

# *Editor's Note*

## *Note de la rédaction*

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**Arsalan Ahmed**

Volume 17 Editor-in-Chief / Volume 17 Rédacteur en chef

I am thrilled to present the seventeenth volume of the McGill Journal of Sustainable Development Law (MJSDDL) on behalf of this year's editorial board. For the past seventeen years, the MJSDDL has provided a critical forum for scholars, practitioners and students to exchange ideas on the intersection between law, development, the environment, economics and society. As the effects of climate change increasingly dominate discourses across disciplines and borders, the themes and issues raised in this Volume take on a new prominence.

Though relegated to virtual events, the MJSDDL continued to provide a forum to foster pertinent and meaningful contributions to sustainability discourse through our Speaker Series. A small silver lining in an undeniably challenging year, the new virtual format of the series allowed us to host a number of notable and inspiring experts from all around the world. In the Fall, we hosted Professor Randall Abate who gave an in-depth presentation on litigation against the fossil fuel and animal agriculture industries. Dr. Iris Goldner Lang presented her innovative research on the impacts of the COVID-19 pandemic on mobility policies in the European Union and Dr. Carla Sbert launched a timely discussion on the transition from environmental to ecological law, and the intersection of the climate and human rights. In the Winter semester, the MJSDDL was delighted to have Dr. Lisa Benjamin with us for a captivating exploration of the impacts that multinational corporations have on vulnerable communities, within the context of climate justice.

Turning to our current publication, on behalf of a dedicated and diligent editorial board, I am proud to present Volume 17, *In Crisis: Rights, Resilience and Responsiveness in a Pandemic*. With articles on themes ranging from natural resource use to energy transition, to Indigenous governance, this Volume contains valuable contributions to the literature on development and the environment that, we hope, will shape narratives on the possibilities of sustainable development law.

In the first article of Volume 17:1, Brenda Gunn argues Indigenous peoples' right to participate in decision-making is a foundational right, critical to the realization of a multitude of Indigenous rights, including the right to self-determination, the right to lands, territories and resources, and the right to culture. As climate change threatens the livelihood of Indigenous peoples and conservation measures are often undertaken at the expense of the rights of Indigenous peoples, Gunn analyzes how the fulfillment of Indigenous peoples' rights to participation, can serve as the groundwork for the realization of other substantive rights.

Next, Zackary Goldford, one of the MJSDDL's own editors, provides a thoughtful review on Professor Richard Lazarus' book, *The Rule of Five: Making Climate History Happen at the Supreme Court*. In *The Rule of Five*, Lazarus interrogates whether courts are the appropriate arena for environmental lawyers and activists to pursue policy change in light of a recent court decision that led to public policy change. Goldford's analysis proposes that environmentalists should focus their activism on the political branch.

Brandon Stewart shines some light on mandatory corporate climate-related disclosure regimes and how, though they could increase market efficiency and support an accelerated transition to a global low-carbon economy, there are shortcomings in such regimes that influence their expected impact on market efficiency. Stewart's analysis proceeds to underscore the dangers of the growing global obsession with mandatory corporate climate-related disclosure regimes.

Christopher Nowlin examines the growing trend in Canada of Indigenous peoples partnering with non-Indigenous capitalists in industrial-scale development projects. Highlighting the impact of resource extraction projects on climate change and the prioritization of profits by capitalist ventures, Nowlin questions the

inclusion of Indigenous peoples in these projects as an appropriate indicator of Indigenous socio-economic success.

Larissa Parker, a former senior editor on the MJSDL, provides a critical and topical analysis of climate litigation in Quebec through a comparative analysis of the *Association québécoise de lutte contre la pollution atmosphérique v. Volkswagen Group Canada* and *ENvironnement JEUnesse v. Attorney General of Canada*, class action suits. Parker's analysis puts forward that the Quebec Superior Court authorizing the former and not the latter this sends an unclear message as to whether climate change class actions are a viable form of litigation.

In the final piece of Volume 17:1, Suzanne Zaccour and Michèle Breton explore how game theory can be applied to the granting of legal personhood to the environment. According to Zaccour and Breton, legal personality makes the river a player whose interests are recognized and who can negotiate in its own name, which may in turn facilitate litigation and enable creative cooperative solutions.

In Volume 17:2, Frankie Young highlights the difficulties of alleviating economic disadvantage in Indigenous communities through inclusion in the mainstream economy, calling attention to the risk of loss culture and traditional values. Young proceeds to discuss a variety of asset governance structures, and how they may or may not meet the *sui generis* needs of Indigenous Nations.

Caecilia Alexandre, Iris Richer and Véronique Guèvremont discuss the ability of the 2005 *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions* to provide a suitable framework in guiding Parties to "live together." The authors emphasize the necessary inclusion of Indigenous peoples and cultures within this framework and, in doing so, seek to promote new forms of support for Indigenous cultural expressions, in accordance with the 2005 Convention and Canadian reconciliation processes.

Andrée-Anne Côté-Jinchereau, Christophe Krolik, Evelyne Thiffault and Luc Bouthillier provide a meticulous overview of forestry law in Quebec as it relates to the production and consumption of forest bioenergy, and energy transitions. The authors argue for rethinking forest planning in a way that better integrates forest biomass harvesting operations – a crucial tool in the fight against climate change.

Benjamin Johnson offers a compelling review of *Regulation of Extractive Industries: Community Engagement in the Arctic*, a collection focusing on engagement and consultation practices between Arctic communities and resource development actors. Johnson considers legal regimes governing these relationships and ultimately praises the book's diversity and intersectional appeal.

Providing another pertinent and topical book review, Martin-Joe Ezeudu examines *Canadian Law of Mining* by Professor Barry Barton, a work that seeks to conceptualize mining law as a distinctive field of law and covers timely innovations in the mining industry. Ezeudu concludes that, though there are shortcoming in the book, Barton succeeds in making the subject matter accessible to a range of readers.

Closing out Volume 18, Vincent Bellinkx, considers the transformational character of sustainable development law in multilateral energy investment through a meticulous analysis of the energy investment policies of multilateral development banks. Considering a number of challenges, Bellinkx concludes that sustainable development law has the potential to guide energy transition towards an environmentally feasible energy system.

Finally, we would like to express our appreciation for all of the authors whose contributions made this publication possible - thank you, for choosing the MJSDL, for sharing your expertise, and for trusting us to publish your research. We are also grateful for the invaluable work of our student editors and the many hours they put into this volume, for the numerous peer reviewers who donated their time and energy to ensure the MJSDL continues to meet the highest standards of academic rigor, and to our faculty advisor, Professor Richard Janda, for his invaluable guidance.

To our readers, thank you for your investment that allows us to provide this forum for dialogue on all areas of sustainable development law, and for your continued support. This publication would not have been possible without the financial support of students at McGill's Faculty of Law, whose contributions assure the longevity and continued growth of the MJSDL. We are also grateful for financing on behalf of Young Canada Works, whose generosity finances our Summer Office Manager position, allowing the MJSDL to grow and thrive year-round.