



ANNUAL CONFERENCE  
**Participatory Justice In  
a Global Economy:  
The New Rule of Law?**

The Banff Centre  
Banff, Alberta  
October 16 to 18, 2003



CANADIAN INSTITUTE  
FOR THE ADMINISTRATION  
OF JUSTICE

With the support  
of Alberta Justice and  
the Alberta Law Foundation

**G**lobalization and the growth of free trade are forces that are impacting the social, cultural and economic reality of all communities. The rule of law underlies the structure of many of the countries, such as Canada, that participate in the global economy. While many people feel helpless in the face of these powerful forces, others see them as an opportunity for revitalizing action at a local or community level. Public interest has focused on such matters as the impact of globalization on culture, the mobility of labour, social security regimes, the environment, governmental power and power rights. Citizens have turned to their states seeking more security and protection of important social values in the face of the ever-dominating world-wide economy. However, it is not clear whether states are able to perform these functions to the extent they might once have been able.

Several issues arise from these developments. To what extent is the rule of law necessary to enable effective involvement in the global economy, on the one hand, and to what extent is our understanding of the rule of law changed as a result of economic globalization? How is the development of international norms, standards and laws impacting on the development of national laws? What is the role of NGOs in developing such international standards and in securing their implementation at a national level? In what ways do international developments influence the judicial development of national legal standards? How do legal developments influence Canada's success in the global economy?

*Simultaneous translation will be provided throughout the conference*



REGISTRATION FORM

## Participatory Justice In a Global Economy: The New Rule of Law?

TO REGISTER, please complete and return this form together with your cheque to:

Canadian Institute for the Administration of Justice  
 Faculty of Law, University of Montreal  
 PO Box 6128, Station "Centre Ville"  
 3101 Chemin de la tour, Rm. 3430  
 Montreal, Quebec, H3C 3J7  
 Tel.: (514) 343-6157 Fax : (514) 343-6296  
 e-mail : [ciaj@ciaj-icaj.ca](mailto:ciaj@ciaj-icaj.ca) URL : <http://www.ciaj-icaj.ca>

Surname: \_\_\_\_\_ First Name: \_\_\_\_\_

Title to appear on name tag \_\_\_\_\_

Address: \_\_\_\_\_

Postal Code: \_\_\_\_\_ E-Mail \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

I am fluent in English \_\_\_\_\_ in French \_\_\_\_\_ both \_\_\_\_\_

**Registration fees:**

(Include reception on Thursday, dinner on Friday, and conference material)

Firms / Federal Org.	\$695 for CIAJ members	\$795 for non-members
Provincial Org.	\$350 for CIAJ members	\$450 for non-members
NGOs	\$150 for CIAJ members	\$250 for non-members
Faculty/Students	\$ 75 (meals and material not included).	

Dietary restrictions: \_\_\_\_\_

Dinner Fees for Guest(s) \$85 per person

Name of guest(s) attending Dinner \_\_\_\_\_

Payment by  Cheque  En Route  Visa  
 Mastercard  Invoice

Acct # \_\_\_\_\_ Exp. Date \_\_\_\_\_

Signature \_\_\_\_\_

ACCOMMODATION: A block of rooms has been reserved at the Banff Centre, 107 Tunnel Mountain Drive, Banff, Alberta, T1L 1H5 (Phone 800-884-7574 or 403-762-6308, Fax 403-762-7502, Email: [reservations@banffcentre.ca](mailto:reservations@banffcentre.ca), URL: [www.banffcentre.ca](http://www.banffcentre.ca)) at \$150.42 single or \$92.92, per person, double occupancy (This rate includes buffet breakfast, lunch and gratuities – provincial and GST taxes are not included). Participants are requested to make their own hotel reservations **before September 5, 2003** to take advantage of this rate.

CONFERENCE CANCELLATION FEE: Requests for refunds must be submitted in writing to CIAJ. A handling fee of \$50 will be withheld on any cancellation.

**Dean Patricia Hughes**, Faculty of Law, University of Calgary  
**Justice Rosemary Nation**, Alberta Court of Queen's Bench  
**Mr. Michael I. Wylie**, Macleod Dixon LLP, Calgary

---

## THURSDAY, OCTOBER 16, 2003

---

8:00 - 8:45 REGISTRATION

---

8:45 - 9:30

### WELCOME AND OPENING

**Justice Constance D. Hunt**, Alberta  
Court of Appeal and President of CIAJ,  
Calgary, AB

---

9:30 - 12:15

### SETTING THE FRAMEWORK

9:30 - 10:15

#### The Global Economy and the Legal Order

The legal badges of 'globalization' and their significance over time for reshaping lawmaking and legal decision-making in our transnational world.

