with the Earth Charter having been one of the key commissioners of the Charter process from the beginning. So it was Pauline Tangiora who introduced me as a young lawyer to the incredible inspiration that the Charter, not only merely as a document, but the process of how it was documented, how it was drafted involving close to more than 5,000 people, including indigenous leaders, and bringing an inspiration to on how actually policies should be made now and in the future.

And there's a lot to learn from this process. And I'm incredibly privileged and thankful to Pauline and so many others who have been part of that process. And two other quick points that connects us, Mirian. I think our conversations on the Charter in a practical framework goes back to 2009 and 2010, where we were partnering with the Earth Charter and you with your blessings for the Training for Trusty program, where I had the great privilege of unpacking the normative principles of the Earth Charter to build trust between communities and bring young people across generations and across disciplines to work together.

And this was a very difficult time for us in Sri Lanka. We were trying to get out of almost three decades of armed conflict, where many, many young people lost their lives. And we needed to find a common ground for a shared narrative. And that's where the Earth Charter was hugely inspirational to show that we are connected to Mother Earth in so many different ways. And this paved the way for a shared narrative to bring these communities together. So I'm ever grateful for the work that you at the Charter and the Secretariat have been doing all this time and now part of the wider journey that is unfolding.

So that is part of the journey that I started with and in response to the wonderful question that you started us off with. Thank you. Super. Thank you, Ganesh. And I'm so glad you brought Pauline to Jorah here as an elder that we highly respect. She has also inspired me a great deal. And also I'm grateful that you brought Sri Lanka's context when your journey with Earth Charter started in that context. Thank you so much. How about you, Justin? Would you share with us a bit of how was your own journey to get to where you are?

Yeah, sure. Again, when I look back at it, I'm really thankful for the Earth Charter and the Hague Principles because they were both before I had any knowledge there of them. And how it really started for me was that I was at the time was working at the United Nations Office of the Presidents of the Human Rights Council. And I received, at that time I was planning on my journey to go to New Zealand because I always knew I wanted to specialize in this particular issue, international environmental law.

Really it started with rights of nature. Sitting down in the UN Human Rights Council and seeing David Boyd and other special rapporteurs for the right to the environment, speaking about rights of nature. And then the whole idea of New Zealand or the issue with New Zealand giving rights to the first river in the world, the Whanganui River, which is actually on North Island where I am now. So when you look back at it, it's just like a piece of

puzzle, just all the pieces coming together. And I said, well, this looks interesting, the rights of nature, human rights, how does this work?

And so I was at the time in the process of applying to do my PhD with Klaus. Well, I was referred to Klaus and during that time Klaus sent me an email and he said, besides your application for your coming here to undergo your PhD studies, I would like to invite you and the president of the Human Rights Council to attend the launch of the Hague Principles. So all this was like new to me. I was like, Hague Principles, what is this about?

So I had to like Google it, Earth Trusteeship, he said this was good.

This is going to change the whole dynamics of international environmental law. And unfortunately, the president could not attend on neither myself because of the short notice and the funding and so on, because we got this maybe a couple of days before. So I missed that boat and then it kind of, so that ship kind of sailed for a while. So I missed the launch. I mean, Neshan was there and all these others, all these people who I've got to know maybe a few months after and Hans, of course, was there, Williams Ward, one of the store wards, Dutch academic living in Thailand.

And yeah, and then when I actually made it to New Zealand, this could have been a year after Klaus, we decided, okay, rights of nature and Klaus said, why don't you write a thesis on Earth Trusteeship? It's really novel ground. Nobody really has written about it. This is what the work would do. And then I was invited to be a coordinator of the Earth Trusteeship Working Group. So that's how it really really stuck. And in the beginning I was like, what is this Earth Trusteeship all about?

And now here, this was in 2018, 2019.

So you're looking like seven years after here I am. And I'm really pleased and delighted to be part of this incredible journey. Thank you, Justin. So here we are to help our audience to understand what is Earth Trusteeship. Can you share with us what does that concept mean? Maybe we start with Neshan. Thank you, Mirian. Yes, what does it mean?

