

## **Can We Catch-Up? How the UK is falling behind on Environmental Law**

Garner Lecture 2015

James Thornton

Thank you.

It is a great privilege to be here.

This is a lecture which has been given by the most senior judges and some of the finest legal minds from Brussels and London.

And today, you have an aggressive American litigator from New York who ended up in Hackney, as a solicitor no less.

My working life has largely been dedicated to starting a project, then an office, and now a global organization, which practices public interest environmental law.

It started when as a young lawyer – a much younger lawyer – Ronald Reagan decided to stop enforcing environmental laws.

I was a lawyer at the Natural Resources Defense Council (NRDC) and we decided to see if citizens could make a difference.

We looked at the Clean Water Act. Before Reagan, the government brought about 350 prosecutions a year under this law but under him it fell to zero.

We did systematic research and brought 60 cases in six months in federal court, winning all of them, getting court orders to clean up the pollution, penalties that went to other charities, and fees to bring more cases.

We went on to bring scores more cases, again winning them, and embarrassing the government to get into the enforcement business again.

In California we protected 350,000 acres of unspoiled country by threatening to sue on behalf of a little bird called a gnatcatcher, which risked being destroyed if developers built on swathes of coastal land. The threat of litigation started a negotiation that created the model for multi-species protection plans in the United States. And much else.

But when I came to Europe almost 15 years ago I found there was no pan-European organisation of lawyers dedicated to protecting the environment.

An academic did a study comparing the number of practising lawyers inside environmental groups in the US and Europe. He counted around 500 in the US and only around two dozen in Europe.

It seemed obvious there was a niche to fill – let us call it an eco-niche – and so I started up ClientEarth with the help of the McIntosh Foundation.

We are an organisation which has grown from the corner of my bedroom to one with a staff of 80 people working across Europe, Africa and soon Asia.

We see ourselves as lawyers who work together with scientists and policy experts to create practical solutions to key environmental challenges.

We believe in the equal right of all to live and work in a healthy environment.

We work to enforce laws when governments fail to do so and we will use the law in a diligent way to enforce environmental rights.

And, importantly, we aim to use the power of the law strategically, to achieve systemic change. Before starting ClientEarth I talked to many lawyers and activists in Europe. I heard a number of things repeatedly.

There was a view that aggressive litigation was not needed to protect the environment.

There was a view that more conciliatory means were better.

Several UK lawyers told me to trust the common law, just let cases percolate up and effective environmental law would eventually arise.

But I believe these views are wrong.

I believe the law can be and should be used in a strategic way to make big structural changes.

And I would like to make the case that legal strategies to prevent the dying of the planet are not only of value but are vital and compelling because of our present circumstances.

I would like to do this by sharing a perspective on what public interest environmental law does, how it is moving from the USA to the EU to China, and point out some further changes in our UK system that need to be made to bring it up to global standards and allow public interest environmental law to flourish.

Let me start by saying this.

I believe when you pass an environmental law – indeed when you pass any law – and you do not enforce it, you in effect authorize the conduct you sought to prohibit.

You permit something by turning a blind eye to laws that ban it.

In the EU there has been a history of scoffing at laws.

There is a modern Italian proverb which says “one goes to Brussels to make the law and one comes home to find a way around it.”

In France it was regarded as a badge of national pride to ignore EU law.

But before we think we in the UK are so much better, let us pause and think again.

This year ClientEarth took the UK government to the Supreme Court over air pollution laws.

The government’s view was very clear.

They recognised there was a European law which said they had to cut air pollution to levels suitable for the protection of human health by 1 January 2010.

But their argument to the Supreme Court was that domestic courts should not sanction them for noncompliance.

The government said – and remember this was not decades ago but this year, in 2015 – no action by the court was – to use their words – “necessary or appropriate”. Let them alone. They had their own plans.

We knew of no details of the planned government action.

We had no evidence it would be effective.

