



# **PERFORMANCE ASSESSMENT OF ENVIRONMENT LAW IN SOUTH AFRICA:**

**ALMOST 20 YEARS AFTER THE RIO CONFERENCE, 1992:  
WHAT PROGRESS HAVE WE MADE,  
WHERE DO WE NEED TO GO?**

## **ELA 2011 ANNUAL CONFERENCE DRAFT PROGRAMME**

**Glenburn Lodge, Muldersdrift  
Gauteng**

**23-24 September 2011**

## FRIDAY, 23 SEPTEMBER 2011 (Day 1)

- 07:30**            **Registration**
- 08:30**            **WELCOME**  
ELA Chair: Peter Kantor
- 08:45**            **SESSION 1: EMERGING ISSUES**  
**Chair:** Tumai Murombo (University of the Witwatersrand (Wits))
- 08:45-09:05: Reece Alberts (Centre for Environmental Management (CEM), North-West University (NWU)): *Defining the norm and setting the standard: South Africa's third wave of environmental legislation*
- 09:05-09:25: Andrew Gilder (Warburton Attorneys): *South African renewable energy law: Quo vadis?*
- 09:25-09:45: Carin Bosman (CBSS): *Can it be fracking be sustainable? A focus on the precautionary approach*
- 09:45-10:00: Ed Couzens (University of KwaZulu-Natal (UKZN)): *Environmental implications of the White Paper on Foreign Policy*
- 10:00**            **Discussion**
- 10:30**            **TEA**
- 11:00**            **SESSION 2: ENVIRONMENTAL IMPACT ASSESSMENTS AND OTHER INSTRUMENTS**  
**Chair:** Marie Parramon (Imbewu Sustainability Legal Specialists; Vice-Chair ELA)
- 11:00-11:20    Lea September (Iliso Consulting/NWU): *A critical analysis of the effectiveness of s 24G provisions of NEMA: The Gauteng experience*
- 11:20-11:40    Melissa Fourie (Centre for Environmental Rights): *Perverse incentives and unintended consequences of section 24G of NEMA*
- 11:40-12:00    Vicky Benjamin (Advocate; SANS TC73 (Electromagnetic Compatibility)): *Electromagnetic fields, the environment and the law*
- 12:00-12:20    Theo Scheepers (University of Limpopo): *Environmental auditing*
- 12:20**            **Discussion**
- 12:40**            **SESSION 3: PROBONO WORK AND ATTORNEYS** (Melissa Fourie)  
Participating in the joint ProBono.Org/Centre for Environmental Rights Environmental Rights Clinics programme
- 13:00**            **LUNCH**

**14:00 APPLICATION OF INTERNATIONAL AND REGIONAL LAW IN SOUTH AFRICA**

**Chair:** Francisca Wessels (Sasol)

14:00-14:20 Remy Kinna (University of Cape Town (UCT)): *Muddying the international waters: Are the domestic and international legal regimes governing South Africa's transboundary watercourses compatible with the UN Watercourses Convention?*

14:20-14:40 Willemien du Plessis and Anél du Plessis (NWU): *Moving beyond the obvious: Mobilizing TBPA's to safeguard human rights*

14:40-15:00 Alexander Paterson (UCT): *Conservation and land reform: An unruly interface thrust upon South Africa's protected areas*

15:00-15:20 Marie Parramon (NWU/Imbewu Sustainability Legal Specialists): *Regulation of land based marine pollution in South Africa*

15:20-15:40 Susan Foster (NWU): *Harmonisation of mining legislation in SADC*

**15:40 Discussion**

**16:00 TEA**

**16:20 SESSION 3: JUDICIAL INTERPRETATION**

**Chair:** Mr Ernest Mokgane (Director: Transfrontier Conservation Areas, Department of Environmental Affairs)

16:20-16:40: Jenny Hall (Environmental Counsel CC): *A matter of judgment: Potential constraints in realising the courts' role in the development of sustainable development law.*

16:40-17:00 Anél du Plessis (NWU): *Human health through the lens of constitutional adjudication in South Africa: progressive or schizophrenic trends?*

17:00-17:20 Oliver Njuh Fuo (NWU): *The transformative potential of the constitutional environmental right overlooked in Grootboom*

**17:20 Discussion**

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**17:30 SESSION 4: ANNUAL GENERAL MEETING ENVIRONMENTAL LAW ASSOCIATION**

**Chair:** Peter Kantor (Chair Environmental Law Association)

**18:30 COCKTAIL FUNCTION**

**SATURDAY, 24 SEPTEMBER 2011 (Day 2)**

- 08:30**            **SESSION 5: REASSESSING SOME CONCEPTS**  
Chair: Alexander Paterson (UCT)
- 08:30-08:50    Tumai Murombo (Wits): *The public trust doctrine in South African environmental law: A reappraisal*
- 08:50-09:10    Peter Kantor (Chair ELA): *Establishment of the precautionary principle in South African environmental law*
- 09:10-09:30    Clara Bocchino and Michael Murphree (NWU): *RIO+: the fallacy of sustainable development*
- 9:30**            **Discussion**
- 10:00**           **SESSION 6: CLIMATE CHANGE**  
Chair: Castalia Moloji (Total Coal South Africa)
- 10:00-10:20    Andrew Gilder (Warburton Attorneys): *Status quo analysis of and developments in the legislative and policy bases for responding to climate change in South Africa*
- 10:20-10:40    Marie Parramon (Imbewu Sustainability Legal Specialists): *Legal implications of climate change adaptation in South Africa*
- 10:40-11:00    Tumai Murombo (Wits): *The missing link in multilateral environmental agreements (MEAs): Scientific cooperation and technology transfer in the UNFCCC & the CBD*
- 11:00            TEA and Mid-morning Snacks
- 11:20**           **SESSION 6: CLIMATE CHANGE CONTINUED**  
Chair: Justine Sweet (Cliffe Dekker Hofmeyr)
- 11:20-11:40    Gillian Arenstein (Warburton Attorneys): *Carbon Capture and Storage in South Africa: regulatory uncertainty or regulating uncertainty*
- 11:40-12:00    Stephen de la Harpe (NWU): *Public Procurement: An underutilised instrument in fighting climate change*
- 12:00-12:20    Ed Couzens (UKZN): *The ELA and COP 17*
- 12:20            **Discussion**
- 13:00**           **CLOSURE**  
Chair: Peter Kantor