I think in the purest of it, it means that we are all Earth Trusteeship and inspired by the preambular values of the Earth Charter that we hold in trust all resources, natural, cultural, historical, in trust as custodians and guardians for those who are here today, but most importantly for those generations yet to come.

And the preamble of the Earth Charter is very clear in this that we say we have responsibilities to each other, but also to future generations. And that's one take on it. And I will give another take on it, especially given the Sri Lankan context. Trusty Ship is also that process in which we build trust with each other, trust with the natural environment and trust with future generations. So that is what a trusty ship is to me. How about to you, Justin, and can you add not only what it means, but why is that important?

Yeah. So Neshan covered it quite well. And it's important because, I mean, when I was actually writing my thesis on it, Earth Trusteeship was not only created with the meeting of the Hague Principles in 2018. It, Judge Wehrmann III and other academics before have

said that trusty ship is really an ancient concept. It's older than humanity. And for Earth Trusteeship, what it means to me today, of course, is the legal duties of us to hold Earth in trust for future generations. But what it really means today is that when the Universal Declaration of Human Rights was created in 1948, environmental principles or trusty ship principles were not in that document for fair reason, because the world was more concerned at that time of negotiating a peace process and to come out of the barbarous World War II.

And so the environment was not part of the picture then. But now in these cases, in this 21st century, we are now 25 years, a quarter, we're down into the 21st century. We are not at a physical war per se, but we are at a war with nature when you look at it from that way. So the dynamics have totally changed in terms of where we are at this political dynamics, the climate crisis, the environmental crisis. So things have changed. So now we have to adapt with the times. The UN recognizes that as well.

And to say that, you know, trusty ship principles matter now, especially when it comes to the Earth and the climate system. That's how I view why is it important now?

Yeah, if I may, yeah, just, I mean, Justin triggered a couple of other emotions on this, especially in kind of reference to the Universal Declaration. Here's I think one other aspect of a trusty ship period is that we have, as I mentioned before, responsibilities, but also that means we need a shift of our consciousness that we as a human species, we don't dominate the Earth of all the other species that we are necessarily part of the community of life, which is wonderfully recognized and enshrined in the Earth Charter, but also that we have a necessarily interdependence and interconnectedness of all other species on the planet.

So that is, I think, a core aspect of Earth Trusteeship as well. So how do you see the link between this idea of Earth Trusteeship and the idea of Earth ethic and the Earth Charter?

Well, Earth Trusteeship really is the, how can I say it, built upon what the Earth Charter did or in other words, in the process of doing 20 years later, almost exactly the same time. So the Earth Charter reflects the, well, it says that the Earth vitality and the Earth itself is recognized as a sacred trust. The Hague principles endorse that.

So that's why I say the Earth Charter and the Hague principles are in a sense, they're not even cousins, they're brothers and sisters, right?

So they endorse that. They said that, well, principle one of the Hague principles says that the citizen and the state must act together jointly as trustees of the Earth. So from that respect, I think the Earth, the Hague principles, the purpose of the Hague principles was to, they're fully aware of this long plethora of, there was customary international law, there was many international law, in front of it was international law emerging, local courts talking about trusteeship, Judge Wehrman Tree's book on tread lightly with the Earth.

So trusteeship was always there. And I said trusteeship was there long before even the Earth Charter, right?

Even though the Earth Charter spiraled it. So I think when we have all these things coming together as an amalgamation of international law and international law principles, it solidifies the position of why Earth trusteeship or trusteeship of the Earth, however way you wish to call it is important. I don't know if Neshan wishes to add something to that. No, thank you, Justin. I think it's a very interesting and an important question, Mirian.

I think just a couple of points to just add to Justin is that between the Earth Charter and the declaration at the Hague for Earth trusteeship, what we see is a synergy of movements, kind of the social legal movements, social environmental movements bringing together our shared values. So when you say Earth ethics, this is a combination of ethical values that we share across cultures from different parts of the world infused not only by indigenous systems, but religious systems and other systems that we have come to consider as part of human civilization and our cultural heritage.