We were simply told that action to enforce the current law was unnecessary because our executive would take care of it in its own sweet time, 2030 at the earliest.

Forget for a moment the impact on human health of air pollution remaining at dangerously high levels for decades after the deadline.

Forget for a moment this was environmental law.

This could be securities law, or contract law, public or private law.

And think of the consequences of a government picking and choosing what laws they can comply with and what they do not have to.

Think of the consequences of a government deciding when it has to comply with the laws and when it does not.

I would suggest that is not a democracy, it is not government under the rule of law.

... Happily, we won.

On 29 April of this year the UK Supreme Court ordered the government to take “immediate action” on air pollution.

The Supreme Court Justices were unanimous in their decision, saying: “The new government, whatever its political complexion, should be left in no doubt as to the need for immediate action to address this issue.”

It was an historic ruling which was the culmination of a five-year legal battle fought by ClientEarth for the right of British people to breathe clean air.

There is a good, non-environmental reason for supporting the result.

It should be welcomed by anyone who believes in the rule of law as opposed to the arbitrary exercise of power.

If we are to protect and embellish democracy, power must be governed by law.

The corollary of that is that the courts are the final arbiter of what the law says.

In the US, *Marbury v Madison*, decided in 1803, established that it was the Supreme Court, not another branch of government, which has the power to ultimately decide what the law is, and to enforce it.

For what was a relatively new American Supreme Court, this decision was pivotal. If the other branches accepted the judgement, the inter-governmental relations would be clear going forward.

In the event, the US Supreme Court did establish itself as the ultimate authority. The case is known by every American lawyer as a foundation stone of rule of law in the United States.

Here in the UK, *ClientEarth v Defra* has some of the quality of *Marbury v Madison*.

Here, too, the Supreme Court is a new institution, which grew out of the House of Lords.

And it is still defining its powers, especially in relation to the European Commission and Human Rights Act.

It is doing so in a legal system in which we all recall the dictum “the Queen can do no wrong.” In our legal system courts do not lightly write injunctions against the government.

But in *ClientEarth v Defra*, the Supreme Court has asserted its authority to order the government to comply with its legal duty, and created a kind of continuing mandamus, fashioning a role for the courts to supervise compliance with the court’s order.

Now the second good reason to support this result is because we need to protect the environment and human health.

The healthy functioning of natural systems is a public good.

So there were two solid strategic gains from this case.

And the citizen – the citizen in this case in the form of ClientEarth – was vital for this process.

This is important.

And I want to argue that in each strategic success – making democracy work and protecting our ecosystems – the role of the citizens was crucial.

In the past and still today, governments too often see industry as their clients, whom they serve.

This is often because of so-called ‘regulatory capture’ where powerful industries, because of their huge financial stakes in an outcome, can control a regulator, while members of the public with only a tiny financial stake cannot or do not.

There are, for instance, an estimated 30,000 business lobbyists in Brussels, backed by billions of Euros, working on behalf of their industries and organisations.

There are perhaps 700 environmental lobbyists.

There are obviously very few – if any – ordinary citizens who can use their spare time and money lobbying for environmental causes in Brussels.

It would be a strange pastime.

The real clients of government should be the people they govern.

Their clients should be the citizens who have put them in power for the common good.

For that common good to flourish it requires citizen participation and citizen supervision.

Let me explain what I mean by using environmental law.

Environmental law starts with science, develops policy that captures what science says, then proceeds to legislation, implementation and enforcement.

All five stages are vital to protect the environment.

At ClientEarth we work at all five of these stages. But it is in enforcement where the citizen has an especially visible role and it is in enforcement where there has been a gap in the UK and the EU.

Citizens must be able to enforce the law.

Our air pollution case was an example.

We originally took this case to court in December 2011 to stop the government breaking air quality laws.

However, the High Court and later the Court of Appeal refused to take action.

We appealed to the Supreme Court to show that citizens could and should act and to show that when there is a breach of EU law it cannot be solely left to the European Commission to deal with it.

