



***SYMPOSIUM:***  
***The Judiciary and Environmental Law***

An international symposium comparing judicial practice  
In Canada, the United States and Mexico, and  
In Selected Other Countries

**December 6-8, 2004**  
White Plains, New York

At the  
**New York State Judicial Institute**  
on the campus of  
**Pace University School of Law**



**NATIONAL JUDICIAL INSTITUTE**  
**INSTITUT NATIONAL DE LA MAGISTRATURE**

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## AGENDA

### Monday, December 6, 2004

12:30 Registration

1:00 Opening Ceremony

Chief Judge of the NY Court of Appeals, Honorable Judith Kaye  
(confirmed)

Executive Director, UN Environment Programme, Dr. Klaus Toepfer  
(invited)

Dean of the Pace University School of Law, Stephen J. Friedman  
(confirmed)

Head, IUCN Environmental Law Programme, IUCN, John Scanlon  
(invited)

1:45 **Keynote Address: Environmental Law & The Judiciary after  
Johannesburg – Critical Roles in Compliance, Enforcement, and  
Dispute Resolution**

Justice Paul Stein, Former Judge of the Court of Appeals, New South  
Wales, Australia and Chair of the IUCN Judicial Specialist Group  
(confirmed)

2:30 Break

2:50 **Commentaries and Conversations: Reflections on Environmental  
Issues in the Judicial Context**

Lord Chief Justice Woolf, Chief Justice of England and Wales  
(confirmed)

Justice Charles D. Gonthier, Former Justice of the Supreme Court of  
Canada (confirmed)

Justice Adel Omar Sherif, Deputy Chief Justice, Supreme Constitutional  
Court, Egypt (confirmed)

4:00 Break

4:20 Judge Neófito López Ramos, Federal Appeals Court of Mexico (confirmed)  
Judge Susan P. Read, New York Court of Appeals (invited)  
Justice Jan Van den Berghe, Constitutional Court, Belgium (confirmed)  
Judge Merideth Wright, Vermont Environmental Court (confirmed)

5:30 Adjourn

6:30 **Dinner Honoring Invited Judges**

Remarks by:

Dean of the NY State Judicial Institute, Judge Robert G.M. Keating (confirmed)

Commission for Environmental Cooperation Representative

Chair of the IUCN Commission on Environmental Law (1996-2004),

Professor Nicholas A. Robinson (confirmed)

Chair of the ABA Section of Environment, Energy and Resources,

Michael Gerrard (confirmed)

8:00 **Address: “The Rule of Law & The Importance of the Courts in the Aftermath of Johannesburg”**

*Chief Justice Arthur Chaskalson, Constitutional Court of South Africa*

(invited)

**Tuesday, December 7, 2004**

8:30 Continental Breakfast

9:00 **Constitutions, the Public Trust and the Environment**

Commentary on the Public Trust Doctrine: Professor John Humbach (Pace University School of Law, New York) (confirmed)

Presentation of representative cases:

- Justice Richard Andrias, New York Supreme Court, Appellate Division: *McDonald v. Association for the Protection of the Adirondacks* (confirmed)
- Justice James E. Moore, *McQueen v. South Carolina Coastal Council* (invited)
- Chief Justice Bhagwati, Supreme Court of India, *M.C. Metah v. Kamal Nath & Others*, (1977 SCC 338) (invited)
- Justice Ian Donald, British Columbia Court of Appeals, *Woodworkers for Fair Forest Policy Society v. British Columbia* (confirmed)

10:30 Break

10:50 **Standards of Proof, Scientific Uncertainty and the Precautionary Principle**

Commentary on the Issues of Standards of Proof, Scientific Uncertainty and the Precautionary Principle in Environmental Cases:

Prof. Robert V. Percival (University of Maryland School of Law)  
(confirmed)

Presentation of representative cases:

- Associate Justice Paula Nakayama, Hawaii Supreme Court, *In re Water Use Permit Applications* 9 P.3d 409 (2000) (confirmed)
- Brian Gover, Commission Counsel, *The Walkerton Inquiry* (confirmed)
- Judge Kathie Stein, EPA Environmental Appeals Board (invited)

Dialogue

12:30 **Lunch**

1:30 **Trade, the Environment and Provincial/State Courts**

Commentary on the Emerging Role of Trade Panel Decisions:

John Echeverria, Executive Director of the Georgetown Environmental Law and Policy Institute (Georgetown Law School, Washington, D.C.)  
(confirmed)

Presentation of representative cases:

- Sylvie Tabet, Canadian Department of Justice, *The S.D. Meyers Case* (confirmed)
- **Justice David Tysoe, British Columbia Supreme Court** *The Metalclad Arbitration and The United Mexican States v. Metalclad Corp, Supreme Court of British Columbia* (confirmed)

3:00 **Break**

3:20 **The Use of International Environmental Agreements and Norms**

Commentary on the Use of International Norms in State/Provincial Courts:

Carl Bruch, United Nations Environment Programme (confirmed)

Presentation of representative case:

- Justice L'Heureaux-Dubé, Court of Appeals for Quebec, *114957 Canadian Ltée (Spraytech, Société d'arrosage) v. Town of Hudson* (confirmed)
- Brian Gover, Commission Counsel, *The Walkerton Inquiry* (confirmed)

5:00 Adjourn

6:00 **Dinner**

**Address by the Lord Chief Justice Woolf, Chief Justice of England and Wales (confirmed)**

**Wednesday, December 8, 2004**

8:30 Continental Breakfast

9:00 **New Frontiers  
Environmental Justice**

Commentary on environmental justice issues: Michael Gerrard, Chair of the ABA Section on Environment, Energy, and Resources (confirmed)

**Access to Justice Issues in Land Use Disputes**

Judge Merideth Wright, Vermont Environmental Court (confirmed)

10:20 Break

10:40 **Biotechnology** (Genetically modified organisms, invasive species, indigenous knowledge, environmental intellectual property and biodiversity)

Commentary on Biotechnology issues: Professor Gregory Mandel, Albany Law School

**Criminal Sentencing**

Judge John R. Tunheim, U.S. District Court for the District of Minnesota

(invited)

12:00 Conference Closing



[www.nycourts.gov](http://www.nycourts.gov)



[www.law.pace.edu/environment](http://www.law.pace.edu/environment)



[www.unep.org](http://www.unep.org)



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