

**Foreword from the Editor-in-Chief****Sandrine Ampleman-Tremblay\***

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It has been a great honour to preside over the 15<sup>th</sup> edition of the Graduate Law Conference and to be Editor-in-chief of the current volume of the GLSA Research Series in my capacity as VP Academic of the Graduate Law Students Association (GLSA). The Graduate Law Conference became a key event on graduate law students' calendars worldwide and successfully reunited remotely and in-person almost 50 participants. We received applications from over 20 countries and 40 institutions, and it makes me extremely proud to witness the growth and internationalization of this conference over the years.

The GLSA Research Series, a post-conference publication, is a new initiative. Guided by the leadership of Mirosław Michał Sadowski, the first edition came to life in Fall 2021, almost exactly a year from now. My co-editors (Giusto Amedeo Boccheni and Michael Poon) and I had great shoes to fill when deciding to take over this project, but I hope you will agree that this volume also meets its dual goal of sharing innovative legal research while pursuing a legal education mission. The latter is an essential component of both the conference and the publication. Every paper has been presented by a graduate student or young scholar. For some, the conference was a very first try at academic presentation, and the publication a first attempt at sharing their work in a published forum. Encouraging and mentoring our participants is a mission that we take very seriously. A devoted team of McGill graduate students and alumni reviewed each contribution to provide feedback to our authors, providing the occasion to help strengthen the argumentation or structure of the papers and an opportunity for McGill students to perfect their reviewing and editing skills. Therefore, I believe our mentorship to have worked as a successful pedagogical tool for both the authors and the editorial team. The fact that many individuals who had participated in these activities last year returned or referred us to their peers is evidence of this success. I think I speak for all of us at the GLSA Research Series when I express how proud we are to be one of the only conference proceedings journals in Canada embracing a legal education mission by assisting graduate students and young scholars to bring their ideas out in the world.

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## Theme and Content

Since its 2019-2020 edition, the Graduate Law Students Association (GLSA) Conference's theme has been framed through cinematographic references. In 2019-2020, the organizing committee planned a conference inspired by the movie *Love Actually* and presented various panels discussing the legal implications of trust and intimacy. The 2020-2021 committee then organized a conference entitled "Law and the City", to homage the famous TV series and movies *Sex and the City*. In the spirit of maintaining this new cinematographic tradition, the GLSA of McGill University's Faculty of Law announced in the fall 2021 that the 15th edition of the annual McGill Graduate Law Conference would be inspired by the movie *Adaptation*. (2002). The conference, entitled "(Legal) Adaptation." took place on 5-6 May 2022 at McGill University in Montreal, Quebec, Canada. Participants were invited to comment on legal adaptation: a topic we believe to be extremely important in our world.

Indeed, the evolution of law in a variety of contexts has long been an interest of theorists and practitioners. In the words of de Montesquieu,

*"the political and civil laws of each nation ... should be adapted in such a manner to the people for whom they are framed that it should be a great chance if those of one nation suit another. They should be in relation,"* he argued, *"to the nature and principle of each government... to the climate of each country, to the quality of its soil, to its situation and extent, to the principal occupation of the natives ... to the degree of liberty which the constitution will bear; to the religion of the inhabitants, to their inclinations, riches, numbers, commerce, manners, and customs"* (Baron de Montesquieu, *De l'esprit des lois*).

In our fast-moving world, law must also adapt to the many challenges posed by epidemics and emergencies, technological development, ecological disarray, political uncertainty, and much, much more. Whether one conceives law as a cause or an effect of social change, legal adaptations abound across jurisdictions and over time. Individuals, communities, institutions, businesses, and states constantly facilitate and resist legal change. Legal adaptation thus emerges as a phenomenon that involves all sorts of actors and that is deeply entangled with the sites, networks, and systems of thought that bind them together.

This volume includes some of the best papers presented at the 2022 Conference. We divided this journal into three parts, reflecting the three events hosted by the 2022 Conference: the General Conference, the Maxwell and Isle Doctoral Seminar in International Law, and the Scotiabank Seminar on Addressing Anti-Racism, Diversity, and Inclusion.