But significant barriers remain to citizens getting access to justice.

Let me start with the barriers which exist in Brussels.

Europe has shown a complete disregard for democracy and the rule of law by consistently failing to respect the right of people to bring its institutions to court. The Treaty allows it, the Aarhus Convention, which the EU signed, requires it.

ClientEarth has brought the European Commission before the Aarhus Convention Compliance Committee, the UN committee charged with upholding the Aarhus Convention.

The point is simple: when EU institutions violate EU environmental laws, citizens may not sue the EU for such violations anywhere.

They may not sue it in Member State courts because the EU will not condescend to such jurisdiction. Nor can citizens sue the EU in EU courts because the EU courts will not acknowledge their standing. The only exception is that you can sue for access to information.

In reply, the European Commission has been arguing that EU citizens have access to justice because people can indirectly question the validity of EU actions through their national courts, which can pass the questions on to the EU Court.

However, there is no guarantee that a national court will refer a question.

The EU simply refuses to ensure access to justice in environmental matters when the EU violates its own laws.

Frustratingly, the Commission adopted a proposal for a directive to guarantee this access in 2003 but the process stalled in the European Council because of lack of political will.

Under pressure from national governments the proposal was withdrawn last year.

We believe the European Union is clearly and flagrantly breaking its treaty obligations.

And we are now waiting for the Aarhus Compliance Committee to decide whether they agree with us.

We do not expect the EU to welcome a decision which puts them in the wrong.

But ironically, such a decision would prove we live in a democratic Europe.

And that brings me on to the barriers in the UK.

In Britain we have treasured a rule since the 13<sup>th</sup> century, which says if you go to court and lose, you have to pay all of the costs of the defendant.

That could mean, even in a relatively simple case, costs running into the hundreds of thousands of pounds, or more.

Unsurprisingly, that meant even big environmental groups could rarely bring cases.

This rule had to be challenged and ClientEarth did so, again via the Aarhus Compliance Committee in Geneva.

We won and partly as a result of that win, the rule was changed.

Adverse costs in England and Wales in environmental cases are now capped at first instance at £5,000, where the claimant is an individual.

For other claimants, they are capped at £10,000.

This was a small victory – but only a small one.

The government's liability to pay costs is capped at £35,000. Lest you think this reasonable, consider the following: you bring a clean air case against the government, and after five years you win a Supreme Court injunction.

Even with much of the work done by in-house lawyers on charity wages, the case costs you several hundred thousand pounds. It establishes that the government is violating its mandatory duty, with some 50,000 citizens a year dying as a result. Losing, the government is protected from paying the actual costs.

What is more, the £10,000 cost cap for a charity applies only in the first instance. So if you go to the appeals court, or to the Supreme Court, you must request cost caps. You may get them or not, and there are no limits but in the discretion of the court.

And another thing: the government has failed to put any caps on environmental cases against companies and other private parties. Claimants bringing environmental cases against such parties still face unlimited liability.

So some small improvements have been made, but it is important to understand that this costs system we have is still by far the most punitive of any country in the EU.

And it is moving in the wrong direction.

In revisions pushed through this year to the Criminal Justice and Courts Act, the government introduced deterrents to Judicial Review.

Lord Woolf has written that the changes were unnecessary and ill-drafted. He has expressed his fear that the changes may impede JR in a way that damages the rule of law in our country.

Under the changes, any claimant that is a corporate body – and that would include ClientEarth and other environmental organisations – pursuing JR and seeking the cost protection provided for in the Aarhus Convention, will have to disclose the names, addresses, and interest in the charity of all their members.

If the charity has received – or is *likely* to receive – more than £1,500 from an individual or funder to cover the legal costs of a case, then those contributors and the size of their contribution must also be declared to the court.

The members and funders could then be called upon to pay the court costs should the charity lose its case – judges are directed that they must consider this option.

