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## UPCOMING MEETINGS

ASIL Annual Meeting, "What International Law Values," April 12-15, 2017 in Washington, DC.

CALL/ACBD Conference, "Celebrate Our History | Create Our Future," May 7-10, 2017 in Ottawa, ON, Canada.

AALL Annual Meeting, "Forgo the Status Quo," July 15-18, 2017 in Austin, TX.

IFLA World Library and Information Congress, Aug. 19-25, 2017 in Wroclaw, Poland.

IALL Annual Course, October 22-26, 2017 in Atlanta, GA.

## Standing Rock and International Law - Mni Wiconi (Water Is Life)

Joan PolICASTRI

### THE ISSUES

The situation at Standing Rock and the legal issues involved are evolving so quickly, domestically, that an article written today may be out of date before it is even published (like the Environmental Impact Statement comments which were overtaken by Presidential Memorandum).

The conflict at Standing Rock over placement of an oil pipeline under the Standing Rock Sioux Tribe's primary source of drinking water has many dimensions, and the Tribes involved (primarily the Standing Rock Sioux and Cheyenne River Sioux) maintain that the United States has failed to fulfill both its domestic and international law obligations. There are several ongoing domestic cases in the United States District Court for the District of Columbia.

As a supplement to the domestic cases, and to address questions of international law, a request for Precautionary Measures was made to the Inter-American Commission on Human Rights (IACHR). A hearing was held on December 9, 2016. International law issues raised in the request include: human rights, cultural and religious rights, cultural survival, and treaty rights. There are also charges that the rights to freedom of assembly, expression, and association have been, and continue to be, violated by the militarized police and private security guards being used. The United States is accused of failing to protect the "... rights to life, physical integrity and personal liberty, security, health, [and] protection against arbitrary arrest..." of the Water Protectors and their supporters.

### SUMMARY

In 1851 and 1868, the U.S. government

signed treaties with the Sioux nations covering a vast territory, including what are now the Sioux reservations, and the Missouri River. The treaties have been breached and violated numerous times by the United States and have been modified by various acts of Congress. The treaties are important because they establish the Eastern boundary of the Standing Rock Sioux and Cheyenne River Sioux reservations as being the center of the Missouri River, and the Tribes maintain that federal land under the U.S. Army Corps of Engineers' (the Corps) jurisdiction is unceded ancestral land under these treaties. The camps, prayers, and resistance are all taking place on lands reserved for the Sioux Tribes by these treaties and include sacred burial grounds, ceremonial grounds, and other areas of historic and religious value.

During the 1950s, flooding concerns on the Missouri River led to legislation creating dams on the Missouri River. In 1954, the Standing Rock Oahe Act authorized a dam which created Lake Oahe. Courts have recognized that the Flood Control Act takings statutes did not diminish their associated reservations (See Solicitor's Memorandum M-37038).

Many timelines begin with the current pipeline route and ignore the original proposal to cross the Missouri River north of Bismarck, North Dakota. This original route was changed due to concerns expressed by Bismarck residents that an oil pipeline spill would contaminate their drinking water. The route was then changed to the present plan, moving the pipeline south of Bismarck, and making the crossing under Lake Oahe. In testimony before the IACHR in December 2016, Germaine Tremmel of the Standing Rock Sioux Tribe called this

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## From the Chair

Alison Shea

Welcome to another wonderful issue of the *FCIL Newsletter*! Before you enjoy all the exceptional content, there are just a few things I'd like to bring to your attention.

### 2017 ANNUAL MEETING – AUSTIN

Although it seems like only yesterday that we were gathering in Chicago, the **2017 AALL Annual Meeting** in Austin is right around the corner! I'm happy to share that our FCIL-SIS sponsored program "**Cuban Law and Legal Research: A Snapshot During the Deshielo**", organized by Marisol Florén and Julianne Grant, will be held on Monday, July 17 at 9:45 a.m. in ACC-Room 18AB. This extremely timely program will provide attendees with a snapshot of Cuban law and an assessment of legal resources as they exist, and will also feature commentary on the current state of US-Cuban relations from Professor Jorge R. Piñon of the University of Texas.

Another program of interest to FCIL-SIS members is "**Global Energy Law: Perspectives from North America and Africa**," organized by Yemisi Dina, which will be held on Sunday, July 16 at 11:30 a.m. in ACC-Room 18AB. This program will highlight the role of natural resources and how compliance with local laws and international treaties feature in both Texas and African jurisdictions.

Tremendous thanks to our Education Committee co-chairs, Alex Zhang and Dennis Sears, all FCIL members who proposed programs, and the members of the Summit Task Force who submitted a workshop proposal that was unfortunately not accepted, for all their hard work in creating, editing, and submitting program proposals during a very busy time of the year.

More information about programming, including FCIL-SIS meetings, will be included in the May 2017 *Newsletter*. In the meantime, FCIL-SIS members may want to consider submitting proposals for the **poster sessions** (deadline April 14) and "**Discussion Dens**" - apparently a more ferocious-sounding name for what used to be called Coffee Talks (deadline May 15) - which feature topics of interest to our members. The world is not short of things to discuss these days, so if you have an innovative project or classroom technique you've been working on, or a topic that you think FCIL-SIS librarians may be well placed to discuss, be sure to submit a proposal!

### ELECTIONS

I am delighted to announce that Catherine Deane, Foreign & International Law Librarian and Lecturer in Law at the Vanderbilt Law School Alayne Queener Massey Law Library, has been nominated to run for the position of Vice-Chair/Chair Elect, and Sabrina Sondhi, Special Collections & Services Librarian at the Columbia Law School Arthur W. Diamond Law



Alison Shea, FCIL Chair

Library, has been nominated to run for the position of Secretary/Treasurer for 2017-18. Congratulations Deane and Sabrina, and stay tuned for more information from our current Secretary, Loren Turner, regarding the upcoming elections which will be held from March 27 – April 14.