And here the addition is that why this has been recognized by the jurisprudence of incredible missionaries like Judge Viramantri in the International Court of Justice. The Earth ethic also gives us this massive impetus that between generations we have responsibilities. The rights of future generations means there are obligations on current generations to protect the Earth as the way we have benefited to be on it because our ancestors have been good ancestors. And I think that's where the Earth ethic informs the living embodiment of principles of Earth trusteeship and the Earth Charter.

So in 2023 you published a book. Both of you were involved in the project of putting a collection of essays together into a book. It was an edited book called Reflections on Earth's Trustorship, Mother Earth and a New 21st Century Governance Paradigm, which was edited by Justin in Hanspan Williams' work. So can you talk a little bit about the key ideas we can find in it? Maybe we should start with Justin and then, and Necine, you have a paragraph, a chapter in that. So could you please share with us the key ideas we can find in it?

Yeah, yeah, sure. Just follow it. Well, this question kind of follows up also on the last question. So yeah, so this book was, it was originally a project of the Earth Trusteeship working group that we have. Necine is the co-chair of this group. Hans is like the, I always say that Hans is the grandfather of Earth Trusteeship because to be quite honest, Hans in 2016, one of his books, Well-Being of the Earth, I think, he actually spoke, I can't remember the exact name of the book, but he actually spoke about, he was the first person that coined it to Earth Trusteeship, although Hans is a very humble guy, he would say, oh no, it wasn't me, but the record shows that it was him.

So it started off there and the Earth Trusteeship working group we decided, okay, let's, we have to put forward a publication. This time I wasn't finishing my thesis, Klaus, this book didn't come out as yet, which is due actually in May, June this year now. So the Earth Trusteeship, so this book, Reflection on Earth Trusteeship is, if I may say, the first academic or collection of writings or academic resource on Earth Trusteeship, if you want to call it a manual of Earth Trusteeship, you see. One article really stood out to me, I mean, all the articles, of course, added value, just in what we're discussing today on Earth Ethics, and that is Pute Sputela article, and her, the title of that article, Coming Out of Earth Ethics, is How to Be a Good Ancestor.

And it speaks about Earth Ethics, it speaks about our rights for future generations.

But one of the things that really struck out to me, that is that when you are acting as a trustee in any respect, if it's a trustee for, I don't know, a property of your, on behalf of your daughter or your son, or if it becomes a bigger obligation, a trustee with respect to the Earth, when you're acting as a trustee, it's the most altruistic thing that you can do because you are acting on behalf of someone else. So you're holding the Earth not for you, not even for, okay, you can say for your, maybe your son's daughters, nieces, nephews, whoever you are, but you're also holding the Earth for an abstract group of people who are not known, who are not even born as yet. So I think it could be the, trustee is the highest degree of altruistic behavior that one could have.

And that's why I, that's why there's a close link between trustee and ethics is how do you act on behalf of somebody that you do not know and you act altruistically and not for yourself, but others, which is not seen in world politics today. And that goes into why I, my critique with the Earth Trusteeship, can it really be implemented?

But I don't know if this is a forum for this discussion, but you need a change of, of course, political and ethics, ethics in politics, ethics in law is what is required.

Thank you, Justin, for, for giving us a gist of the book, especially Prue Taylor's, Prue Taylor's chapter on how to be a good ancestor. Thank you for that. And just, I think, sparked my own thinking because it gives me an image and I think for audience, it also gives an image of how, how to be or to become or to learn how to be a good ancestor. Thank you, Neshan, how about you?

You have, you have an idea, certainly of the chapter you wrote in this book, which was on Education for Earth Trusteeship. I would like to hear from you what's, what are your key ideas in it, but also on what you can see in the whole book and maybe how there's Shaddai's reference in the book.

Thank you, Mirian. I think just to build on what Justin already said, I couldn't agree more that the key spirit of the book that was sacredly held together by Justin and Hans Willenswaard as the two co-editors is really an incredible and inspiring story of 22 incredible lives who have written these chapters and poetry and including wonderful art of Mother Earth by Justin Sobion, which depicts one part of the origin story of the Maori from Otaurea, New Zealand. And I think for me, that is the underlying principles of this book, although we call it one publication.