The charity leaders' network ACEVO has said the “overwhelming effect of the reforms [will] be to introduce a massive chilling effect on charities' ability or willingness to seek Judicial Review.”

They added it will “severely damage the confidence of individuals and organisations in becoming members or donating funds in the first place.”

I agree.

The government, having succeeded in this mischief, is working along another parallel track to increase costs for claimants in environmental cases.

In a consultation open until 10 December, the government is looking at raising the cost caps. Exposure will double for claimants. And again, a new cap must be requested at each level.

If there are multiple claimants, each is exposed to the full amount.

Meanwhile, the government's liability goes down. It will drop to £25,000.

Even worse is this: the government proposes letting the defendant ask the court to remove all cost protection, exposing the claimant, just like the good old days, to *unlimited* cost liability.

Why is the government working so hard to prevent citizens from using the courts?

Our country has no written constitution.

In our system, Judicial Review is the main check on government abuse of power.

What is the government so afraid of?

Why does the rule of law seem so threatening?

Why must citizens be prevented from talking to judges?

I hope to have made the point that in the UK and Europe access to justice is not what it should be.

Compare this to the situation in the US.

In the 1970s, the United States introduced a series of environmental laws that have served as the foundation of modern environmental regulation.

A number of these laws, such as the Clean Air and Clean Water Acts, have what is known as a 'private attorney general' provision. Citizens can go to court to enforce the law, standing in the shoes of the attorney general, once they have met certain criteria.

The notion is that enforcement of the law is a public good, and enforcing environmental laws is in the public interest.

Here it is important to understand what a public interest case is: a public interest case is one in which the interest the claimant asserts is not their personal interest but that of the public. The successful claimant in a public interest case does not benefit from her victory any more than another member of the public. The cleaner air or water that results from a victory is broadly shared.

To encourage such public-spirited litigation, these laws have a fee structure which assists.

A citizen brings a case and wins, and she recovers all her costs and fees. If she loses, she pays no costs or fees to the defendant. There are over 200 such federal laws in areas like environment, civil rights, and consumer protection.

These laws allow true **one-way** cost shifting. This approach to fee recovery has led to greater citizen involvement in enforcing the law, when the government fails to enforce it against companies, or where the government fails in its own duties under the law.

True one-way cost shifting of this kind had a moment in the sun in the UK. In 2009, Lord Justice Jackson published his Preliminary Review of Civil Litigation Costs in the UK. He said that, and I use his words, “radical reform” would be needed if the UK were to meet its Aarhus obligations.

One of the options he examined was true one-way cost shifting. His 23-page learned analysis of the virtues of the US system made my heart sing. I still remember the feeling that radical reform might happen here upon reading Lord Justice Jackson’s Preliminary Review.

(Perhaps you have to be a lawyer to understand that feeling.)

But by 2010, when the Final Review was published, the sunny spell was over. The American rule of one-way cost shifting as an appropriate – if radical – reform had been dropped.

Lest I be accused of typical American arrogance and lack of understanding of the quieter and more nuanced customs of my UK brethren, let us also compare the UK situation to China.

There has been a sea change in the attitude to environmental laws and enforcement in Beijing.

While they have had environmental law for decades, there has been weak and ineffective enforcement.

That is changing for three reasons.

First, the problems are manifest – the equivalent to the smogs in London in the 1950s.

Just this September a group called [Berkeley Earth](#) released a study, based on data collected by a network of sensors across China, which said more than 80 percent of Chinese people are regularly exposed to pollution that far exceeds levels deemed safe by the US Environmental Protection Agency.

The report said air pollution in China kills about 4,000 people.

This was not every year or every month but every day.

The second reason is that the pollution is so severe that it will affect the economic sustainability of the country.

A recent assessment carried out by the Chinese Academy of Science took account not only of air and water pollution, but also of resource consumption and ecological degradation. The estimated total resource and environmental costs amounted to 13.5 percent of GDP in 2005.