### FCIL-SIS AWARDS

There's no way the FCIL-SIS could have remained an active member of the AALL community for over 30 years without the hard work and dedication of you, the members of the SIS who help make it great! So many FCIL-SIS members have dedicated their time and talent to making the organization such a valuable resource to the profession, and the Executive Committee is once again looking for your help in identifying these members who have made a significant contribution to the SIS. Nominations are currently being accepted for the following awards:

- The **Daniel L. Wade FCIL-SIS Outstanding Service Award** honors an FCIL-SIS member who has made outstanding contributions to the Section in the areas of section activity and professional service.
- The **Spirit of the FCIL-SIS Award** presented each year to member(s) whose work furthers our mission, serves the entire FCIL-SIS, and inspires others to act.
- The **Thomas H. Reynolds and Arturo A. Flores FCIL-SIS Publications Award** is given to an FCIL-SIS member or members who have greatly contributed to the professional development of their AALL colleagues during any given year. The winning "publications" may be print, digital, or electronic initiatives.

Award nominations are due March 31, 2017 to any member of the Executive Committee: **Alison Shea**, **Alex Zhang**, **Loren Turner**, or **Lucie Olejnikova**, and specific nomination criteria for the awards can be found in the respective hyperlinks above. We look forward to hearing from you!

## Standing Rock *continued from page 1*

“blatant environmental racism.”

The current situation began in December 2014 with the application by Energy Transfer Partners (ETP) for a 1,178-mile oil pipeline, called the Dakota Access pipeline (DAPL). It will carry up to 500,000 barrels of oil from North Dakota through South Dakota and Iowa and connect to an existing pipeline in Illinois, where the oil will go to the Gulf of Mexico. The route takes the oil pipeline under Lake Oahe, which is less than one mile north of the Standing Rock Sioux Tribe reservation and is the source of the Tribe’s drinking water. Knowing the propensity for oil pipelines to leak and spill, the Tribe said, “no” to the project. Tribal objections were ignored and in April 2016, Sacred Stone Camp was established as a peaceful prayer camp for the Water Protectors. This camp grew and others were established in an effort to raise awareness and get the pipeline route reconsidered.

In July 2016, The Corps granted permits at more than 200 water crossings, and the Standing Rock Sioux filed suit against Energy Transfer Partners and the Corps of Engineers. The camps grew, the State of North Dakota sent in police, and ETP hired private security guards. Confrontations began in August 2016 and over the Labor Day weekend, ETP sent bulldozers to destroy sacred sites that had been reluctantly identified in court records the Friday before the holiday, and sent private security guards, who used attack dogs, to stop protestors who were putting their lives at risk to protect sacred grounds. Harassment and violent suppression of Water Protectors and their allies continued throughout the fall, with the federal government failing to intervene.

### THE FILING

Article 25 of the *Rules of Procedure of the Inter-American Commission on Human Rights* (Effective Aug. 1, 2013) allows the Commission to “...request that a State adopt precautionary measures. Such measures ...shall concern serious and urgent situations presenting a risk of irreparable harm to persons or to the subject matter of a pending petition or case before the organs of the Inter-American system.” Definitions of the relevant terms are provided in Art. 25 (2):

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due

to their nature, would not be susceptible to reparation, restoration or adequate compensation.

On December 2, 2016, the Standing Rock Sioux Tribe, the Cheyenne River Sioux Tribe, the Yankton Sioux Tribe, Earthjustice, and the American Indian Law Clinic at the University of Colorado Law School filed a request for Precautionary Measures with the Inter-American Commission on Human Rights. The presentation in support of this request was heard on December 9, 2016, as a “Request for Precautionary Measures Pursuant to Article 25 of the IACHR Rules of Procedure Concerning Serious and Urgent Risks of Irreparable Harm Arising out of Construction of the Dakota Access Pipeline.”

Documents and their obligations cited in the request are:

1. The United Nations Declaration on the Rights of Indigenous Peoples, citing specifically the right to Free, Prior, and Informed Consent, and to Meaningful Consultation. Given the seriousness of potential consequences, no meaningful compensation is said to be possible.
2. Jurisprudence of the Inter-American Court – The case of the Saramaka People v. Suriname (indigenous land rights and extractive industries) the case of the Yake Axa Indigenous Community v. Paraguay (2005) (States’ failure to acknowledge indigenous rights in ancestral lands). The case of Mary and Carrie Dann v. United States, Case 11.140, Report No. 75/02, I.A.C.H.R., Doc. 5 rev. 1 at 860 (2002), in which the Shoshone land rights under the Treaty of Ruby Valley were upheld by the Inter-American Court of Human Rights, is also cited.
3. The International Covenant on Economic, Social and Cultural Rights (Art. 11, 12 Right to Water).
4. The Inter-American Commission on Human Rights, Report of the Office of the Special Rapporteur for Freedom of Expression (February 2006).
5. Report from the Inter-American Commission on Human Rights, *Indigenous Peoples, Afro-Descendent communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities*, OEA/Ser.L/V/II, Doc. 47/15 (Human Rights & Extractive Activities) – (cited extensively).
6. American Declaration on the Rights of Indigenous Peoples – Article XXI – Right to Assembly.
7. The American Convention on Human Rights– Article 15 - Right to Assembly.
8. IACHR, 2015 *Annual Report*, “Access to Water in the Americas: An Introduction to The Human Right to Water in the Inter-American System.”