*Speaker* **William Neilson**, Director and Professor  
of Asia-Pacific Legal Relations, Centre for  
Asia-Pacific Initiatives, University of  
Victoria, Victoria, BC

---

10:15 - 10:45 HEALTH BREAK

---

10:45 - 12:15

### RULE OF LAW

#### Economic Globalization: The Challenge to and by the Rule of Law.

In the domestic context, we have assumed that the rule of law is necessary to sustain an ordered political and economic system, although the nature of the rule of law has been the subject of dispute. Globalization brings the meaning of the rule of law to the fore and challenges the assumption of the necessity of the rule of law to positive economic and political development. This in turn affects domestic judicial decision-making which must respond to globalization.

*Speaker* **Patricia Hughes**, Ph.D. Dean, Faculty of  
Law, University of Calgary, Calgary, AB

---

#### Constitutional Interpretation in the Age of Economic Globalization

The promotion of individual rights associated with economic globalization, usually coupled with the idea of the 'rule of law,' seem irresistible to many legal systems around the world. The Canadian judiciary has been open to the influence of global legal developments in the past. How different are things in the current context of economic globalization? Drawing on recent developments in constitutional law, it will be argued that particular kinds of sources likely will have more influence, namely, those consonant with the values of economic globalization. Judicial decision makers should be attentive to these influences and their linkages to larger global phenomenon, for they may serve either to complement or undermine the values of Canadian constitutionalism.

*Speaker* **David Schneiderman**, Professor, Faculty  
of Law, University of Toronto, Toronto, ON

---

12:15 - 12:45 ANNUAL CIAJ MEMBERS' MEETING

---

12:15 - 13:30 LUNCH

---

---

13:30 - 17:00

### GLOBAL GOVERNANCE

---

13:30 - 15:00

#### Mechanisms for Global Governance

*New developments focusing on 2 examples.*

#### The New International Criminal Court (ICC): From the Particular to the General or the ambition of developing a universal law and establishing a supranational common forum on war crimes and crimes against humanity.

The following questions will be examined: the universality of norms and their selective application; ad hoc and 'à la carte' tribunals versus a general forum; coexistence of the complementary international jurisdiction of the ICC and the universal jurisdiction of Canadian tribunals; the mix of legal traditions and the creation of a new international procedure; recourse to the symbolic function of penal law and the institution of a collective consciousness, the common good and selfish national and economic interests.

*Speaker* **Hélène Dumont**, Professor, Faculty of  
Law, Université de Montréal, Montreal, QC

---

#### The Impact of International Commercial Arbitration on Canadian Law and Courts

What is the impact of globalization's favoured form of dispute resolution – international commercial arbitration – on the law and judicial system in Canada? Coupled with choice of forum and choice of law provisions, arbitration agreements seek to ensure formal state institutions are not involved save and except to provide mechanisms of last resort for the enforcement of contracts and arbitral awards. This presentation explores the deference shown by Canadian courts in enforcing commercial arbitration agreements and their contribution to the privatization of law.

*Speaker* **Jonnette Watson Hamilton**, Associate  
Professor, Faculty of Law, University of  
Calgary, Calgary, AB

---

15:00 - 15:30 HEALTH BREAK

---

15:30 - 16:15

#### The Reception of International Human Rights Law into Canadian Legislation: Shifting from a Strict Separation of Powers View to a Human Rights' Perspective

Analysis of some of the routes International Human Rights Law takes to make its way into Canadian Law. Taking note of empirical data on this subject, it becomes more and more artificial to adhere to a strict view of the separation of powers doctrine when it comes to understanding the interplay between International Human Rights Treaties and Canadian Law.

*Speaker* **France Houle**, Professor, Faculty of Law,  
Université de Montréal, Montreal, QC

---

16:15 - 17:00

#### Impact of Global Events on Canadian Law: The Terrorism Example

How have global terrorist events, such as September 11, been the catalyst for amendments to the Canadian Criminal Code? What challenges lie ahead in dealing with these amendments?

*Speaker* **Justice Peter W. Martin**, Alberta Court of  
Queen's Bench, Calgary, AB

## FRIDAY, OCTOBER 17, 2003

---

8:45 - 10:00

### **PARTICIPATION AND THE CIVIC CONVERSATION**

#### **Citizen Participation and Peaceful Protest**

What legal challenges arise when dealing with what may be the competing issues of public order or protection of dignitaries and public protest?