It's a collective journey of 22 families, comprising of people from engineering, architecture, artists, lawyers, peace activists, kindergarten teachers, and visionary leaders, and young leaders who are in scientific experimental stages from the global north, global south, global east, west, indigenous knowledge systems, and so forth. So it's a real incredible combination and synergy of movements.

For me, this book is an inspiration because you asked the question about education on a trusteeship chapter that I had the great privilege of putting together alongside Justin and Hans and others. It's a collective wisdom of, in my case, learning through the experiential

process because for me, experiential learning is not something we do for others. Experiencing learning is both myself learning as the process unfolds because learning is a curiosity in a collaborative journey and their trusteeship book is about that. There's another dimension to this is that their trusteeship work and education links with some incredible people who are recognized through the Right Livelihood Award.

And the laureates of this Right Livelihood Award includes people like Judge Christopher Vera Mantri, who's one of the inspirations behind this book, Nemo Basse, Raul Montenegro. I think there are six to seven of the authors, our Right Livelihood laureates, each one incredible human beings who has been living in the embodiment of the Earth Charter and the earth ethic throughout their lives. Some of them are architects working on earth ethics, some of them are biological ecologists working on issues like nuclear bombs and weapons, some are kindergarten teachers working on peace and synergizing peace movements and environment movements. So just to show that at a stage that some of our educational institutions are so siloed into different clusters, the interdisciplinary synergy that brings movements together is enshrined in this wonderful publication. And I think for me that is what my chapter attempts to do. What is it a trusteeship?

And in the wonderful words of Prue and Klaus and others and including Justin, we look beyond the English monolanguage, we look at principles of Maori heritage such as Kaitiakitanga. Kaitiakitanga is the spiritual embodiment of casteo-dianship and guardianship. We must also recognize that these spiritual wisdom of the indigenous world views do not easily translate into English or other monocultural language systems that informs most of educational curricula across the planet. Now I say this with the greatest respect for languages, but if we do not have the cross-cultural element, it is so difficult to achieve peace.

We must have a deeper appreciation, the spiritual embodiment of principles like Kaitiakitanga coming from the Maori worldview or Sila coming from the Inuit worldview that shows that we are necessarily interconnected and interrelated to everything on earth. And for me that is what the Earth Charter and the earth ethic is all about and this book tries to capture some small aspects of that in our own modesty. Wonderful, thank you. Thank you so much. Thank you for bringing the voice and the worldview of some of the indigenous groups. Justin, you did your PhD, you just concluded your PhD last year on this topic on earth trusteeship. I understand it's the first first PhD on this very important topic. What was your focus, your findings and recommendations of your research?

Yeah, so it was writing a PhD on a topic, well this, it was kind of given to me in a silver platter in a way, because of course when you're writing a PhD you have to write on something that is groundbreaking, something that is novel, something that attempts to fill the gap in the law. And that is how it was presented to me after discussing with Klaus, you know, when we were trying to build an architecture of a thesis, the methodology and so on. But it was also challenging because there's a dearth of literature in writing about earth trusteeship and you didn't want to really impose your own views.

Of course there was, at that point in time there was nothing really, maybe some a few articles or maybe something written in the press by Klaus, Nesha, and Hans, Hans' book of course he shaped, he gave me a bit of a framework and then we came together to put

together the book reflections. But the long and short of it is I think that as I said, Earth Trusteeship of Neshu and touch of it, it's an ancient principle so I had to draw a lot on indigenous worldviews, Kaitiaki tanga, guardianship. And I was quite pleased if I may fast forward a bit in the course's submission in the, and I wish that, well not really wish because I've completed my thesis, but it's good food for thought. Cossess, the commission of Small Island, states an international law submission to the International Court of Justice in December.