International legal obligations identified include:

The obligation to obey treaty law, the most basic of which is *pacta sunt servanda* – the agreement must be kept – and relies

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## Standing Rock *continued from page 3*

on the principle of good faith. Germaine Tremmel's testimony calls for compliance with treaty obligations, or, if the U.S. chooses to unilaterally abrogate the treaty, the Standing Rock Sioux Tribe has no reciprocal obligation and both parties will return to their respective positions prior to the treaty signing. All profit will be forfeit. She asks that the IACHR recommend internationally mediated negotiations on the treaty issues.

### CURRENT STATUS (which changes weekly, if not daily)

On Jan. 24, 2017, President Trump issued a [Presidential Memorandum](#) asking the Corps to speed up the easement approval. On February 7, 2017, without further negotiation or consultation, the Corps issued the final permit and drilling began immediately. While the tribes have various motions and appeals before the U.S. District Court for the District of Columbia, Judge Boasberg has decided that there is no immediate threat as the pipeline is not yet completed and has declined to issue a restraining order. Dakota Access has filled the pipeline in anticipation of the final connection under Lake Oahe and anticipates that the pipeline will be in operation anywhere from March 6 to April 1, 2017.

A 35-page Department of the Interior Solicitor Memorandum

(M-37038) date-stamped December 4, 2016, and only recently made available, reviews the first environmental assessment and finds many flaws, including inadequate consideration of tribal treaty rights and uneven treatment of the impact on native and non-native peoples. The *Winters* Doctrine, NEPA, and trust responsibility issues are also raised. Tribal lawyers have filed additional briefs based on this new information.

The Inter-American Commission has been quiet on the filing and the testimony presented to it in December. At this time there is the possibility of another hearing sometime in March 2017.

### BEST RESOURCES

While I set up alerts on Westlaw, Lexis Advance, and Bloomberg, the best resources were:

1. E&E News – A not-inexpensive subscription, however, this was the best resource on the topic. It was timely, accurate, comprehensive, and provided links to important documents;
2. [NYC Stands with Standing Rock Syllabus](#);
3. Created by Indigenous scholars it provides significant background materials;
4. The Guardian Newspaper – very timely, provided a perspective not seen in domestic newspapers;
5. And, as always for Indian Law issues, [Turtle Talk](#).

## 8 Hours in Oslo?: The Storting, “The Scream,” & “The Angry Boy”

Julienne E. Grant

Knowing that I was already going to be in Copenhagen, and knowing that I could practically see Russia from there (à la Sarah Palin), I got out my credit card and booked a Baltic cruise last May. I was a little hesitant about doing this “*sola*,” but discovered that I wasn't really alone with several thousand other passengers on board. I fairly quickly, however, ditched the Americans I kept meeting, as they were not of my political persuasion. Instead, I ended up palling around with some Brits who belonged to the anti-Brexit camp.

When you go on a cruise, you have to be well organized, particularly if you don't want to spend hundreds of dollars for land excursions. (As an aside, though, I admit that I got out my credit card again in Saint Petersburg, Russia, as I did not want to flail around trying to find [The Hermitage](#)). The usual scenario is you have about eight hours to explore a port of call. I liken the situation to CBS's “[The Amazing](#)

[Race](#),” albeit at a slightly slower speed, with no chance of winning cash and prizes. So, the night before we docked in Oslo, I carefully planned my day with a city map in hand.

Serendipitously, we were there on a Saturday, which is the only day of the week that the Norwegian Parliament ([the Storting](#)) offers tours (thankfully in English). There is only one tour per day, they are limited to 30 people, and you have to arrive early to ensure a spot. Thus, upon disembarking, I immediately beelined for the Storting. With about an hour to kill, I ended up chatting with some Dutch students who had a panoply of questions about our Presidential election. In retrospect, I really led them astray, emphatically declaring that “something like that will *never* happen.”

Speaking of government matters, the Kingdom of Norway is a constitutional monarchy. The [Constitution of 1814](#) (the

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## 8 Hours in Oslo? *continued from page 3*

second oldest written constitution in the world, **according to the Norwegians**) divides state power into executive, legislative, and judicial branches. The monarch is the Head of State, currently **His Majesty King Harald V** (“royal watchers” will be familiar with the Norwegian royal family that has experienced a few scandals along the way, although nothing compared to the recent antics of some of Spain’s royal crew). The Norwegian Prime Minister, the Head of Government, is **Erna Solberg**, the second female to serve in that position. Unlike other European countries (such as Italy), the Prime Minister does not have the constitutional authority to recommend that the Government be dissolved. Norway is not a member of the EU (leave your euros at home), but it has a **Mission to the EU**, and is a party to the **Agreement on the European Economic Area** (EEA).

Legislative power in Norway is vested in the unicameral Storting, which in Norwegian means “the great thing,” or

“the great council.” The Storting comprises **169 members** who are elected every four years. Norwegian elections were most recently held in September 2013, and there are now eight political parties represented in Parliament. Norway uses the **parliamentary electoral system**, which is based on direct elections and proportional representation; Norwegians vote by choosing party lists of candidates instead of individual politicians. Therefore, the number of party member seats in the Storting is determined by the proportion of votes cast for those parties in Norway’s 19 constituencies. A **centre-right coalition** won 96 seats in the last election, forcing out what was known as the **Red-Green coalition** – a centre-left group, headed by the **Labour Party**.

Per Article 76 of the Norwegian Constitution, **bills** can be proposed by the Government, or individual representatives. A Government bill takes the form of a **Proposition to the Storting**, and is the result of thorough preparatory work. Before being presented to the full chamber, however, the Proposition must be vetted and approved by the *Statsrådet*, which is the **Council of State**, also known as the King in Council. The Council of State is comprised of the Prime Minister and other senior government officials, with the Norwegian monarch serving as chair. H.R.H The Crown Prince (**Prince Haakon**) also attends the Council’s meetings, which normally occur every Friday at 11 a.m. in the Royal Palace.

