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TO: Executive Council, American Society of International Law
FROM: Harlan Cohen, Chair 2022-2023 ASIL Book Awards Committee
DATE: December 14, 2022
RE: Report of the 2022 – 2023 ASIL Book Awards Committee

It was my pleasure to chair this year's Book Awards Committee, working with Anne van Aaken, Asli Bali, Tim Meyer, Jaya Ramji-Nogales, and Mila Versteeg. The Book Awards Committee carefully reviewed nearly forty books and unanimously recommends the following authors and books for the four ASIL book awards. After multiple rounds of voting and considerable discussion, the Committee decided that two books were equally deserving and should both be awarded the Robert E. Dalton Prize.

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

The Committee selected René Provost, *Rebel Courts. The Administration of Justice by Armed Insurgents* (Oxford University Press 2021).

This exceptional book offers new views on the law in war zones delivered by armed insurgents, such as the FARC, ISIS, and the Taliban. The depths of the research, the diversity of legal and legal theoretical arguments, and the incredible effort undertaken by the author to conduct field studies under difficult circumstances are all extraordinary. The book is clearly a magnum opus, drawing on legal theory and international law, specifically International Humanitarian Law, Human Rights Law, and International Criminal Law, while integrating social science literature and social science methods of investigation.

The book opens our minds to things we rarely see. It enlightens understanding of the phenomena of rebel administration of justice, often dismissed summarily as illegitimate or unjust – if seen at all, allowing for a differentiated view. It questions deep-seated notions of the concept of law, positivism, and the necessary connection between state, order, and justice, leading us to a pluralistic understanding of law and a non-state centered normativity. Furthermore, it makes us rethink fundamental legal notions deeply ingrained and mostly unquestioned in our understanding of modern statehood as well as international law, namely the coupling of the exclusive monopoly of administration of justice with the nation-state. It is creative and eye-opening scholarship of the highest order.

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

The Committee selected Boyd van Dijk, *Preparing for War: The Making of the Geneva Conventions* (Oxford University Press, 2022).

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Edith Brown Weiss

This exemplary book provides a rich and insightful historical account of the drafting of the four Geneva Conventions of 1949. Van Dijk’s original and nuanced portrait casts new light on the making of the most influential humanitarian treaties of the contemporary era. The book questions the “foundation myth of the Conventions,” that depicts the drafters as “primarily motivated by liberal humanitarian principles and the shock of the atrocities of the Second World War.” Instead, he shows how the drafting process entailed a series of political struggles among largely American and European drafters who were themselves “active protagonists trying to shape the future of wartime.” By deciding “who deserved protection and what counted as a legitimate target,” van Dijk shows how the makers of the conventions tried to both imagine and delimit coming wars drawing on their past experiences – as combatants, prisoners of war, victims of atrocities, colonial administrators, diplomats and scholars – and their conceptions of the different state interests they sought to advance – whether anti-imperial or determinedly colonial, hegemonic and rivalrous, or anxious about civil conflict. Van Dijk’s original archival research, his focus on the drafters as political actors, his historiographical lens centered on the future expectations shaping state interests and his application of critical legal methodologies intertwine to provide a creative and pathbreaking work, remarkable for its historical and methodological contributions. This certificate of merit recognizes the important corrective to the literature on the history of humanitarian law that van Dijk has provided and his remarkable contribution to the study of the rules that both establish the legality of waging war and seek to humanize future battlefields.

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

The Committee selected Damilola S. Olawuyi, *Environmental Law in Arab States* (Oxford University Press, 2022).

This monograph offers an authoritative guide to the core principles and rules governing environmental protection in the Arab world. Beginning with a detailed history and conceptual definitions, it moves into a meticulous and comprehensive discussion of sources of environmental law in Arab states; domestic, regional, and national actors in environmental law; and values and principles of environmental law as applied in Arab nations. The book does a remarkable job demonstrating in precise detail the scope and depth of an understudied yet vitally important area of international law: the application of environmental law in nations that hold and produce the majority of the world’s oil. The volume’s thoughtful structure nimbly balances its thoroughness and precision, analyzing its topic with remarkable granularity while remaining eminently readable. After providing the historical, conceptual, and legal context, the book offers a range of pertinent and timely examples of how environmental law is applied in practice in Arab states, from construction and town planning to chemicals and hazardous wastes to low carbon energy transition and green growth. This systematic, comprehensive and insightful book exhibits high technical craftsmanship and offers exceptional utility to practicing lawyers and scholars.

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

The Committee selected *both* Lisa Ford, *The King's Peace* (Harvard University Press, 2021) and Tom Ginsburg, *Democracies and International Law* (Cambridge University Press, 2021).

Lisa Ford's careful and colorful historical account traces the growth of colonial executive power in the British empire in the eighteenth and nineteenth centuries. The book shows how contests within the empire over subjecthood and citizenship, over who should be protected and from whom, gave way to notions of the imperial peacekeeping, of *the King's peace*, that required new modes of constitutional governance that were increasingly authoritarian in nature. To keep its empire together, colonial governors reached for coercive methods based on the idea that law in the colonies could diverge from law at home. This insightful book helps us understand the origins and evolution of foreign relations law in a colonial context as well as the root causes of inequalities between center and periphery.

Tom Ginsburg's *Democracies and International Law* is a book for our age of anxiety. At a time of consternation both for the health of domestic democracies and the future of international order, Ginsburg eschews the often-utopian visions of prior eras in favor of realistic appraisals grounded in empirics and evidence. Rather than assuming any particular relationship between international law and democracy, Ginsburg investigates how both democracies and autocracies use international law and the shape of international legal orders they build. At the same time, he investigates when and how international law can be used to protect democracy from authoritarian backsliding. Throughout, Ginsburg skillfully interweaves theory with data and examples from around the world. The result is a roadmap to a post-liberal international order that charts a realistic path for those committed to a prodemocratic international law. *Democracies and International Law* brings important new perspective to "the study of national law bearing on foreign relations or of international law as it relates specifically to national law" not just in one country, but worldwide.

In conclusion, it was a true pleasure to read and to discuss the books nominated this year. We were impressed by the high level of scholarship across a wide array of areas in international law. We also express our gratitude for the support of Selma Laporte of Tillar House.

Respectfully submitted,

2022-2023 ASIL Book Awards Committee

Harlan Cohen, *Chair*

Anne van Aaken

Ash Bali

Tim Meyer

Jaya Ramji-Nogales

Mila Versteeg

cc: Gregory Shaffer, President
Michael Cooper, Executive Director