

Council of Canadian Administrative Tribunals (CCAT)

3rd International Conference

Bringing Administrative Justice to the People of the World

“Learning From Each Other”

June 20, 2004 - June 23, 2004

Fairmont Royal York, Toronto, Canada



CONFERENCE PROGRAM (all sessions provided in English and French)

SUNDAY JUNE 20th

9:30 am
foyer Canadian
10:30 am - noon
Ontario

REGISTRATION OPENS

Simultaneous Sessions 1-2

1. ADMINISTRATIVE LAW - THE VIEW FROM NORTH AMERICA

Two leading legal scholars provide an update on administrative justice issues before the courts in both Canada and the United States. What are the most recent key cases? Are there common themes or trends?

Moderator: **Chris Graham**, President of National Association of Administrative Law Judges; **Professor David Mullan**, Faculty of Law, Queen's University, Ontario, Canada; Member, Human Rights Tribunal of Ontario; **Professor John H. Reese**, Denver University Law School

Tudor 7,8

2. MEDIA BREAKOUT: HOW TO DEAL WITH THE PRESS: SPEAK OR REMAIN SILENT? :

Dealing with the media can be a tribunal member's worst nightmare. Failure to communicate effectively can lead to endless controversy and problems. Strong media presentation skills are crucial for all tribunal members, managers and staff. When should you speak or remain silent? How do you convey a key message successfully? What strategies can an agency put in place to manage these challenges before they arise? Learn how to avoid communications catastrophes and skillfully articulate your message from Barry McLoughlin, one of the best-known media trainers in North America.

Barry McLoughlin, President, McLoughlin Associates Inc.

noon-1:00 pm
1:00 pm
Canadian

LUNCH Delegates on their Own

OPENING - WELCOME REMARKS

Murray Chitra and Carl Dombek, Conference Co-Chairs, CCAT

1:30-2:15 pm
Canadian

UNITED NATIONS INTEGRITY INITIATIVES

Dileep Nair, Under-Secretary-General, Internal Oversight Services

2:15-2:45 pm
foyer Canadian
2:45-4:15 pm
Ontario

REFRESHMENTS

Simultaneous Sessions 3-5

3. ABORIGINAL ISSUES AND ADMINISTRATIVE JUSTICE:

The entitlement of indigenous peoples to the control and ownership of land has proved to be a vexing problem. Similarly, historical injustices such as abuse of First Nations' people in residential schools remain unsettled as well as very difficult. The courts have been the main focus for these concerns for some time, but recently, even the judiciary in their rulings have acknowledged the important role of tribunals in resolving these issues. Tribunals will have to consider different customs and traditions, conflicting rights and competing interests as they develop credibility and integrity in different cultural milieus. How have different tribunals approached these concerns and are there limits to the role of tribunals?

Moderator: **John Steeves**, Member, Public Service Staff Relations Board of Canada, Vancouver; **Ted Hughes**, Chief Adjudicator, Indian Residential Schools Resolution Canada; **Jean Teillet**, Barrister & Solicitor, Pape and Salter, Canada; **Joe Williams**, Chief Judge, Maori Land Court and Deputy Chairperson, Waitangi Tribunal, New Zealand

Tudor 7,8

4. RESOLVING CONFLICT - Across the world many people have suffered human rights violations as a result of war and other forms of civil conflict. It is not often possible to address these human rights abuses until after a change of regime has occurred. Increasingly when that happens, citizens demand recognition. In some countries administrative agencies have been established to ensure justice and give a voice to these citizens. Hear about the ways in which these agencies are promoting both personal and national reconciliation.

Moderator: **Chisanga Puta-Chekwe**, Chair, Ontario Rental Housing Tribunal, Canada; **Dr. Ken Attafua**, Executive Secretary, National Reconciliation Commission, Ghana; **The Honourable Bob Rae**, Canada.