After a Proposition has been introduced in the Storting, it is transmitted to one of **12 standing committees**. The committee considers the Proposition and then submits its recommendation with a proposed decision to the Storting where it is read for the first time. A positive decision upon the first reading is not final, but a Proposition is dropped if it is rejected at this stage. If the bill passes the first reading, three days must elapse before the Storting may vote on the Proposition a second time. If passed on the second reading, it is sent to the King in Council for signature (both the King and the Prime Minister must sign), known as the Royal Assent. If the Storting reaches a different conclusion on the second reading than the first, the Proposition will be read a third time. If passed (by majority, with a quorum of at least 50 percent), it receives the Royal Assent, and is published in the Norwegian Law Gazette, the *Lov om Norsk Lovtidend m.v.*

Propositions may also take the form of a Resolution, which often involves public fund allocations. This is quite obviously an important area, given Norway’s social welfare system. Much of the Storting’s legislation is actually regulatory in nature, rather than statutory:

“The Constitution states that the legislative power is exercised through the Storting. In practice, however, the Storting



Ballot Box in the Lagting (all photos by Julienne Grant)

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## 8 Hours in Oslo? *continued from page 5*

delegates much of its power to the Government and public administration. This is done by adopting framework Acts or enabling Acts that give the Government or public administration the authority to issue further provisions, rules and regulations. It is calculated that there are approximately three times as many regulations as Acts.<sup>21</sup>

The Storting itself has another important responsibility, which is appointing the five members of the **Norwegian Nobel Committee**, which selects the annual winner of the Nobel Peace Prize. Committees of Swedes decide the winners of the other four original Nobel Prize categories, as well as the Prize in Economics.

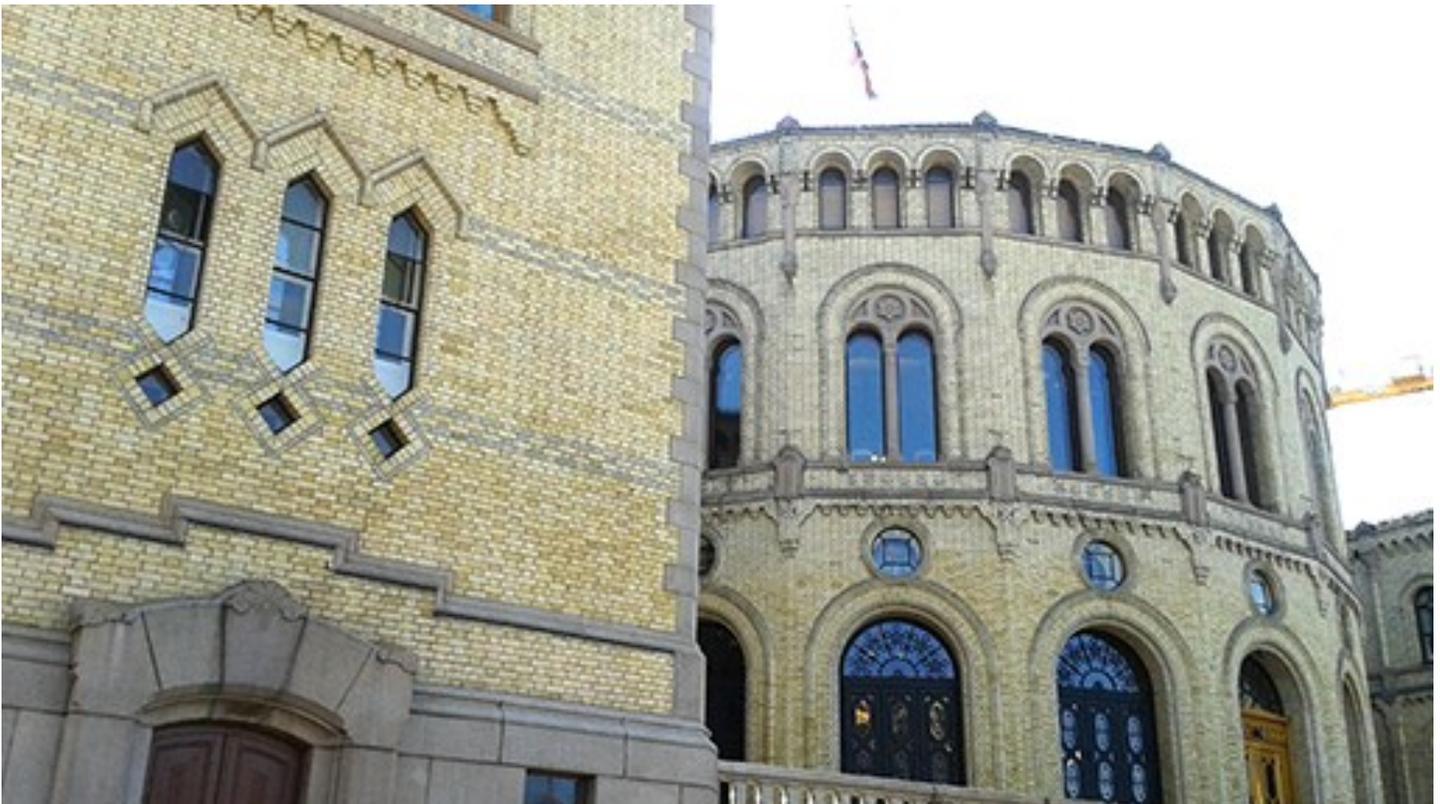
The Storting's chamber is extremely elegant with royal red carpeting and wall panels, with much of the room highlighted in shimmering gold accents. The King opens legislative sessions each October, and delivers the Speech from the Throne, which is a "presentation of the Government's programme for the coming year."<sup>22</sup> After the King's speech (no pun intended), a member of the Government reads the Report on the State of the Realm. According to the current President of the Storting, **Olemic Thommessen**:

