

# **UNEP GLOBAL JUDGES PROGRAMME**

**APPLICATION OF ENVIRONMENTAL LAW BY NATIONAL  
COURTS AND TRIBUNALS**

## **PRESENTATION 3**

**ROLE OF THE JUDICIARY IN  
PROMOTING THE RULE OF LAW IN  
THE AREA OF SUSTAINABLE  
DEVELOPMENT**

# OUTLINE OF PRESENTATION

- Judging environmental disputes

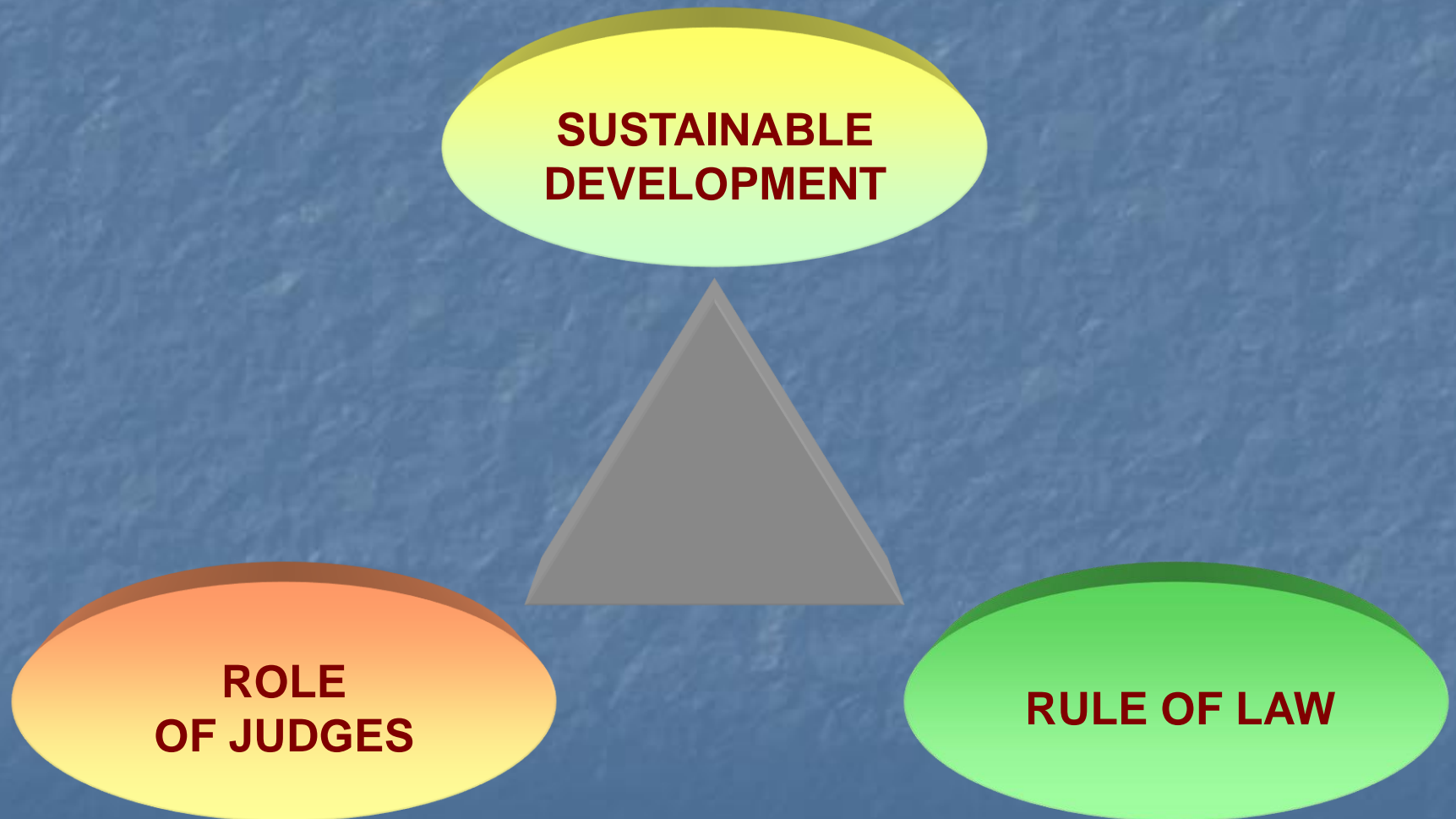
- Upholding the Rule of Law

- Applying and interpreting laws

- Imposing and supervising remedies

- Conclusion

# **SUSTAINABLE DEVELOPMENT AND THE RULE OF LAW**





# ROLE OF THE JUDICIARY IN THE ENVIRONMENTAL ARENA

- Administering environmental litigation
- Promoting compliance by enforcing the law
- Serving as guarantor of public participation rights
- Balancing environment and development considerations
- Influencing societal attitudes towards the environment and the concept of sustainable development
- Through judgments, furthering the development of legal concepts in the area of sustainable development
- Furthering the implementation of regional and global environmental accords where part of the corpus of domestic law
- Serving as a check on executive inaction and overreaching in the environmental arena
- Protecting the rights of the accused