The figure is considerably higher than that of the United States, the United Kingdom, Germany, Japan, and other developed economies and on a par with countries such as Mexico, Ghana and Pakistan.

And the third reason is that people are taking to the streets on the issue. There are an estimated *eight to ten thousand* demonstrations a year in China about environmental problems.

In April thousands of people in China's southern Guangdong province protested against the expansion of a coal-fired power plant.

The Communist Party knows it must tackle the issue. It must deliver a public good. The harmony of the country, to use the Chinese phrase, depends on cleaning up the environment.

So they are tightening laws and improving enforcement.

The government has made real time emissions data from polluting factories [available online](#) to the public.

The desire to tackle the problem goes to the top of the Chinese Communist Party. Premier Li Keqiang has pledged to wage a "war on pollution."

Around Beijing, where air pollution is famously bad, all major coal-fired power stations will be [closed down](#) by the end of next year.

But most importantly, Chinese citizens are being enlisted into the war on pollution.

A law came into effect in January this year, the Environmental Protection Law 2015, which allows non-governmental organizations to bring cases against polluting companies for the first time.

Premier Li Keqiang described their new law as a secret weapon in the war against pollution.

Around 500 Chinese environmental groups have the power to act, and more groups gain standing each year.

Several have quickly taken action – we know of 36 enforcement actions that have already been filed, with more on the way.

The Chinese authorities have taken the situation so seriously that they invited an American litigator living in London – me, along with other European experts – to advise the Chinese Supreme People's Court on how to make the new law allowing citizen enforcement work.

They want us to help draft better laws and regulations.

They want us to train the judges who will be deciding these cases.

They recognise the need to build the capacity of the NGOs to bring cases against polluting companies.

This is a real game changer where citizens can sue companies in Chinese court.

It is an amazing change.

And in their attitude we have much to learn.

They are trialling seven versions of an Emissions Trading Scheme in seven provinces with the intention of crafting the best system for national use. They have data openness and environmental panels on all courts from the Supreme Court on down.

Let me mention three other ways in which the new Chinese environmental legal regime has just moved ahead of ours here in the UK.

First, as I mentioned, Chinese NGOs are now able to sue polluters directly. This includes polluting companies owned by the government. In the UK we cannot challenge corporate polluters unless they break laws that lead to criminal offences or private law claims.

Second, returning to costs in environmental cases. The Chinese are practical people. They now want to encourage citizens to bring enforcement cases. So that brief ray of sunshine that Lord Justice Jackson's Preliminary Report shone on the UK cost regime, seeing the value of US system, has blazed in China.

They have adopted the American rule on true one-way cost shifting. If a Chinese NGO wins its case against a polluter, it gets all its costs and fees, and if it loses, it pays the other side nothing. The first of these 36 citizen cases I mentioned reached judgment several weeks ago. The court not only imposed significant fines on the defendant, it awarded the claimants all their costs and fees.

I hope we will be able to help empower Chinese NGOs to use their Environmental Protection Law well.

Third, the Chinese courts now have very broad remedial powers to enjoin pollution, to shut facilities, to write and implement detailed environmental remediation plans, and so on.

And they are asking for advice on using these powers wisely. They want to understand the best global models for court-ordered compliance and remediation.

I plan to assist them. Where there is such a strong desire to use the courts' powers in the best way for protecting the environment and human health, there is much to hope for.

So let us pause here and reflect on how the situation in Britain compares to the US and China.

We have a tendency as UK lawyers to look to our own national traditions and see how far we have come.

And it is true.

We have made progress in Britain in environmental law.

But it is also important to look to the globally best examples and see how we compare to the rest of the world.

And this is my concern.

While we have moved slowly others like the US have stayed far ahead of us.

And, if we are frank, the Chinese have overtaken us in terms of making it easier for citizens to use the courts to redress environmental harms by polluting companies.