Please complete your online evaluation form at: <http://www.ccat-ctac.org>
to receive access to the presentations from the Conference

5. DEALING WITH IMMIGRATION AND REFUGEE CASES IN THE POST-SEPTEMBER 11TH WORLD -

In our new security-conscious environment, all parts of government are under increased pressure and scrutiny with respect to protecting society from terrorists and other security risks. How does this affect the work of adjudicative tribunals that are responsible for protecting vulnerable persons such as refugees? This international panel will explore these challenging times for tribunals that every day must deal with persons who are claiming the state's protection. What are the best ways to handle a high volume of refugee claims or other immigration files in a simple, quick and fair manner, given the current environment?

Moderator: **Marcie Bourassa**, Deputy Chairperson, Immigration Appeal Division, Immigration and Refugee Board, Canada; **Jean-Guy Fleury**, Chairperson, Immigration and Refugee Board, Canada; **Judge Phillip T. Williams**, Assistant Chief

Banff

Whistler

Montebello

6-7:30 pm

Immigration Judge, Virginia, U.S.; **Steve Karas**, Principal Member of the Migration Review Tribunal and the Refugee Review Tribunal, Australia

THE WIRED TRIBUNAL / DISPLAY 1: a hands-on demonstration of technology in use by and for administrative tribunals.

Information Technology display - Large agency's Case Management and Call Centre systems.

THE WIRED TRIBUNAL / DISPLAY 2: A small agency's website, with database-driven searches of its current caseload available to the public.

THE WIRED TRIBUNAL / DISPLAY 3: AGNES – A password-protected internet site built by central government for its agency community.

HOCKEY HALL OF FAME: PRESIDENT'S RECEPTION - Cocktail reception at the Hockey Hall of Fame, a famous Toronto landmark.

MONDAY JUNE 21st

8:00 am
foyer Canadian

REGISTRATION

8-9 am
Canadian

BREAKFAST

9-9:05 am

MARIE-PAULE-SCOTT COMMEMORATIVE SCHOLARSHIP AWARDED TO MR. CRISTOS VELASCO

9:05-10:30 am
Canadian

PLENARY: ADMINISTRATIVE JUSTICE AND THE COURTS - The first agencies, boards and commissions were created as alternatives to the courts. In some jurisdictions the relationship between administrative justice agencies and the judiciary has been an unsettled one. A panel of leading jurists will give their perspective on the current state of the relationship in light of our common goal of bringing justice to citizens.

Moderator: **Justice Andromache Karakatsanis**, Superior Court of Justice, Ontario, Canada; **Justice Lynn Smith**, Supreme Court of British Columbia, Canada; **U.S. District Judge Phillip S. Figa**, Colorado, U.S.

Tudor 7,8

10:30-11 am
foyer Canadian

REFRESHMENTS

11 am-12:30 pm
Territories

Simultaneous Sessions 6-8

6. INTEGRITY - Throughout the world, governments and international organizations are struggling with concerns about the integrity of public organizations and officials. Public trust in such institutions is an essential foundation of democracy, peace, stability and economic development. This panel will examine the scope of the problem, the ongoing fight against corruption and steps being taken to promote ethical practices. What does your agency need to do to earn public trust?

Moderator: **Murray Chitra**, Chair, Ontario Civilian Commission on Police Services, Canada; **Maartan DeJong**, Director, Dept. of Institutional Integrity, World Bank; **Howard Whitton**, Public Sector Ethics Specialist, Organization for Economic Co-operation and Development, SIGMA; **David Lewanika**, Deputy Chief Justice of Zambia.

12:30-2:00 pm

2-4 pm
Canadian

many jurisdictions have experienced major regime change or political restructuring. New governments have been confronted with the daunting task of creating public institutions to meet high expectations for everyday justice. This panel will examine the efforts underway in several countries. What are the practical challenges? What seems to be working? What can your administrative justice agency do to help?

Moderator: **Bertrand Roy**, Commissaire, Commission des lésions professionnelles, Quebec, Canada; **Larry Taman**, Leader, Justice Reform International, Canada; **Dr. Mong Hay Lao**, Head of the Legal Unit, Center for Social Development, Cambodia; **Nora Sanders**, Former Deputy Minister of Justice, Nunavut, Canada.