"The [opening] ceremony itself is a clear reflection of certain essential elements of our social structure, and illustrates the division of responsibilities in our constitutional democracy. This is the one day in the year that the King comes to the Storting, while the members of the Government and the Supreme Court are also present in the Chamber. The ceremony itself is prescribed in the Constitution. Basically this means that the King – or his regent – opens the Storting in accordance with set procedures that have been laid down in Article 74 of the Constitution since 1814."<sup>23</sup>

**The Presidium** of the Parliament, consisting of the President and five Vice Presidents, administers and schedules the Storting's business. Up until 2009, parliamentary business was divided into two departments for addressing legislation—the *Odelsting* and the *Lagting*. What was once the *Odelsting* is now the Storting's chamber, and the *Lagting* hall, which is adjacent, is now used for other functions. The *Lagting's* original ballot urn still sits prominently atop a lectern in that chamber.

The Storting itself is housed in a building in the center of Oslo that was constructed in the 1860s (completed in 1866) and was ironically designed by a **Swede**. Upon first glance, it looked to me like a medieval fortress. According to a book that our guide (a cool guy, and a walking encyclopedia of

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Exterior of the Norwegian Parliament (Storting)

## 8 Hours in Oslo? *continued from page 6*

Norwegian politics) kindly gave me, the building has multiple influences, including Romanesque architecture, and the Rome Colosseum.<sup>4</sup> Interestingly, the building's architect arrived in Norway with his proposed plan for the building, straight from Italy where he had studied Lombardian sacred architecture. There is a large model of the entire Storting complex constructed out of Lego bricks (only in Scandinavia, right?) on display in a hallway. The interior of the building is a veritable museum of Norwegian art, with stunning sculptures, tapestries, landscape paintings, and portraits of prominent figures in Norwegian history. Really impressive.

With about five hours left in Oslo after my quick introduction to Norwegian politics, I somehow managed to get myself to the [National Museum](#) to see [Edvard Munch's](#) famous painting, "[The Scream](#)" (1893). (BTW, some of his other work housed here is equally as provocative.) I also made a quick visit to [Vigeland Park](#), which is a sprawling 80-acre sculpture park incorporating the works of [Gustav Vigeland](#) (1869-1943). Some of the pieces are pretty wild, including the "[Angry Boy](#)" (1928), which reminded me of that "[Dancing Baby](#)" video that went viral a number of years back.

Notwithstanding the expressions of anguish depicted by some of Norway's greatest artists, the Norwegians seem to be quite content (Norway ranked no. 4 on the "[World Happiness Report 2016 Update](#)"). Their rejection of EU membership back in 1994 seems to suggest that the Norwegians are perfectly happy on their own and like the way they do things. (For sure, they are not keen on emulating anything American these days after a former Norwegian Prime Minister was [detained at Dulles Airport](#) in early February.)

Eight hours is certainly not enough time for me to claim that I know Norway. However, visiting the heart of Norwegian political life, and viewing some of the country's cultural treasures, allowed me to capture a bit of the Norwegian essence. This essence includes an understandably strong connection to the natural world, which is beautifully displayed during the journeys in and out of Oslo's harbor. There is also a strong sense of pacifism in the Norwegian psyche, which is certainly reflected in Norway's important role in selecting Nobel Peace Prize laureates. For anyone who has not been to Norway, I recommend it; I plan to go back (for more than eight hours).

### SOURCES CONSULTED

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Stortinget. [The Norwegian Parliament](#). Oslo: The Storting's



Interior of the Storting

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This-Evensen, Thomas, Sissi Solem Winge, and Svein Aamold. *The Norwegian Parliament: its Art and Architecture*. Translated by Inger Fluge Mæland. Oslo: Stortinget, 2000.

### FOOTNOTES

<sup>1</sup> STORTINGET, THE NORWEGIAN PARLIAMENT 17 (2015).

<sup>2</sup> *Id.* at 27.

<sup>3</sup> <http://olemicthommessen.com/the-state-opening-of-the-storting/> (last visited Feb. 22, 2017).

<sup>4</sup> THOMAS THIS-EVENSEN et al., THE NORWEGIAN PARLIAMENT: ITS ART AND ARCHITECTURE 39-40 (Inger Fluge Mæland, trans., 2000).

## Cuban Chronicles: Segunda Parte (A Bibliophile's Shopping Guide to Havana)

Teresa Miguel-Stearns

In the last issue of the *FCIL Newsletter*, I wrote about my visit to the Biblioteca Nacional José Martí in Havana, Cuba on June 13, 2016. The following day, June 14, I met with Carmen Moreno-Armas and Osvaldo Betancourt-Pérez, a Cuban couple employed by RettaLibros of Montevideo, Uruguay. RettaLibros supplies our law library with books from Uruguay, Paraguay, Colombia, Venezuela, and Cuba. I had arranged this meeting in advance through Luis Retta as I wanted the opportunity to understand first-hand the book trade in Havana.

About 9 a.m., I met Carmen and Osvaldo in the lobby of my hotel, the Hotel Nacional de Cuba, which is government owned and spectacularly situated on a hill overlooking the sea. Carmen and Osvaldo had never been inside. We were all wearing comfortable shoes and light attire given the oppressive summer heat and humidity, and understanding that we would do some walking about Havana this day. Out on the main street, we hopped into a 1950s-era black and red



All photos by Teresa Miguel-Stearns

Chevy that took us to the opposite side of Havana, passing through some strangely well-off neighborhoods, especially compared to the impoverished, crumbling homes I had passed while walking from the old town to my hotel days earlier.