We led the way in establishing the rights of citizens through the Magna Carta.

We were an example to the world in the abolition of slavery and extending the suffrage to women.

The British Isles were the first to develop common law including the system of binding precedent; parliamentary sovereignty; habeas corpus; the first trial of a monarch.

As humbly as an ex American litigator can, who has shifted perspective by becoming a solicitor of England & Wales, I would suggest this to you:

The British people would not want us playing catch-up when it comes to protecting the planet.

They would want us to lead.

So what do we need to do to come up to the standards of our Chinese colleagues?

There must be further reform of costs.

True one-way cost shifting dropped between drafts one and two of Justice Jackson's review of civil costs.

Surely we must be able to come up to what is now the minimum Chinese standard.

We must have the right to sue polluting companies, like the right which already exists in the USA, China, and our EU allies. I personally have seen how handy this is if a government tilts too far away from its responsibilities as Ronald Reagan did.

The one action the Chinese have not yet introduced is a JR where the government has an environmental duty. But it is on their radar. I met not long ago with Chinese academics, judges and officials. They are now discussing the need for such remedies. On our side in the

UK, as I pointed out earlier, this most important remedy for government abuse of power is under increasing threat.

And as we are speaking of remedies, let us look forward to how we could use injunctions differently.

Entertain a hypothetical case with me.

In our UK Supreme Court air case the Court took the important steps, and perhaps historically important steps, as I noted earlier, of enjoining the government to comply with the law, and extending a kind of continuing mandamus, to supervise the lawfulness of the government's compliance.

What happens if the government does not take the Supreme Court's order seriously?

The government told the Court that though the law required compliance with NO2 limitations by 2010, it had no intention of complying any time soon. The Court, referring to the statutory language, ordered the government to write a plan that will bring it into compliance "as soon as possible."

The government's draft plan, written under the injunction, still says it will not comply before 2025. Just what it said to the Supreme Court before the injunction. This raises the question whether the government accepts the power of the Court to enjoin it to comply with what are after all mandatory duties.

Let us reason together. The duty is mandatory. The Court has enjoined compliance. The government itself publishes statistics showing that the period of noncompliance between 2010 and 2025 mean that tens of thousands of people in the UK will die of air pollution because they are forced to breathe dirty air.

What can a court do when a government is recalcitrant? One obvious answer is to hold the government in contempt.

But where the recalcitrance is hardened and systematic, courts in other jurisdictions have been creative about crafting effective remedies.

In India, the Supreme Court has become famous for its specific and detailed environmental injunctions. In the United States, the so-called "structural injunction" has been developed. It came into being in the civil rights arena, where state and local governments had entrenched themselves in a position of noncompliance, and were willing to ignore orders of the court.

What the American courts did was to write highly detailed injunctions, requiring precise actions to bus school children and so on. In some cases they took over the administration of prisons until they met appropriate standards.

In Pakistan recently, a very interesting injunction was issued by the High Court in Lahore. The national law required formation of a climate change commission made up of

representatives of various ministries, with the obligation of making policy recommendations on climate change.

A claimant alleged that the government had failed in its duty to create such a commission.

The court in Lahore called in the ministries, which indeed had done nothing, and intended to do nothing. The court then got the job done. It wrote an injunction which created the commission, appointed its members and set out the timeline for their recommendations to be published.

I would like to draw a general rule about the specificity of injunctions against governments. It runs this way: **the specificity of an injunction is directly proportional to the recalcitrance of the government actor.**

That is, the need for the court to enjoin specific remedial steps increases to the same degree as the government's refusal to fulfil its mandatory duty.

Looked at this way, the government's bad faith authorizes the court's remedy.

Someone has to protect the public interest, and when the government abdicates a mandatory duty, only the court can bring about compliance with the law.

What happens if the government of the UK insists, while its citizens are dying, that 2025 is "as soon as possible" for it to clean up the air? We know the claim would be factually false.