This year's theme was especially effective in triggering novel research. The topic of legal adaptation, which was developed in a social justice lens of adapting the law to society's needs, has undoubtedly evolved in directions we were not expecting, as this volume will showcase. I was surprised and delighted to edit pieces that show that legal research is a place where we can foster creativity and expand beyond traditional legal fields. I invite you to read each paper as well as the introduction written with the collaboration of two exceptional co-editors who took the time not only to summarize the work published in the second edition but also to show how they form, together, an entity that must be read to understand the multi-faceted aspect of legal adaptation.

The volume starts with papers presented at the General Conference, one of the three events hosted by the conference. The authors tackled legal adaptation through various angles, notably inspired by the physical and natural environment. For instance, Marie Desaulles considers the deployment of strategic climate change litigation as an effective response to create change. For this purpose, Desaulles relies on an European Court of Human Rights case to illustrate the potential for supranational persuasion. Stefan-Michael Wedenig approaches legal adaptation differently. He uses Air-Rail alliances to demonstrate the possibilities and challenges presented by novel business and legal arrangements from legal and environmental perspectives. Grace (Li) Tian, using Game Theory to illustrate the need for adaptation, then considers the adaptations required for China to effectively address wind power and incentives/controls for its local governments. Debarati Pal's paper moves to issues related to our physical environment when she argues that international and state regimes in India, China, and Nepal must transcend borders to protect cultural heritage in sacred landscapes properly. Mariangela Barletta leaves the environment behind and unpacks legal adaptation in the context of health and reproduction. She contends that a lack of uniformity between the legislation of different jurisdictions, and the discrepancy between law and the state of scientific advances on reproduction pose ethical, moral, and legal questions. Barletta argues that as long as these queries are left unresolved, they will threaten women's rights. Shifting towards state responses to migration flows (sometimes spurred by environmental conditions), Eleonora Iannario considers citizenship programs as a shaping/selection program for their ideal citizens, using Israel as a major case study in terms of linguistic and state knowledge subject to testing. Paolo Galdenzi then suggests a pathway to adapt international law to promote culture across the realm of human rights. Cultural relations and cultural rights, sparsely addressed by international legal instruments, would thus be backed by a system of harder and softer law, to the advantage of human connectivity and mutual understanding, among both states and non-states actors. Finally, Hani El Debuch devises and details the critical steps needed to adapt International Humanitarian Law to the challenges posed by a world increasingly populated by armed non-state actors (ANSAs).

The author proposes to define the latter pragmatically and by way of reference to the Geneva Convention, in order to extend International Humanitarian Law to ANSAs and secure its effectivity through institutional inclusivity and engagement with informal multilateral participatory processes, such as backchanneling and humanitarian diplomacy.

This first wide-ranging part is followed by the papers presented at the Dean Maxwell and Isle Cohen Doctoral Seminar in International Law. This Seminar instituted in 2010 is named in honour of Dean Maxwell and Isle Cohen. Ms. JoAnne Sulzenko, daughter of the couple, generously agreed to write a short poem to introduce this section of the volume. The poem “a form of transparency” is then followed by two papers presented at the 2022 Seminar both focusing on matters of legal adaptation on the international scene. Legal Adaptation in the context of International Law is first tackled by Luter Atagher, who carefully dissects the ways in which International Trade Law appears to perpetuate and aggravate ecological harm. Multilateral trade regimes under the World Trade Organization, the author stresses, trend consistently towards liberalization and seem exceptionally resistant to systemic fine-tuning with environmental concerns. However, through the lens of pluralism, Atagher argues that the rigidities of the system can be circumvented and that normative evolution can draw from the decentralized push and pulls of negotiating nation-states and trade stakeholders. Gianluigi Mastandrea Bonaviri, on his end, sheds light on the seldom-discussed universe of cinematography in war zones. He draws a dotted line across several UNESCO Conventions and explores possible intersections with International Humanitarian Law. Using adaptation as a pair of scissors, he thus manages to cut out some room between them for cinema and its tangible and intangible expressions. By referring to the current armed conflict in Ukraine and reflecting on the testimony of Italian art director Sergio Iovino, the author underlines the significance of cinematography, not only as a means to preserve culture but also to foster peace and happiness where they are most needed.