8. ETHICAL DILEMMAS - All decision makers are confronted with situations that test their values. Using different scenarios this workshop will ask some challenging questions. What makes an ethical dilemma? Can you recognize one? Can you respond in a way that is both right and just? Must solutions be consistent or can they vary?

Judge R. Bryan McDaniel, National Conference of the Administrative Law Judiciary (NCALJ), American Bar Association, U.S.; **Judge Edwin L. Felter, Jr.**, Senior Administrative Law Judge, Colorado Division of Administrative Hearings; **Michèle Juteau**, President of CCAT.

LUNCH Delegates on their Own

PLENARY: DEALING WITH DIVERSITY - FAIRNESS AND ACCESS - Every tribunal and agency has parties and stakeholders who are diverse. In the interests of fairness and access to justice, a tribunal must meet the needs and be sensitive to the differences with respect to people from many groups or backgrounds. This session will focus on one aspect of this broad topic - disadvantaged minorities - but the analysis and learning can apply to many contexts faced by tribunals with distinct stakeholder groups that are not balanced in power. What are tribunals in different jurisdictions around the world doing to address diversity? The panel will discuss effective training programs, how to overcome resistance, and other innovative ways to deal with diversity.

Ontario

7. GETTING IT RIGHT - Over the past two decades,

Moderator: **Gary Yee**, Special Advisor to the Deputy Chairperson, Immigration Appeal Division, Immigration and Refugee Board (Canada); **Professor Hazel Genn**, Faculty of Laws, University College, London, England; **Rashida Manjoo**, Research Associate, Law, Race and Gender Research Unit, Law Faculty, University of Cape Town, South Africa; **George Thomson**, Executive Director, National Judicial Institute, Canada.

4 - 4:30 pm

LITERACY AND ACCESS TO JUSTICE Canadian PROJECT: A new CCAT initiative will be announced at this conference. In this project CCAT will work with its members representing administrative tribunals across Canada, and its partners in the field of literacy, to increase the capacity to identify and respond to literacy challenges faced by clients in

4:30-4:45 pm
Canadian

6:30 pm
Royal Ontario Museum

the tribunal system through professional development of its members. This project is made possible by a grant from the National Literacy Secretariat, Human Resources Development Canada.

Moderator: **J. Paul Lordon**, Chair of the CCAT Committee: Administrative Tribunals, Literacy and Access to Justice in Canada Project; **The Honourable Mr. Justice Gregory Regis**, Ontario Court of Justice.

ANNOUNCEMENTS

GALA RECEPTION AND DINNER AT THE ROYAL ONTARIO MUSEUM - a gourmet meal and entertainment at a unique location.

TUESDAY JUNE 22nd

8:00 am
Concert Hall

REGISTRATION

8-9 am
Concert Hall

BREAKFAST

9-10:30 am
Concert Hall

PLENARY: AGENCY REFORM - At the beginning of the new millennium some jurisdictions are seriously rethinking the way in which they have historically provided administrative justice services. Everything from case management practices, organizational structure and the role of decision makers is on the table. This panel will examine the cutting edge of agency reform. What can your administrative justice agency learn?

Moderator: **Tyrone Butler**, Chair of the National Conference of the Administrative Law Judiciary of the American Bar Association and Chief Administrative Law Judge of the Office of Administrative Hearings, Washington, D.C.; **The Rt. Hon. the Lord Newton of Braintree**, Chairman of the Council on Tribunals, Great Britain; **Georges Lalonde**, Deputy Minister, Direction générale des services à l'organisation- Responsable de la réforme des tribunaux administratifs, Quebec, Canada; **Magistrate Victoria E. Quiroz Pesquera**, Magistrate Member of the Superior Appellate Court of the Tribunal de lo Contencioso Administrativo del Distrito Federal, Mexico

Trilingual

10:30-11 am
Concert Hall

REFRESHMENTS

11 am - 12:30 pm
Ontario

Simultaneous Sessions 9-11

9. REGULATING THE ENVIRONMENT: This session will focus on global environmental issues and the ways environmental boards can affect them through public outreach, effective decision writing and forward thinking. Cross border issues will also be discussed including the effect of the recent spate

Concert Hall

Tudor 7,8

12:30-2 pm
Concert Hall

2-2:30 pm
Concert Hall

2:30 - 3:00 pm
Concert Hall

3-3:30 pm
Concert Hall

of world wide trade pacts. Tensions amongst governments, environmentalists and business will be examined.