Counsel, which is Payam Akavan, who's a friend, well became a friend of mine because of this actually submissions, he actually in the Cossess submission wrote about, told the judges basically that this idea of trusty ship is not a legal issue, this idea of trusty ship is something that has been built up over generations by indigenous wisdom, that was the word that he used without referring to any indigenous people, he said this is an indigenous culture, this is an indigenous wisdom, so he was speaking about trusty ship generally in that sense. So he's like forget the law at this point in time, let's focus on what was there even before the law was probably not even created in the western sense, right.

So that was really beautifully put in my, and I wish that I could quote that, use that in some other future research publication, and I'm sure Payam would allow me to. But my findings were that yes, Earth Trusteeship is building on what the Earth Charter said, it's building on what the, there was also the, the, is it the Maastricht principles, what it recently said in 2023, well the Maastricht principles is building on all of this, so we have a lot of building blocks that are coming up. But I critically looked towards the M chapter, six my last chapter, as to whether states really would take this seriously.

Not only states, would citizens take it seriously for a state to act, because that's the big thing, okay, citizens can act as trustees of the earth, Bhutan has done that, the first constitution in the world speaks about the, the citizens in Bhutan, to act as the trustees of the kingdom's resources.

But let's look at a citizen, if you say the state is a trusty for the earth, would citizens trust the trustees, would they trust the state to really act as trustees of the earth. So that's, nowadays it's becoming more and more difficult that we trust the states to be trustees of earth.

And if you really look back at it, the states are the ones that are responsible for the ecological, ecological damage or the ecological crisis that we are in, states and of course conglomerates, multinational corporations, you know, the states kind of, they close their eyes to what is going on in their own territories with these big multinational corporations.

But then you can look back at it another way, because well the other argument, the flip side is that okay, if states admit that they have done something wrong, now it's our turn, especially with the young generation of leaders, to repair or to remedy the wrongs that have been done, because they recognize in the past and we've seen it in many other things, we've seen it in modernity, we've seen it in slavery, we've seen it in other times where states have, that is just an example, have recognized that listen, I did something wrong, now it's time for the new generation of leaders to actually try to fix or repair the damage

that was done. So that's another way of a positive spin of looking at it in that manner. Thank you.

Let's move to the topic of intergenerational justice, the right of future generations and the pact for the future that was launched last year. And both of you have been involved in this, we would like to hear from you, what is your understanding of it, what does it really mean, intergenerational justice and the rights of future generation? Neshan, would you like to reach us on this?

Thank you Mirian, yeah I think it is important, the shorter version and the longer version if it is, have it that way, is that intergenerational justice is the relationship that we have between past, present and future generations to have equity between generations, and it is in terms of international law, we try to approach it through the principles of intergenerational equity, which is recognized as one of the key principles of international environment law, even be recognized at the level as a customary principles of international law today.

Now when it comes to formulation of justice, I think that's an interesting discourse. Now for future generations generally considers as generations yet to be born, then there is a question whether we have as current generations an obligation to protect the rights of future generations today, because rights and obligations go hand in hand, but we can have rights for today and obligations for today, and to recognize obligations for future generations to ensure that their rights are protected at a time that they live on the planet is a key aspect of the temporal, lack of temporal limitation between human rights law and its application, there is no limitation put on time scales to say, oh human rights is only for one generation, or human rights is for the past generation, It cuts across and this is what the Maastricht principles for the human rights of future generations really looked at in its process from that session with Justin referred to before.

And the questions around UN summit of the future, it was initially quite a promising exercise. I had the great pleasure of engaging in the people's pact for the future, which was a massive lobbying document with almost 1200 organizations participating and I was invited to co-facilitate the chapter on on youth children and future generations, the fourth iteration or the fourth chapter for the pact for the future, which was later to come, but the people's pact for the future generations was able to embody the principles of the Earth Charter, which talks about how can we bring the ideas and the objectives of future generations into the decision making process today.

And this is something which is absolutely at the heart of the work that I do with the world future council that you referred to the before, that we do things today with a strict obligation not only by law but culture to future generations. Now this is yet to be really fully understood in the UN system or in our governance system. So we've been pushing for creations of guardians and ombudspersons or commissioners for future generations and there has been some development over the last you know six to seven months following the summit of the future where the UN has announced that they will move ahead to appoint an envoy for future generations to look at this issue of representing or giving a seat to those who are yet unborn because they do not vote doesn't mean that they have no right to be heard.

