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MEMORANDUM

TO: Executive Council, American Society of International Law
FROM: Julian Arato, Chair
2021-2022 ASIL Book Awards Committee
DATE: January 12, 2022
RE: Report of the 2021 – 2022 ASIL Book Awards Committee

It was my pleasure to chair this year's ASIL Book Awards Committee, working with Kirsten Bookmiller, Kristen Eichensehr, Neha Jain, Steven Koh, and Cian Murphy. The Committee carefully reviewed over forty books nominated by their authors or publishers and unanimously recommends the following authors and books for the four ASIL book awards.

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

The Committee selected Ntina Tzouvala, *Capitalism as Civilisation: A History of International Law* (Cambridge University Press, 2020).

This exceptional book offers a novel history of the content and politics of modern international law that seeks to account for its manifold internal tensions. Tzouvala centers her account on the standard of “civilization” – originally the standard by which (Western) States judged which new (mostly non-Western) polities could be admitted into international society. Acknowledging that explicit references to civilization have been disfavored in international law in the last half century, Tzouvala explores how the concept has nevertheless pervaded the development and politics of international law to the present day. On Tzouvala's account, the standard of civilization is best understood as a persistent argumentative pattern – one characterized by a constant oscillation between two poles. On the one hand, she argues that the standard of civilization admits a “logic of improvement,” which holds out to polities the possibility of equal sovereign status on condition of modernizing reforms hospitable to capitalist development. On the other hand, the notion of civilization always returns to an exclusionary “logic of biology,” postponing the prospect of full equal status based on ideas of immutable difference. Tzouvala argues that these logics are in only superficial tension – rather, on her account, they both tend to serve the interests of capitalism as a global system of production and exchange. Sophisticated and beautifully written, this work resuscitates Marxist theory and deconstruction in historicizing international law anew, yielding a truly original and provocative account of international law and politics. It is creative and generative scholarship of the highest order.

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

The Committee selected Amal Clooney & Philippa Webb, eds., *The Right to a Fair Trial in International Law* (Oxford University Press, 2021).

This comprehensive volume expertly illuminates the right to fair trial under international law. The book roots its adept analysis in Article 14 of the International Covenant on Civil and Political Rights, which guarantees the right to a fair trial. Chapter by chapter, Clooney and Webb maintain the same exposition: initially providing the plain language of the relevant Article 14 sub-provision, and then surveying the origins and rationale of the right, defining it in international instruments, addressing any related rights, and considering questions of derogations, reservations, waivers, and remedies. This volume's greatest achievement is its remarkable mix of granularity and expansiveness: it details the contours of each fair trial right by canvassing a diverse array of international and regional legal sources—drawing not only on the Human Rights Committee and the International Criminal Court but also the African Commission's Fair Trial Principles and ASEAN Human Rights Declaration. The result is a highly textured account of a critical right that is axiomatic in our domestic, regional, and international legal systems. *The Right to Fair Trial in International Law* ably exhibits high technical craftsmanship and will undoubtedly be of considerable utility to practicing lawyers and scholars for many years to come.

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

The Committee selected Mira L. Siegelberg, *Statelessness: A Modern History* (Harvard University Press, 2020).

In this original and erudite account of the legal and conceptual history, Mira Siegelberg plucks the category of statelessness from a position of relative obscurity in international legal thought and shows how the phenomenon illuminates fundamental notions of statehood, sovereignty, and citizenship in the twentieth century international legal order. Drawing on a rich array of sources—pivotal court judgments, scholarly texts, records of international meetings, the biographies and trajectories of individual jurists, letters and petitions, and works of fiction—Siegelberg vividly illustrates the complex and contradictory roots of statelessness as both a condition of rightlessness and as offering a radical vision of a cosmopolitan political life freed from statist constraints. The book charts the history of statelessness as a contested concept caught between various transnational legal and political currents in the interwar period: such as legal positivism, British political pluralism, American legal realism, and the Vienna School of Law. It also uses captivating storylines, generating an almost poetic sense of historical narrative. In reflecting on the conflicting ideological foundations of statelessness, Siegelberg's book is a compelling invitation to rethink the conditions of belonging, the fragility of the links between individuals and nations, and who gets excluded in the global political order.

4. ROBERT E. DALTON AWARD FOR OUTSTANDING CONTRIBUTION IN THE FIELD OF FOREIGN RELATIONS LAW

The Committee selected Paul B. Stephan and Sarah H. Cleveland, eds., *The Restatement and Beyond: The Past, Present, and Future of U.S. Foreign Relations Law* (Oxford University Press, 2020).

This edited volume takes as its point of departure the American Law Institute's Restatement (Fourth) of Foreign Relations Law. It makes a significant contribution to the field by contextualizing the Restatement retrospectively, critiquing its provisions, and thoughtfully considering the utility of attempting to restate additional points of foreign relations law. Across six parts and twenty-five chapters, Stephan and Cleveland, who served as the Co-Coordinating Reporters for the Fourth Restatement, convene a diverse set of authors and perspectives to address topics including the history of the Restatements of foreign relations law, the law of treaties, international law in U.S. courts, international law's limits on domestic jurisdiction, immunities of various actors, and the prospects for future restatement efforts. The volume does not simply celebrate the newest Restatement and the areas of convergence that it achieved, but helpfully surfaces ongoing debates among leading foreign relations lawyers on particular issues and the project of restating foreign relations law more generally. The result is an authoritative overview of the present and possible futures of foreign relations law that serves as an indispensable companion to the Fourth Restatement. The volume is an ideal fit for the second annual Robert E. Dalton Award.

Respectfully submitted,

2021-2022 ASIL Book Awards Committee

Julian Arato, Chair

Kirsten Bookmiller

Kristen Eichensehr

Neha Jain

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Cian Murphy

cc: Catherine Amirfar, President
Mark D. Agrast, Executive Director