Finally, the third part showcase papers from the Scotiabank Seminar on Addressing Anti-Racism, Diversity, and Inclusion. Within the framework of the Scotiabank Seminar, adaptation is addressed in tandem with the related strategy of translation by Michael Poon, who investigates how they can bridge a gap between legal and non-legal pedagogy. The author describes, more specifically, how diversity, equity and inclusion (EDI) initiatives can be adapted from the context of legal education to the teaching and training environment of the Canadian Armed Forces (CAFs). Poon especially argues in favor of case studies and simulations as means to integrate EDI initiatives into the pedagogical regimen of CAFs, while raising important caveats on their interaction with educational methodologies increasingly relying on technology and digitalization. Finally, Yuri Alexander Romaña-Rivas proposes a virtuous example of legal adaptation as embodied in the work

of Colombia's Special Jurisdiction for Peace. Through the original framework of "racialized legal pluralism," the author contextualizes the functioning and institutional characteristics of what has become both an instance of broad collaboration towards transitional justice, and a unique encounter between the State, armed non-state actors (ANSAs), Black communities, and Indigenous communities. As with the film which inspired this iteration of the GLSA Conference, the author emphasizes that "adaptation is a profound process" and, when truly understood as such, can become a paradigm for profound transformation and a proxy for positive change.

### **Acknowledgments**

As I mentioned previously, the GLSA Research series is a legal education project through which we encourage not only graduate students to go through their first publication process but also members of the editorial committee to get acquainted with the editorial process. I am delighted by the number and quality of candidates that manifested themselves either as authors or editorial board members. I wish to thank all of you without whom this volume would remain a mere possibility. More specifically, I wish to express my gratitude to my fantastic co-editors Michael Poon (General Conference) and Giusto Amedeo Boccheni (Specialized Seminars) for their dedication and enthusiasm – I could not have brought this volume to life without their commitment and insights; to all members of the conference committee (Tanya Oberoi, Isabella Spano, Maria Rodriguez Motta, Michael Poon, Giusto Amedeo Boccheni, and Luisa Castaneda Quintana) for their tiresome work between October 2021 and May 2022; to the editorial board (Michael Poon, Giusto Amedeo Boccheni, Isabella Spano, Luter Atagher, Atagün Mert Kejanlıoğlu, Lucas Clover Alcolea, Mariana Romanello Jacob, Mirosław Michał Sadowski, Vito Di Mei, and Upasana Dasgupta) for their insights throughout the review process; to our translator Bastien Savin who allowed us to offer high-quality bilingual abstracts for all papers; to Justice Michael Tulloch, Justice Harry Laforme and Dr. Ljiljana Biuković, Professor at the Peter A. Allard School of Law, our keynotes speakers who nourished every participant with their brilliance and wisdom; to Stefan-Michael Wedenig – VP Finance of the GLSA – who assisted me countless times since October 2021 and always responded with kindness and efficiency; to JoAnne Sulzenko who supported the development of the Dean Maxwell and Isle Cohen Doctoral Seminar in International Law at every stage and contributed significantly to this edition with her introductory poem; to Seyed Mohammad Zavarei who volunteered to take official pictures of the Graduate Law Conference, to Giusto Amedeo Boccheni and Siobhan Mehrotra who made sure every decision we took respected high standards of sustainability and inclusivity, both at the core of our concerns;

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If I forgot to thank someone – and it might be the case given this long and collective journey that is this project –, please note that this was not done in bad faith and that I will fix this situation as quickly as possible by correcting these acknowledgments. I am grateful to everyone who in one way or another made this volume come to life, and cannot express how wonderful my peers have been throughout the process. I wish you all a good reading and hope you are as enthusiastic as I am to witness the beginning of the academic careers of extraordinary graduate students.