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### MEMORANDUM

TO: Executive Council, American Society of International Law  
FROM: Joan Donoghue, Chair  
2020-2021 ASIL Book Awards Committee  
DATE: December 15, 2020  
RE: Report of the 2020 – 2021 ASIL Book Awards Committee

It was my pleasure to chair this year's Book Awards Committee, working with Julian Arato, Rebecca Ingber, Steve Ratner, Leila Sadat and Jarrod Wong.

The Book Awards Committee carefully reviewed over forty books and unanimously recommends the following authors and books for the four ASIL book awards.

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

The Committee selected Francine Hirsch, *Soviet Judgment at Nuremberg: A New History of the International Military Tribunal after World War II* (Oxford University Press, 2020).

This exceptional book tells the story of Soviet participation in the Nuremberg Trial and Judgment. It is the result of 15 years of effort by the author, providing the reader with a new, important and heretofore missing perspective. Relying heavily on archival Russian-language material, Hirsch chronicles the participation of Soviet jurists (e.g., Aron Trainin) at Nuremberg, noting that Trainin first articulated the concept of a crime against peace, which ultimately served as the conceptual framework for the entire trial. Hirsch's clear-sighted perspective illuminates two awkward truths – that illiberal authoritarian regimes may sometimes positively shape international law and that international justice is an inherently political process. Rich in detail and beautifully written, the book is essential reading for the historian as well as the lawyer. The concluding chapter describes Soviet participation in early efforts by the United Nations to codify the Nuremberg principles and international human rights law. Despite the cold war rivalries that predominated at the time, the book ends on a hopeful note – although the “real story” of Nuremberg is messier than generally understood, its contribution to a better future is undeniable.

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

The Committee selected Janet Blake & Lucas Lixinski, eds., *The 2003 UNESCO Intangible Heritage Convention: A Commentary* (Oxford University Press, 2020).

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This comprehensive commentary on the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage provides an authoritative guide to the development, interpretation, application and implementation of the Convention. The editors have assembled a team of leading experts who have undertaken a meticulous article-by-article analysis of the Convention as well as a broad survey of its history and impact. The book takes account of the travaux préparatoires and the relevant “jurisprudence,” including UNESCO committee decisions, and state, regional and international practice. The result is an illumination of a novel and significant instrument that plugs an urgent gap in the preservation of humanity’s cultural heritage, namely, its intangible manifestations such as a community’s traditional practices, expressions, knowledge, and skills. In sum, the commentary is systematic, thorough and insightful in its treatment of the Convention, and will be welcomed by practitioners and scholars alike.

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

The Committee selected Jerome A. Cohen, William P. Alford & Chang-fa Lo, eds, *Taiwan and International Human Rights: A Story of Transformation* (Springer Nature, 2019).

This edited volume addresses a fascinating, challenging, and understudied story in international human rights law – how Taiwan, whose very status as a party to human rights treaties remains contested, engages with and internalizes human rights into domestic laws and practices. The editors have gathered leading scholars and practitioners, mostly from Taiwan, to offer a comprehensive assessment of Taiwan and human rights that manages to steer clear of ideological cleavages over Taiwan's status. The book covers a broad gamut of topics, including Taiwan's transition from authoritarianism, conceptual questions such as Taiwan's approach to Asian values and constitutionalism, the institutional challenges of incorporating and monitoring treaties, and the status of various protections in domestic law. By showing how this sui generis entity has engaged with international rules in a legal gray zone, the book offers profound insights into international law’s effects on states’ internal practices and international reputations.

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

The Committee selected Curtis A. Bradley, ed., *The Oxford Handbook of Comparative Foreign Relations Law* (Oxford University Press, 2019).

This book’s singular achievement is that it consolidates the field it sets out to study. It develops a comparative approach to the study of foreign relations law – a surprisingly underutilized and understudied methodology in this area. It does so critically and pluralistically, celebrating the potential of diverse comparative methods and approaches. The book also follows through, amply demonstrating the payoff of comparison across a series of

in-depth inquiries into the perennial issues in foreign relations law. Curtis A. Bradley brings together a host of outstanding contributions by first-rate authors from diverse and representative legal backgrounds. Across seven parts and nearly fifty contributions, the volume examines: (I) concepts and methodology; (II) treaty-making; (III) federalism and foreign affairs; (IV) relations with international institutions; (V) domestic application of international law; (VI) immunity and comity; and (VII) the use of force. The book's triumph lies in how it takes a comparative methodology seriously throughout. Rather than present a series of siloed studies on practices in various jurisdictions, the editor and authors consistently prioritize interrogating the specific payoffs of comparison. The result is an enormous methodological and substantive contribution, highly accessible for experienced scholars, practitioners, and new students alike. This book will serve as a foundational text for years to come. It is difficult to imagine a better fit for the inaugural Dalton Award.

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,

2020-2021 ASIL Book Awards Committee

Joan Donoghue, *Chair*

Julian Arato

Rebecca Ingber

Steven Ratner

Leila Sadat

Jarrold Wong

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