Moderator: **Ian Mcphail**, Chair of the Environmental Review Tribunal, Ontario, Canada; **Gordon Miller**, Environmental Commissioner of Ontario, Canada; **Adam Babich**, Associate Professor, Tulane Law, Louisiana, U.S.

10. INTERNATIONAL RULE MAKING – THINK GLOBALLY, ACT LOCALLY: Globalization has brought about new rules in a number of fields, as well as binational and other mechanisms to deal with resolving international conflicts and issues. This session will focus on regulations regarding three areas of worldwide concerns including international trade, trade blocks, and international sports.

Moderator: **Simon V. Potter**, Senior Partner, Ogilvy Renault, Montreal, Canada; **Dick Pound**, Chairman of the World Anti-Doping Agency, International Olympic Committee; **Dr. Gabrielle Marceau**, Counselor, World Trade Organization; **Professor Loretta Ortiz Ahlf**, University Iberoamericana, Mexico City.

Trilingual

11. ETHICAL DILEMMAS

A repeat of session 8.

LUNCHEON AND PRESENTATION OF CCAT MEDAL: RECIPIENT PROFESSOR EDWARD RATUSHNY

"THE CCAT GAME SHOW" - Join your conference colleagues in a half hour of mystery and fun that will also provide a useful summary of what we have learned at the Conference! **Prizes to be won!**

CLOSING REMARKS - FUTURE PLANS AND CONTINUED INTERNATIONAL NETWORKING

CCAT GENERAL ANNUAL MEETING

Sponsored by



CCAT Events Services

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Please complete your online evaluation form at: <http://www.ccat-ctac.org>
to receive access to the presentations from the Conference

PREREGISTRATION REQUIRED TO ATTEND TRAINING DAY

POST CONFERENCE TRAINING WORKSHOPS:
held at: *Ontario Bar Association Conference Centre*
- 20 Toronto Street, Toronto

9 am - noon

STREAM 1 - PERFORMANCE MEASUREMENT, FEEDBACK AND ADJUDICATIVE INDEPENDENCE - DIFFERENT APPROACHES TO SUCCESSFUL PERFORMANCE MANAGEMENT AND THE PURSUIT OF BEST PRACTICES - This session will explore issues that arise when designing and managing performance expectations for independent statutory decision makers. We will review basic principles of performance review from a management perspective to develop an understanding of the fundamental tools and structures used in this process, and hear about actual experience of specific tribunals in the United States and Canada that have attempted to implement and manage performance review systems. An interactive session will ask participants to identify successful elements of a performance management system in the context of their particular tribunals.

Moderator: **Zeynep Onen**, Director of Professional Regulation, Law Society of Upper Canada; Panelists: **Me France Desjardins**, Chair, Régie du logement du Québec, Montreal, Canada; **Assistant Chief Judge Bruce Johnson**, Minnesota, U.S.; **Ann Marshall Young**, Federal Nuclear Regulatory Commission, Washington, D.C., U.S.

STREAM 2 - ETHICS FOR DECISION-MAKERS: FROM INTUITION TO APPLICATION - A "TRAIN THE TRAINERS" WORKSHOP: This highly participatory one-day workshop designed particularly for tribunal members, administrative judges and magistrates, as well as legal counsel and others, who will be offering ethics training within their own tribunals. Participants will examine scenarios and their practical application in simulated training sessions, progressing from awareness building and issue identification to the practical aspects of training in the tribunal setting.

Topics include:

- Sorting the wheat from the chaff: Identifying the real issues
- Establishing consistency within a tribunal without threatening independence in decision-making
- Assisting colleagues in identifying and dealing with potential or actual ethical issues
- Choosing approaches to training in the tribunal setting.

THIS IS A FULL-DAY WORKSHOP.