During the 20-minute classic Chevy adventure, Carmen and Osvaldo explained to me that there were only a few publishers and distributors of Cuban legal materials on the island, since the presses are still exclusively controlled by the central government. They also confirmed that they would cover all expenses today, from taxis and busses to book purchases. They would then send Retta all the books purchased and an itemization of our expenses; Retta would in turn send the books to New Haven and invoice the law library. I had agreed upon this with Luis Retta before leaving the United States for reasons that are likely obvious: (1) Carmen and Osvaldo would obtain a much better price for the books; (2) there are two strictly controlled currencies in Cuba – one for locals and one for tourists (not the U.S. Dollar) – which also increases tenfold the tourist price for everything, including transportation; (3) in the event one doesn't spend all one's money (which would have likely been my case as I had no idea as to what I might be able to purchase) changing money back to U.S. dollars is difficult and is done at a huge loss; (4) I did not want to risk carrying the books back with me to the United States and losing them to customs or strict charter plane weight limits, paying high tariffs, or otherwise running into complications. Make no mistake, Cuba is a complicated country in many, many ways.

Our first stop was Ediciones ONBC – a legal publishing cooperative. ONBC had a curious glass case display, enclosed in a small securable kiosk at the corner of their parking lot, containing the most recent publications going back a few years. Thanks to my colleague, Cate Kellett, who took over collecting for Latin American and Iberia from me two years ago, I had a spreadsheet of all our Cuban titles on my iPad that I could quickly access to determine which titles we already owned. There were a few, but not many. Therefore, I purchased the remaining ones through Carmen and Osvaldo. When Carmen went into ONBC to make the purchases, Osvaldo and I walked across the street and down to the next corner so that ONBC would not see the *gringa* and charge Carmen exorbitant prices now and in future visits. Carmen and Osvaldo purchase many legal titles from ONBC for Retta.

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## Cuban Chronicles *continued from page 8*

After close to an hour wait (remember, I mentioned in my previous article that the pace in Havana is nothing like ours), we headed to our next stop – the Unión Nacional de Juristas. This is the home of Cuba’s national bar association, a converted house with meeting and reception rooms and a small storefront. Here I was able to see and purchase, and set up a standing order with Carmen and Osvaldo, two Cuban periodicals: *Revista Cubana de Derecho* and *Revista Jurídica*. I also purchased several more titles through Carmen.

Carmen and Osvaldo live near the UNJ, and we stopped home briefly so they could drop off the books we had already purchased before heading to our next stop. While waiting for Osvaldo, Carmen explained to me their employment with Luis Retta: the Cuban government now allows Cubans to work for foreign nationals but in doing so they lose many of their government subsidies since their wages are more substantial. She also explained that Cubans could now open a proprietary business, such as a restaurant or store, but were heavily taxed on their profits. This is the simple version of a complex labor culture and code.



Upon Osvaldo’s return, we hopped onto a colorful, animated, jam-packed, salsa-blasting bus and headed back toward the old town to the neighborhood around La Universidad de La Habana. There we entered a more modern bookstore, Librería Alma Mater, selling texts intended for university students but clearly frequented by patrons of all ages looking for long-awaited releases, all with short runs. Librería Alma Mater had an expansive collection of books on all subjects, all published in Cuba by Cuban scholars, looking inward and outside of Cuba, including current legal, history, and social science titles. Not surprisingly, several titles critiqued the United States’s relationship with Cuba in various

sectors of life across a variety of subjects. Others applauded the progress of the Cuban people in other areas such as medicine and education. Needless to say, I bought quite a few books at Librería Alma Mater and was tempted to purchase many more.

Our final stop was on a whim. Carmen remembered her friend’s second-hand bookstore in old Havana, L’Antigua Habana, and wondered if she might have some hidden gems. This turned out to be a truly special find. In this bookstore I purchased – with American dollars since it is in the tourist part of town – about 15 books including the first publication, about 1960, of laws after the Revolution; a 1940 essay on why bullfights should be outlawed on the island; and an 1895 beautifully illustrated book about Cuba and its Judges published in Philadelphia in Spanish. See [Mike Widener’s entry](#) describing in more detail a few of my purchases on his Rare Book Blog. When I inquired about the legality of returning to the United States with some of the older books, the owner gave me a copy of Cuba’s export laws which she keeps handy for customers and for her own protection as well.

Our day ended back at the Hotel Nacional de Cuba where I invited Carmen and Osvaldo to join me for a *cerveza* overlooking the sea. By now we were close friends, and what a special treat for two lifelong Havana residents to enjoy their national hotel. While sipping a Bucanero, we organized all the receipts and books, a few of which I decided to carry home (I had no issues at customs). We also reviewed our day’s conversations around what I was looking for in legal books, what our “profile” should be, to inform their future purchases for my library. I finally had the opportunity to give Carmen and Osvaldo a few small gifts from the United States: for Carmen, Ghirardelli dark chocolate (there is no chocolate for locals in Cuba) and a colorful, light silk-blend scarf, which she said would come in handy in the winter when it’s “cool” and breezy; and for Osvaldo an authentic, button-down jersey of St. Louis Cardinals Hall of Famer, Bob Gibson. Osvaldo immediately declared he was a Yankees-to-Cardinals convert and was certain he was the only one on the entire baseball-mad island with a Cardinals jersey! We said a bittersweet goodbye as they left for their dinner commitment and promised to keep in touch, which we have.

Within a month, my library received all the books I purchased while in Cuba; they had since traveled from Havana to Montevideo to Miami to New Haven. In all, I purchased about 70 titles, making this an extremely productive and exciting trip. And I also made new, lifelong friends on an island to which I hope to return one day soon.

## Feature: Books to Show You The World

One of the most valuable aspects of our SIS is having Interest Groups that focus on different regions, legal systems, and peoples from around the world. *FCIL Newsletter* asked your colleagues to recommend a few titles that highlight aspects of their IGs. We hope you enjoy travelling around the world from your armchair. Do you have titles you want to highlight? Email us!