Paris showed in October of this year that a mandated reduction in traffic dramatically reduces air pollution — literally overnight.

Were the government to commit itself to a hard-nosed confrontation with the Court, taking a position that it has the right to let its own citizens die until it is convenient to comply with the law — a proposition many governments around the world would agree with, but in whose jurisdiction you might not wish to raise your family — would it be appropriate for the Court to learn from the experience of other courts facing hostile central authorities?

Could our courts write a more specific injunction requiring action to clean up the air?

For me the answer is a resounding yes.

And let me ask for help from all the lawyers in the room. Courts need the right pleadings before them.

We need to be more creative, more focused and demanding, in the remedies we seek from our courts. Our environmental problems will get worse before they get better.

Let us not fall into our cultural default mode of being afraid to ask the courts for novel remedies. We are after all dealing with novel problems.

If your intent is to use the law to improve things, you need to be strategic. So for example, you want to address climate change, biodiversity loss, air quality and so on, using existing law.

What you need to do is assist the courts in moving further. So I picked air quality as an area that would be impossible to lose as a case if it is argued well and the EU environmental law regime worked at all. It appears to be working.

It was not difficult. It is just like planning 60 chess moves ahead along whatever dimension of the law you are using to serve the common good. It is a matter of being thoughtful: what do the courts need from you to deliver the right result? How many cases between here and there do you need to envisage, bring and win, so that the ultimate decision in a domain is ineluctable?

Then you design those cases, win them, and build the series of judgments you need to deliver benefits in the real world.

I recently spent an inspiring two days in a meeting in London with supreme court judges from around the world, including from our local jurisdiction.

It was clear judges are eager to do justice in environmental cases. Let us vow together to bring them the right facts and right demands for new and powerful remedies.

The courts are open for business. They will respond if asked. They will go further if the case demands it of them.

Do not ask and we shall not receive. The losers will be people and the natural world.

Now walk up the mountain with me and take a broad view of the legal landscape.

I have come to the belief that piecemeal improvements to environment law are not enough.

What I would like to see is the evolution of a new generation of environmental laws.

Laws which comprehensively protect our planet and all the plants and animals which live upon it.

That would include keeping climate change within smart limits and reversing biodiversity loss. For consider this — if all the laws to protect the environment we now have at international, national and local level were enforced — and that is a big if — we would still not stop global warming, not stop biodiversity loss, and all the rest.

I call this next stage in the evolution of environmental law, which we need more than ever, Environment Law 2.0.

It will mean working on the legislation as well as the litigation to get things right.

It is a long-term goal but one which is definitely within our sights.

And while we are building this new system of law, I and my colleagues at ClientEarth will keep enforcing the laws we have and keep working with legislators to get the new laws right.

Because if we fail to enforce what we now have, new laws will be meaningless.

Unless we enforce the laws we have, governments will stand up in supreme courts and say they can pick and choose.

I remain a huge optimist.

We have made vast strides, positive strides.

Our success in the air quality case put a requirement on the government to act. It created a space for our policy-makers to come up with clean, sustainable transport solutions which protect our health.

We hope to match our success in tackling air pollution in the UK courts in courts across Europe.

We have successfully challenged the right of energy companies to build highly-polluting coal power stations in Poland.

We are reducing deforestation in Africa by helping countries develop their forest laws and ensuring legally-harvested timber has a market in Europe.

And, speaking as a former aggressive American litigator who came from New York and ended up in Hackney as an English activist lawyer working on behalf of the planet, I am going to leave you with these thoughts.

It is time to realise that getting citizens enforcing environmental law is a hugely positive act.

It is a positive act to remove the barriers to going to court.

It is a positive act to see who in the world is in the lead and then working to match the best of our international colleagues.

It is a positive act to grow the rule of law because it protects the environment and protects the planet and protects all those people who live upon it.

In that spirit of positivity, I thank you for your patience in listening to me.

**Ends**