*Speaker* **Trevor Farrow**, Assistant Professor, Faculty of Law, University of Alberta, Edmonton, AB

#### **Dialogue or Conversation? The Impact of Public Interest Interveners on Judicial Decision Making**

The role of public interest advocacy organizations in Supreme Court of Canada cases in the areas of labour law, family law and equality rights. Litigation strategies employed by interveners will be discussed, including the use of international law to influence the judicial interpretation of rights and freedoms.

*Speaker* **Jennifer Koshan**, Assistant Professor, Faculty of Law, University of Calgary, Calgary, AB

---

10:00 - 10:30 HEALTH BREAK

10:30 - 12:00

### **GLOBALIZATION, WORLD EVENTS AND THE JUDICIARY**

#### **Development of the Rule of Law: The Experience of the Canadian Judiciary Abroad**

*Speaker* **Justice Michèle Rivet**, President, Québec Human Rights Tribunal and President, International Commission of Justice, Canada Branch, Montreal, QC

#### **Problems for a Judge in a Country in Transition**

*Speaker* **Justice Radmila Dacic**, District Court of Belgrade, Yugoslavia

---

12:00 - 13:15 LUNCH

13:15 - 15:00

### **GLOBALIZATION, THE ECONOMY AND HUMAN RIGHTS**

#### **Structure and Responsibility of Transnational Boards, Including Codes of Conduct and the Global Compact**

*Speaker* **John McWilliams**, Senior Vice President, General Counsel and Secretary, Nexen Inc., Calgary, AB

#### **Corporate Social Responsibility in the Global Economy: The Interplay of International Initiatives and Domestic Norms**

Recent global initiatives such as institutional investor activism in corporate governance and the Global Reporting Initiative and discuss the significance of these developments for corporate social responsibility. It will begin to explore the potential impact of these initiatives on the domestic corporate law regime and examine whether Canadian law is likely to shift from its shareholder-centric focus to one that takes account of broader social and public policy concerns.

*Speaker* **Janis Sarra**, Assistant Dean and Associate Professor, Faculty of Law, University of British Columbia, Vancouver, BC

---

15:00 - 15:30 HEALTH BREAK

---

15:30 - 16:15

### **ENERGY, RESOURCES AND THE ENVIRONMENT**

Pressure of globalization movement on domestic natural resources, using the Kyoto example.

*Speaker* **Elisabeth DeMarco**, Macleod Dixon LLP, Toronto, ON

---

16:15 - 17:00

### **LABOUR LAW**

#### **The Impact of International Law on The Evolution of Canadian Labour Law**

Globalisation and free trade threaten the effectiveness of domestic labour law as an instrument of social justice. Many see a solution to this threat in the elaboration of an international labour law. This presentation begins by exploring the content of the international labour law that is presently binding upon Canada. Then, it focus on how these international standards are received in Canadian domestic law. It stems from this analysis that, despite the dualist reception system that prevails in Canada, Canadian courts have an important role to play in implementing international labour principles into Canadian domestic law.

*Speaker* **Gilles Trudeau**, Professor, Faculty of Law, Université de Montréal, Montreal, QC

---

18:30 RECEPTION AT THE BANFF CENTRE

---

19:30 CLOSING DINNER AT THE BANFF CENTRE

## SATURDAY, OCTOBER 18, 2003

---

8:45 - 10:45

### **CHALLENGES OF LITIGATION IN A GLOBAL ECONOMY**

#### **Cross-border Insolvencies**

*Speaker* **Justice James M. Farley**, Ontario Superior Court of Justice, Toronto, ON

#### **Experience from Tobacco Damages Legislation**

Does the rule of law have a significant role to play in the constitutional law of Canada?

*Speakers* **D. Ross Clark**, Davis & Company, Vancouver, BC  
**Robin Elliot**, Professor and Associate Dean, Faculty of Law, University of British Columbia, Vancouver, BC

#### **Conflicts, Choice of Forum, Coordination and Other Issues**

A look at how conflict of laws and choice of forum disputes have been addressed in the past, coordination and management between courts of disputes that are before courts in different countries, and issues involving foreign litigants, particularly in class actions.

*Speaker* **Justice Adele Kent**, Alberta Court of Queen's Bench, Calgary, AB

---

10:45 - 11:00 HEALTH BREAK

11:00 - 12:00

### **KEYNOTE ADDRESS AND CLOSING**

*Speaker* **Hon. Bob Rae**, P.C., O.C., Q.C., Goodmans LLP, Toronto, ON