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MEMORANDUM

TO: Executive Council, American Society of International Law
FROM: Karen Alter, David Gantz, Christina Hioureas, W. Michael Reisman, Anna Spain
Bradley (Chair)
DATE: December 5, 2018
RE: Report of the 2018-2019 ASIL Book Awards Committee

The ASIL Book Awards Committee is pleased to unanimously recommend the following authors and books for the three ASIL book awards and for two honorable mentions.

1. CERTIFICATE OF MERIT FOR A PREEMINENT CONTRIBUTION TO CREATIVE SCHOLARSHIP

The Committee selected Craig Forcese, *Destroying the Caroline: The Frontier Raid that Reshaped the Right to War* (Irwin Law Inc, 2018).

At 369 pages, Forcese's book is a comprehensive and engaging account of how a 19th century military action along the United States-Canada border came to inform today's international legal doctrines on the use of military force against non-state actors, and when anticipatory self-defense claims can be used as a pretext for war. The Caroline was a steamboat used to transport insurgents during the 1837 rebellion in Upper Canada. A Canadian militia attacked and sunk the steamboat in the United States waters. The diplomatic settlement that followed helped solidify the international legal principle of the inherent right to self-defense. By retelling this centuries' old narrative, Forcese opines on what the Caroline case's understanding of the right to war and the right to self-defense mean for today's battles and drone strikes, noting how far we've come or strayed from the original meaning of the Caroline settlement.

2. CERTIFICATE OF MERIT FOR HIGH TECHNICAL CRAFTSMANSHIP AND UTILITY TO LAWYERS AND SCHOLARS

The Committee selected Rosalyn Higgins, Philippa Webb, Dapo Akande, Sandesh Sivakumaran, and James Sloan, *Oppenheim's International Law: United Nations Volumes I and II* (Oxford University Press, 2017).

This work offers a comprehensive and impeccably researched guide on the work of the United Nations. Intended by the authors to serve as a practical guide for practitioners and academics, this work is impressive for its coverage of significant areas of the United Nation policy and practice. Comprised of four parts and 31 chapters, *Oppenheim's International Law: United Nations Volumes I and II* provide a treasure trove of insight into how the United Nations actually operates. For example, those looking to understand the voting structure of the Security Council will find not only the

official Charter-based rules and Council procedures but also informal practices that have come to shape the operation of the Security Council. Footnotes provide links to details regarding the negotiating history and interventions made by various delegations that provide context for the rules. In addition, the volumes provide a rich list of the most important cases decided by international courts, international tribunals, regional courts, national courts, United Nations' Committees and more that shape the operations of the United Nations. This work, which is disciplined, engaging, and highly accessible, will serve as necessary reading in international law for years to come.

Honorable Mention

The Committee selected C. Donald Johnson, *The Wealth of a Nation* (Oxford University Press, 2018) for an honorable mention in this category on the basis of the book's thoughtful historical study of the law and policy of U.S. tariff and trade policies. Covering the colonial era to the present, the book offers invaluable assistance in understanding the legal and political complexities surrounding international trade through a historical lens. At 639 pages, this hefty monograph takes the reader on a necessary journey through time revealing that today's complex and changing political-economic climate, even if frightening to many, is neither new nor unique.

3. CERTIFICATE OF MERIT IN A SPECIALIZED AREA OF INTERNATIONAL LAW

The Committee selected Maureen F. Tehan, Lee C. Godden, Margaret A. Young, and Kirsty A. Gover, *The Impact of Climate Change Mitigation on Indigenous and Forest Communities* (Cambridge University Press, 2017).

The book unpacks approaches to mitigating climate change covering REDD+ as an international legal regime and how REDD+ interacts with overlapping international institutions and operates in practice. After discussing international factors shaping the operation of the REDD+ regime, the authors take a bottom up approach of looking at how REDD+ operations in certain countries. The country chapters provide extensive and largely unknown details on the UN-REDD Programme in understudied countries, including those in Melanesia. *The Impact of Climate Change Mitigation on Indigenous and Forest Communities* also offers a critical lens about the assumptions and biases of this regime discussing the perspectives and interests of indigenous peoples who will face different harmful impacts from climate change. For example, the authors discuss how foundational REDD+ ideas, such as having forest communities create economic value for the forest by trading sequestration credits to developed nations, uphold an international legal regime based on Western notions of property and economics that do not account for indigenous people's own views. In doing so, this book contributes a more inclusive perspective to the existing literature on the legal and political debates surrounding climate change.

Honorable Mention

The Committee selected Orna Ben-Naftali, Michael Sfard, and Hedi Viterbo, *The ABC of the OPT* (Cambridge University Press, 2018) for an honorable mention in category due to its insightful treatment of how Israeli agencies, including the military, government, and different types of adjudicators invoke and apply international law and a range of legal concepts in the politically charged context of the Occupied Palestinian Territory (the OPT). The reader learns not only the little-known legal history of how Israel gained control over the West Bank, the Gaza Strip, the Sinai Peninsula, and the Golan Heights, but also how law and legality are constructed to manage difficult legal, political and security challenges. Using the lexicon heuristic of categories that run from A-Z, from Assigned Residences, to Future Oriented Measures, to Usufruct, to land that is designated in different types of Zones, the authors investigate how control of the OPT presents Israeli actors with numerous legal and political challenges, and how law and legality are bent to the needs and ends of Israeli actors. Beyond the subject matter of the OPT, readers can see how international law does and does not constrain state actors as they try to manage a situation of long-term and perhaps unending territorial occupation.

In conclusion, we thoroughly enjoyed the honor of reading and discussing all of the nominated books this year and were impressed by the high level of scholarship across a wide array of areas in international law.

Respectfully submitted,

2018-2019 ASIL Book Awards Committee

Anna Spain Bradley (Chair)

Karen Alter

David Gantz

Christina Hioureas

W. Michael Reisman