James A. Ogilvy, Member, Canadian International Trade Tribunal, Ottawa, Canada; Facilitators: **Catherine Kennedy**, Board Member, Appeal Division of the National Parole Board, Ottawa, Canada; **Martine Richard**, Senior Counsel, Patented Medicine Prices Review Board, Ottawa, Canada; **Magistrate Rubén Minutti Zanatta**, Tribunal de lo Contencioso Administrativo del Distrito Federal, Mexico City, Mexico.

STREAM 3 - RULES – THEIR USES AND ABUSES - Join our panel of tribunal experts for a comprehensive workshop on rules. Topics will include a discussion of risk management principles – when to choose a rule, regulation or practice direction; adopting a first set of rules – including preliminary consultations and obtaining user acceptance; applying rules; and amending existing rules. How do you determine what

rules are needed? Can you prevent rules from making proceedings too technical? In the absence of general paralegal regulation, can rules be used to encourage good conduct and prevent abuse of process?

Moderator: **Carole Prest**, Counsel to the Chair, Workplace Safety and Insurance Appeals Tribunal, Ontario; **Bob Butterworth**, Vice-Chair, Assessment Review Board, Ontario, Canada; **Krista Daley**, General Counsel, Immigration and Refugee Board, Canada; **David Draper**, Director of Arbitrations, Financial Services Commission of Ontario, Canada; **John Higgins**, Legal Counsel, Information and Privacy Commission of Ontario, Canada; **Robert Owen**, Vice-Chair, Ontario Municipal Board, Ontario, Canada.

noon - 1 pm

LUNCH PROVIDED TO DELEGATES

1-4 pm

STREAM 1 - DISTANCE LEARNING AND WEB-BASED LEARNING AS VEHICLES TO PROMOTE TRAINING AND COMPETENCY - HOW DOES IT WORK, AND WHAT DOES IT TEACH? - In this session, we will see a demonstration of currently available types of distance learning and web based learning, and hear about different ways in which these technologies can be used to deliver information and training in an adjudication environment. Presenters will discuss how this type of education has been implemented in Canada, the United States and elsewhere in the world; how substantive content is presented in these media; specifics of implementation and maintenance of this approach to education; and potential future applications for distance learning and web-based learning.

Moderator: **Vladimir (Walter) A. Pylypchuk**, Counsel, Workers' Compensation Appeal Tribunal, British Columbia, Canada; Keynote Speakers: **Janet M. Coulter**, Judicial Training Officer, Division of Workers' Compensation, California, U.S.A.; **Ben Gianni**, National Judicial Institute, Ottawa, Canada; **Susan Lightstone**, National Judicial Institute, Ottawa, Canada; Demonstrators: **Judge Jean Lytwyn**, Provincial Court, British Columbia, Canada; **Ronald Friesen**, The Continuing Legal Education Society of British Columbia, Canada.

STREAM 2: ETHICS FOR DECISION-MAKERS: FROM INTUITION TO APPLICATION - A "TRAIN THE TRAINERS" WORKSHOP:
Morning workshop continues.

STREAM 3 - ADVOCACY BEFORE ADMINISTRATIVE TRIBUNALS - While administrative tribunals share important features with each other and with the courts, there are important differences in their mandates and procedures. A panel of leading counsel with experience before a variety of regulatory and rights-based tribunals will share their views on strategy and presentation. Hear the perspective of counsel for the parties, counsel for the intervenors and tribunal counsel – then hear what a panel of Chairs and Vice-Chairs finds persuasive (or not)!

Moderator: **Carole Prest**, Counsel to the Chair, Workplace Safety and Insurance Appeals Tribunal, Ontario; **Matthew Garfield**, Chair, Human Rights Tribunal of Ontario, Canada; **Knox Henry**, Vice-Chair, Environmental Review Tribunal, Ontario, Canada; **Pat Moran**, Counsel, Ontario Energy Board, Canada; **Margot Priest**, Chief Review Officer, Environmental Protection Review Canada; **Beth Symes**, Eberts Symes Steet Pinto & Jull, Toronto, Canada; **Robert B. Warren**, WeirFoulds, Toronto, Canada.