And this has been championed in many many legal systems and judicial processes going back 30 35 years going back to a fantastic case championed by Tony O'Poser from the Philippines where back in 1993 he went to the Supreme Court of Philippines and said listen there are people who are cutting trees and that's going to be a problem for the air that my children will breathe and their children's children could you please allow the children's children who are not yet born come to the court and fight for their rights.

And we would have thought the Supreme Court would say oh well they are not here so how can we hear them they said absolutely the children's children children have a right to be heard in court so that is back in 1993.

So whereas for me personally the summit of the future fell a bit short of what is expected in the 2024 era of delivering what is required for the future there were some interesting developments around the pact for the future and specifically the declaration on future generations that brought key normative aspects of the Earth Charter but unfortunately the Earth Charter did not get reflected in the final outcome document of the pact for the future but for me the more broader principles encapsulated in the people's pact for the future encapsulates the Earth Charter and the principles therein so.

We Will continue to lobby hard for bringing the kind of not only the structural changes but the paradigm shift that Justin mentioned so that not only states but all decision-making bodies whether it be businesses whether it be other civil society bring these future generations paradigm into their day-to-day working.

Yeah the whole exercise just to think about that know how can I bring the needs of future generations when I as an individual as an institution as a country as a state as the UN how can we bring that into our mindset the needs of future generations?

Justin what is your take on it in terms of what does that concept mean and why why is that important and maybe how do you see this evolving?

Yeah I well I would have thought the needs of future generations was something a given before we went to the international court of justice but apparently it was not a given the thing is is that we are today the 22nd of February 2025 well we're in New Zealand by across on your side upon 21st of February and if a child is born on the 22nd of February 2025 today the thing is is that child never consented to the climate crisis and would be unduly burdened by the climate crisis so for that reason just for that reason alone states should take into consideration persons who have not consented or who have not who will be unduly burdened by the climate crisis.

The world youth for climate justice and the Pacific Island students fighting climate change who were responsible as a grassroots movement for this ICJ advisory opinion they are the present generation but just by their may standing as youth they are if you want to put the air to the future generation they are the ones who stand who have the legal or legitimate standing before governments to see why future generations lies matters and future generations or the youth have a right to say that not one more ton of greenhouse gases be emitted in the atmosphere to use a word of phrase of true tale of and so these are arguments that we have raised before the international court of justice.

Some countries such without calling any names the global north countries not all but some of them have said that the state does not have a right to protect future generations so we as global south countries had in all issues we have to fight or try harder we always in the backbone for what back on the back foot sorry for what we see as clear international law customary international law that is well settled principles we have to always come back to counteract that so the issue of future generations was dealt quite clearly by judge where man through and even may he rest in peace it was justice Antonio Consado Trindad kind of close to my country Trinidad and Tobago that's how I even like him even more because of that and what the wheeling in the Antarctica case Antarctic place I mean he clearly said that international well the law relating to international intergenerational equity sorry is a clear principle of international law he said that.

At the ICJ level so I think that for for us it was clear but as developing countries or global south countries we always have to try harder to prove that listen this is a clear issue of international law that cannot be ignored and that was just one aspect future generations just think you just mentioned the the international court of justice process there is a legal proceeding on the obligation of states in respect of climate change going on in a nutshell just can you elaborate on what is that process for someone who has never heard of it what's what's going on what's happening there what's the idea what's your expectation on that particular process.

So the international court of justice advisory opinion is one of several advisory opinions that that took place in 2024 we have the eight loss international Tribunal for the law of the sea we are the inter-american court for human rights also have an advisory opinion on climate change but in a nutshell it didn't only start in 2024 this started as way back as 2019 where youths in the pacific country of vanuatu students in the law faculty were discussing ways or how could we champion the state to take action on climate change so this started in 2019 as a grassroots movement.