### Indigenous Peoples Law Interest Group Recommendations

Joan PolICASTRI

#### **INDIGENOUS CONFLICT MANAGEMENT STRATEGIES IN WEST AFRICA: BEYOND RIGHT AND WRONG**

*By Akanmu G. Adebayo, et al., eds.*

This book takes a traditional viewpoint when looking at options for indigenous conflict management in West Africa. With sections on Ghana, Nigeria, and Cameroon, as well as an opening section with a general overview, this series of essays provides insight as well as instruction. It sets conflict in the colonial context in chapters such as “Border Disputes in Africa and Traditional Approaches to Resolving Them” by Joan Mbagwu. The underlying theme of this book is that Western law and court systems have largely failed to resolve conflicts and that traditional understanding of the causes of conflict and its resolution are the only way to move forward. “Long,” “tortuous,” and “challenging” are words used to describe the peace process. There is no attempt to underplay the time and efforts involved, no matter the specific process, region, issue or peoples involved.

In this book you will meet the Igbo Society of Southeastern Nigeria, and the Yoruba of Western Nigeria and their complex and detailed connection to the earth. Some of the themes discussed include: the power of kinship in conflict resolution and the balance of sacred cults as reflecting their traditional three forms of government (legislative, judicial, executive) which also includes religious and social roles. Specific examples such as this enrich the narrative and bring a comparative understanding to the material.

The book’s conclusion, while based on the African experience, would seem to have wide application. Why has the confusion wrought by colonialism lasted so long? “What exactly is at stake in reformulating modes and methods of conflict engagement, and grounding contemporary West African practices in deeply rooted cultural traditions and practices that evolved specifically to provide a context and framework for conflict resolution? One reason is that this kind of thinking strikes at the very core of Eurocentrism, the centered nature of Western subjectivity and its universalized practices. All modern disciplines and fields of work simultaneously operate in this terrain. The context is one in which a single episteme, the Western, is and has been hegemonic, in other words, dominant at all levels of society, across all insti-

tutes, and almost globally.” (p. 330)

#### **LAW AT LITTLE BIG HORN: DUE PROCESS DENIED**

*By Charles E. Wright*

There are many books written on the Battle of the Greasy Grass, or the Little Bighorn, but reading one that applies international law concepts to that turning point in history is something that this reader anticipated with interest. I have to admit that I only read the chapters directly on “law” in this book, and found them short, but interesting. The two chapters are titled “Laws, Treaties, and the Doctrine of Good Faith” (Chapter 4) and “The 1868 Treaty of Fort Laramie and President Grant’s Conspiracy.” Seeing the application of treaty rights and terms applied to Indian treaties in the time when they were negotiated, when there should have been no discussion of the relevance of the treaties, was quite enlightening. The chapters do a nice job of discussing the Constitutional obligations of the president, which President Grant did not follow. While declarations of war were made against other adversaries, bringing further scrutiny and obligations, the “Indian Wars” were undeclared wars and followed no recognized rules on any level. The deception and coercion, and lack of court overview practiced by the United States in this context, is what the author refers to as “due process denied.”

There is an interesting discussion of the Lieber Code (General Orders No. 100), its development and spread to both the Confederate Army and beyond to the beginnings of international humanitarian law, serving as the foundation for both the Hague Conventions and the Geneva Conventions. But its practices were not observed by the generals who engaged in the genocidal war against the Indians. Mr. Wright discusses the concept of genocide as developed after World War II and applies it historically. The actions by U.S. Army generals, and General Sherman in particular, are quite simply crimes against humanity, in any age and under any circumstances. Generals Crook, Miles, and Mackenzie are described as “...perpetrat[ing] egregious acts of wanton violence, pillage, and sacking against Cheyenne and Lakota in the dead of winter.” And thereby violating Order No. 44, prohibiting wanton violence against persons and property. If you are familiar with Indian Law and the writings of Stu-

*continued on page 11*

## Feature: Books to Show You The World

### Indigenous Peoples *continued from page 7*

art Banner and Robert A. Williams, Jr., the legal concepts discussed in the book will not be new. The applications of then-existing domestic law, constitutional, and military law, as well as a modern discussion of human rights, treaty law, and the law of war, in the overall context of the battle, provides a new angle on an old story.

#### THE EROSION OF TRIBAL POWER: THE SUPREME COURT'S SILENT REVOLUTION

By *Dewi Ioan Ball*

Reading the introduction to this book made me so envious. The thesis of this book is that between 1959 and 2001, the actions of the Supreme Court precipitated the erosion of the Indian sovereignty doctrine. In order to support this thesis, the author researched the notes and papers of Supreme Court decisions at the National Archive in Washington, D.C. Rather than providing the analysis of an outsider, this book analyses the cases using the materials produced and used by the Justices when making decisions. The title tells you the story.

## African Law Interest Group Recommendation

Yemisi Dima

#### AMERICANAH

By *Chimamanda Ngozi Adichie*

*Americanah* is based on a love story that revolved around 3 continents - Africa, North America, and Europe. The themes of race, gender, and identity feature prominently in this award winning novel. Adichie's story gives a vivid description of the lives of young teenagers of various ethnic and class structures in military-ruled Nigeria from the late 1970s to the 1990s and the beginning of a democratic government. It subtly describes the different ramifications of corruption and highlights a very degenerative period and the beginning of professional brain drain in the country.

Ifumelu and Obinze dated from high school until they went to university. But in the early part of her undergraduate education in Nigeria, the main character, Ifumelu, receives a partial scholarship to study in the United States where she eventually completes her education.

