

IUCN ACADEMY OF ENVIRONMENTAL LAW

“LAND USE FOR SUSTAINABLE DEVELOPMENT”

The 2nd Colloquium of the IUCN Academy of Environmental Law and related meetings

4-9 October 2004

University of Nairobi, Nairobi, Kenya

The IUCN Academy of Environmental Law convened its second annual Colloquium In Kenya on Monday, October 4th, in partnership with the University of Nairobi. The Colloquium opened on UN “World Habitat Day,” and was honored with an address by Prof. Anna Kajumulo Tabajuka, Executive Director of the UN Human Settlements Programme (UN-HABITAT). A three-page special feature about the Colloquium in *The Daily Nation* welcomed the 150 participants, including 112 law professors representing 45 law faculties in 37 different nations, from all regions. UN Secretary General Kofi Annan sent a written Message to the Colloquium, in which he noted that “environmental law has a special role to play” in addressing how urban and rural land uses can foster sustainable development, and urged the law professors to “help national and local authorities devise legal regimes that enhance sustainable development instead of hindering it.” Prof. Wangari Maathai, founder of the Green Belt Movement and Kenya’s Assistant Minister of the Environment, formally opened the Colloquium. She spoke eloquently of the need to protect forests and to secure watersheds, without which cities like Nairobi would lack adequate water. As the Colloquium closed, the award of the Nobel Peace Prize was announced for her advocacy on behalf of the environment, and the Academy extended profound congratulations to her in person, on behalf of environmental law professors worldwide, and published a letter of congratulations in *The Daily Nation*.

Prof. Akio Morishima of Japan delivered the Colloquium’s hallmark Distinguished Lecture on Environmental Law, reflecting upon the fundamental challenges still to be resolved in the maturing of the field of environmental law. Dr. Ali Mohammad Mekouar, head of the Legal Unit of the UN Food & Agricultural Organization in Rome, presented the keynote address on the innovations in the 2004 African Convention on Conservation of Nature and Natural Resources and its potential for advancing sustainable land use practices. Over the four days of the Colloquium, scholars, legal experts from UN-HABITAT, and other specialists presented 54 original papers, copies of which were distributed to participants. Speakers examined legal measures to integrate environmental and social factors into spatial development planning, to improve environmental impact assessment, to reform design and planning of human settlements of all sorts (including refugee camps, the urban slums that are home to two billion people worldwide, and rural, suburban and city centers), to empowering local authorities to better cope with land use and natural resources management, and to ensure access to justice in land use disputes and strengthening the judiciary.

On a one-day field trip to Kitengela, all participants examined land use disputes involving customary law and legal claims of a Masai community living and keeping their cattle, sheep and goats within 8,600 acres amidst the migration corridor for wildlife that live a part of the year in Nairobi National Park, which abuts both their lands and the growing City of Nairobi. Adjacent urban and industrial development, including attempts to sell part of the community’s traditional lands land for housing, prompted the Masai to take up arms to defend their lands. Disputes were settled peacefully, through innovative

public and transparent “leases” with 117 family units, each being compensated for services for migratory species crossing over their unfenced lands. The threatened subdivisions sales were cancelled, and other new legal tools, such as easements in gross, are in preparation to further protection both community lands and wildlife corridors. The Wildlife Foundation, Kenya Wildlife Services, and environmental law specialists from Nairobi, cooperated together to sustain the Masai community’s livelihood, protect wildlife, and shift land use development to more appropriate sites. This case study illuminated many themes from the Colloquium, while demonstrating how experiential learning furthers the teaching of environmental law.

During the Colloquium, the Academy’s editors began their work to prepare the research papers for publication by The Cambridge University Press. Professors Nathalie Chalifour (University of Ottawa, Canada), Patricia Kameri-Mbote (University of Nairobi), Lye Lin Heng (National University of Singapore), and John R. Nolon (Pace University, New York) are the editors selected to prepare the Colloquium’s research for publication in 2005. A volume of primary source materials of innovative local and national legal measures for urban and rural land stewardship is being prepared for the use of local authorities. IUCN’s Commission on Environmental Law will also release a compilation of selected Colloquium papers.

The Colloquium was preceded by a symposium for 35 African law schools, sponsored by the UN Environment Programme, on environmental law research in Africa. In cooperation with the University of Nairobi’s Centre for Advanced Studies in Environmental Law and Policy (CASELAP), the IUCN Academy held a one-day multidisciplinary workshop, for 30 African and international legal specialists and environmental scientists, to examine proposals for inter-regional, joint research through the Law Schools associated with the Academy. This was the Academy’s second such workshop to prepare its environmental legal research. It considered the recommendations from UNEP’s African Symposium and from the Academy’s workshop at the Woods Hole Research Center (Massachusetts, USA), held 17-19 September 2004.

Finally, representatives from 29 law schools (representing more than 120 colleagues at their home institutions) met for one day as the Academy’s Collegium, its governing body, discussing proposals for collaborative teaching, assistance to law schools in regions of civil unrest, and establishment of a secretariat for the Academy. A formal Memorandum of Agreement was signed between the Academy and Macquarie University (Sydney, Australia, by Prof. Michael Jeffery QC, representing the Vice Chancellor), for the Academy’s 3rd Colloquium, on “Biodiversity Conservation, Law & Livelihoods: Bridging the North-South Divide,” for 10-15 July 2005. The Collegium accepted the invitation from the University of Ottawa (Canada), to host the secretariat for the IUCN Academy of Environmental Law. The Collegium agreed to study joint teaching of environmental law between law faculties in different regions via the Internet. The University of Delaware (USA), University of Technology, Sydney (“UTS,” Australia), The University of Ottawa (Canada), the National University of Singapore, and the law schools at Pace University (New York), The College of William and Mary Law School (Virginia), Vermont Law School, and Widener University (USA), each teach distance courses using classrooms designed for audio-video courses. Prof. Karen Bubna-Litic, Director of Research in the Law Faculty of UTS, undertook to prepare a generic proposal for such inter-regional joint teaching in environmental law.