# General functions of judges

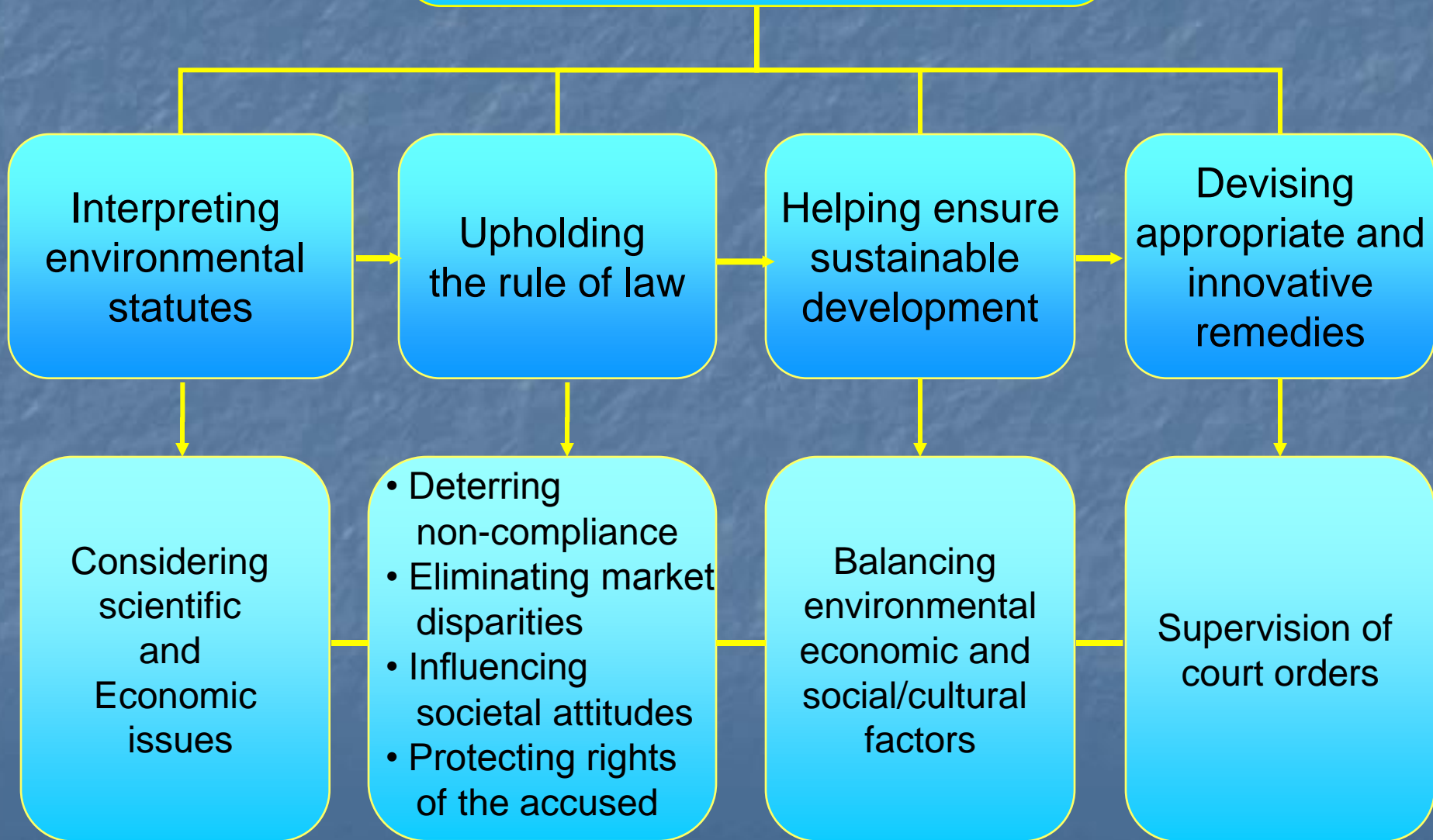
Peaceful resolution of disputes

Interpreting and applying statutes

Upholding the rule of law



# Judging Environmental Cases



# CHALLENGES IN JUDGING ENVIRONMENTAL DISPUTES

- a) Dealing with scientific issues and evidence
- b) Managing uncertainty and risk
- c) Context of sustainable development
- d) Diversity of issues, parties and settings
- e) Individual v. society
- f) Economic issues
- g) Retroactive effect
- h) Remedies and continuing supervision



# UPHOLDING THE RULE OF LAW

- Ensuring justice, fairness and inclusiveness
- Recognizing constitutional supremacy
- Protecting inalienable individual rights
- Stemming the arbitrary exercise of power by government agencies
- Serving as guarantor of public participation rights



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