Now like all advisory opinions the international court of justice advisory opinion is non-binding what the court is doing is on the advice of the gen u n general assembly in new york who put forward the legal questions before the court it's given advice really to the general assembly and so for that reason it's not binding but the argument is one why so some people say why are you all going.

Through all this process if the court's decision is not binding but one the even though the court decision is not binding the law that the court is interpreting is binding such as the paris agreement such as maybe the convention of the law the sea customary international law as we said future generations is going to pronounce upon these particular issues and and and it will bring some sort of clarity as to where the court's mind is or where international law what are settled principles.

Wouldn't it be great if the court reconfirms that the states have a right to future generations of respect and an ongoing climate crisis or even further which would which we the caribbean countries and other small island states would like to see if the court says well the Earth Charter the Hague principles the Maastricht Principles are right um we must act as trustees for the earth now this of course some states will say but what is this thing with trustees but we have a pronouncement from 15 judges of the court saying that trusteeship

principles are well settling international law and states must abide by them so i think this is something that is very interesting.

Yeah great Neshan how about you um what where where do you see think the intersection between what's going on in international court of justice uh in this current process and the opportunities for positionary first trusteeship and the Earth Charter?

Yeah i have a very special and unique take on this i was there on the fifth of december listening to my good friend justin soby on place on the record of the international court of justice the Earth Charter principles the Principles of the Hague declaration on earth trusteeship and of course the Maastricht principles.

But before that and very categorically in my good friend justin the lawyer placed on behalf of granada who was appearing for the first time before this court at the international court of justice where a small country has gone to the highest court in the world justin was bringing the wisdom from judge christopher vira manthry from a generation ago where in the 1990s judge vira manthry wrote a celebrated separate opinion on the case of gab jico and negimoros project with a case between hong kary and slavakia which illustrated the importance of bridging the wisdom of indigenous communities and customary principles into international law and which inspired the legal arguments from the very first day of this case to The very last day of this case and i had a great privilege of listening to justin and also these young lawyers from the pacific island states who were inspired by the vision of judge vira manthry.

So for me it was a conduit of time and scale not just one court called international court of justice sitting at the Hague in the netherlands far disconnected from what's going on in to aloo or the pacific island states which are literally going under the sea in the next 10 to 15 years but a proactive synergy of movements across generations to do what we must as good ancestors as Earth Trusteeship to protect what is our cultural heritage today so that generations as justin said was going to be born tomorrow don't get burdened in addressing problems that was created by a short termism of the previous generation so for Me this decision of the international court of justice in the climate change case is possibly in my own bias international lawyer's opinion is the most important case this century because justin also referenced a case called a very similar case on climate change advice european and that was put to the tribunal of the law of the sea.

Mirian is a time for us to capture the imagination it's not one more case going before the tribunal of the law of the sea here we are talking about the sea the oceans what is that that is 71 percent of our planet it connects all our water resources it's not that we don't have any relationship with the fish of the sea no fish we don't exist then the icj then talks about the 29 percent of the planet which is land-based but all the whole earth itself all the earth systems no oxygen we Don't exist no trees we don't exist we can't cease to suddenly tomorrow stop breathing oxygen right so we must be thankful to the trees and the flowering plants for everything that they do to keep us alive.

And this for me is why what justin and all these young people have been doing from the pacific island states to take not only to the international court of justice but take it to the united nations general assembly the most representative body of states that we have today

and here not a single country said no to this all the country said yes we must get an advice european from the icj we must all agree to go so all of the members of the united nations agreed to do this and they put the question to the icj.

For me that shows the way either they were afraid to question it to be in the wrong side of history or They wanted to show okay we are afraid we might not be agreeing to everything but we do not want to be the one to say no to the issue of climate change at this day so this is a remarkable inspiration from young people who because their homes are going under the sea have championed this course for now and for future generations that is bringing movements of socio-political environment movements and connecting it with the socio-political legal movements and that i think is for all of us to capture this moment to put our home planet earth into order for the first time this century and that's a huge responsibility on all of us for me this is what this case is about.

Beautiful i have a very basic question for someone who has haven't heard of it and maybe imagining so how can we bring the voice or the right of Future generations to the table when we cannot talk to them so how do you answer to that very basic question justin?

Yeah that's a good question i think you are when you looking at that question you have to of course look into the future right i would think that if i was born today the 22nd of february 2025 uh that maybe 30 years from now i'll be like why did nobody argue this case first why are we living in a in a a baked planet why did governments allow these big multinational corporations to come in without seeing anything why is there nothing going in in our backyard because of the drought or climate change so i think it's it's kind of almost looking in the crystal ball and and i believe that um you want to try to avoid that disappointment we've seen it even in history we've been repeating history um and.

You know we've always seen in retrospect persons thinking why did i not do this so i think uh from that perspective we have to be proactive and not reactive and uh and that's the same thing that Neshan was basically saying we need to be proactive in these cases and not look back with any regret or look back and and that's the reason i think let's piggyback in what Neshan said that most governments signed on to this of course to avoid the grendong in history as in the wrong side is not agreeing to this advice your opinion but i think it's the fear of looking back in that crystal ball and saying why did we take so long to do something even some some future generations may say why did you have to bring this in 2025 this should have been done 20 years earlier but um these are some issues which i think future Generations and they're going to see something i'm sure.

After working so much around the issue of Earth Trusteeship and there's a trust Earth Trusteeship initiative um after working with the the issues around the rights of future generations the path for future how do you envision moving forward with this initiative and and also its relationship with the Earth Charter movement in the Earth Charter movement?

Thank you Mirian i think that's a fascinating question and something that uh i'll be required to look into almost on a daily basis.

I think uh it's clear it's clear that with the current governance frameworks that we've created for ourselves specifically in the last four to 450 years since the industrial revolution we've entered this era that we are the scientists are calling the anthropocene that impact of us the one Species of human on the planet earth is so massive the planet is unable to heal herself to make sure that other species can also continue to thrive as i said before if all the other species die off the bees and the birds and the fish the humans will not survive if we cut off all the trees where is the oxygen going to come from we don't produce oxygen i think this short sightedness is one of the huge issues for this poly crisis that we are faced we're giving it terms as biodiversity loss pollution climate change induced by humans and so forth but it's all defined within this short termism in our governance frameworks.

Why can we not look at to the indigenous wisdom why can we not build on the principles we have you ask the question about you know how do we move into the future and bring the rights of future Generations to today we don't only look at to the future as it's going to happen into the future.

The indigenous worldviews also tell us to look into the future by moving backwards into the future but moving forward into our past because if you do not know our past into seven generations to come as reflected in the Earth Charter we cannot definitely frame our work going forward for the next seven generations so that's where a trusteeship and principles of kaitiakitanga or sila and other indigenous worldviews have to be brought back and distilled to inform our governance processes so that bringing future generations and the impact on the planet is not just the job of one or two individuals that we embody it through our being on the planet that we're able to recognize and speak the languages that the animal speak and.

I was Given this wonderful indigenous uh uh wisdom in a in a in a book that one of my friends shared and i had reflected on this with a young person last week it says that the first language we speak as human beings is the language of the beating heart of our mothers now what is that beating heart that's the very first language for our survival because if we don't understand our mother's heartbeat we might not get our nutrition inside the stomach of our mothers what is that heartbeat that is the heartbeat of mother earth and i think that's where we really need to redefine our relationship with our mothers our relationship with our fathers our relationship with our community of life and this is what the Earth Charter really embodies and i really hope the longer journey is infused with inspiration and that we can put Our home into order so that future generations will consider us as good ancestors.

Wonderful thank you so much Neshan for sharing these thoughts with us and helping us to expand our imagination and our understanding of all of this thank you.

Well we came to an end of our conversation i want to thank you so much and also congratulations to each one of you for the outstanding and very important work you have been doing in bringing to the forefront the concept notion of Earth Trusteeship the rights of future generations and the intersection of that with earth's charter there's much that we can learn from it and above all to move forward in the learning and implementation of that.

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