The novel is an excellent illustration of the experiences of an international student in search of greener pastures "who hungered to understand everything about America". In her many trips to the library, Ifumelu reads and learns more about "America's tribalisms – race, ideology, and region".

#### NOBODY HERE WILL HARM YOU: MASS MEDICAL EVACUATION FROM THE EASTERN ARCTIC, 1950 – 1965

by *Shawn Selway*

This story of a little known episode in Canadian history presents another aspect of settler colonialism: the use of western medicine as a pretext for Canadian imposition on the Inuit. The book shares the stories of the Inuits removed from their villages and moved to Hamilton, Ontario for treatment. This action split families and is seen by some as equivalent to the problems created by residential schools. "The medical evacuations were an extreme of colonial assertion and Aboriginal subordination not previously seen in the North, although matched also by a number of relocation experiments occurring at the same time (Tester and Kulchyski)." (p. 216). Telling the story of the identification and treatment of tuberculosis infection among the Inuit in the 1940s, this book explores in detail the history of white/indigenous contact the ways in which contact influenced the creation and spread of the disease, the impact that a caring attempt to combat the disease had on the Inuit, both intentionally and unintentionally, and the implications this history has for genuine reconciliation.

The novel brings out a lot about African immigrants in the United States: their lifestyles, mode of dressing (Ifumelu's natural hair and experiences at the African salon), and education. Meanwhile, after graduation, Obinze travels to the United Kingdom after the system in Nigeria fails him. Facing all odds and in the midst of his "immigration worries," he misses his love and never fails to reminisce about their times together.

The two young lovers find ways of surviving in their foreign environments by engaging in odd jobs, socializing, and forming new relationships with people of various ethnic backgrounds. In the midst of this learning curve and adjustment, Obinze remains in Ifumelu's thoughts even as she finds herself in cross-cultural relationships. The story ends with both characters moving back to Nigeria under different circumstances and reuniting for good.

Adichie's award winning book is a good read that resonates through fiction the culture shock experienced overseas by African immigrants on issues of race and identity. The author uses poetic humor to engage the mind of the reader. It identifies the role of social media, constantly including excerpts from Ifumelu's blog and relating to the use of other media. *Americanah* is a good pick for FCIL librarians who love to read fiction for a broader understanding of other jurisdictions.

## Feature: Books to Show You The World

### Latin American Law Interest Group Recommendations

Sergio Stone and Julienne E. Grant

#### **HISTORIA DE LA CORTE SUPREMA ARGENTINA, BUENOS AIRES**

By Alfonso Santiago, Héctor José Tanzi, and María Rosa Pugliese, and Luciano Calero

To commemorate the 150th anniversary of the Supreme Court of Argentina in 2013, the publisher Marcial Pons commissioned constitutional scholars from the University of Buenos Aires and Universidad Austral to write a three-volume history of the court. They produced an impressive publication that combines substantive analysis of case law, explanations of political context, and ready reference features.

The editors divide the court's history into twelve chronological stages. The chapters for each stage include profiles of the members of the court, essays on domestic and international political events that influenced the court, and doctrinal analysis of leading cases decided in those years.

The third volume includes biographical information for all judges that have served on the court, as well as charts that provide descriptive statistical analysis of the court's case load. The work concludes with black and white photographs of the interior of the building, which is an architectural gem.

Overall, these volumes are an informative blend of doctrinal legal scholarship, historical and social context, and some empirical analysis. The time and resources expended on this study demonstrate the growing importance of case law in civil law jurisdictions such as Argentina. It deserves a wide readership and should serve as an inspiration for interdisciplinary judicial histories in other Latin American countries. Perhaps the publisher would consider an English translation, or at least an online version that would facilitate translation using online tools.

#### **EMPIRE'S CROSSROADS: A HISTORY OF THE CARIBBEAN FROM COLUMBUS TO THE PRESENT DAY**

By Carrie Gibson

When I returned from a trip to the Caribbean last year, I wanted to learn more about the history of the region, and this book really fit the bill. In this highly readable tome, author Carrie Gibson, a British journalist, covers 500 years of marauding, pillaging, and chaotic scrambles for power. Tracing the history of the region from the Europeans' first violent encounters with indigenous populations, to the politics

of the current day, Ms. Gibson writes with authority and aplomb.

The Americans, British, French, Spanish, Dutch, Portuguese, and even the Danes have had economic, political, and geographic interests in this small area of the world. For centuries, sugar was king in the Caribbean, and slavery was the brutal means utilized to get it to the markets where profits could be made. Ms. Gibson brilliantly sorts out the international brigade of interests, the economics of the Caribbean sugar industry, as well as the impact of both on island societies. She also delves deeply into the Caribbean slave revolts, focusing on the Haitian Revolution, which I admittedly knew little about before reading *Empire's Crossroads*.

This book is impeccably researched, and Ms. Gibson presents the results of her investigations in a manner that is erudite but accessible. *Empire's Crossroads* won several awards in 2014, including being named one of *The Observer's* (U.K.) "Best History Books" for that year. Highly recommended for anyone interested in what has generally been a rather enigmatic part of the world.

#### **THE CHILE READER: HISTORY, CULTURE, POLITICS**

By Elizabeth Quay Hutchison et al., eds.

Part of Duke's "Latin America Readers" series, this volume on Chile showcases the written output of Chilean poets, politicians, historians, and even a Saint (Alberto Hurtado). All entries have been translated into English, and they collectively span some 500 years of Chilean history. The book is divided into eight chapters, primarily focusing on specific historical periods, although there is a separate chapter on "Environment and History." Each chapter, as well as each entry, has introductory material. It's a wonderful selection of content that includes poems by Pablo Neruda and Gabriela Mistral, a piece by Andrés Bello (originally Venezuelan, but he drafted Chile's first *Civil Code*), and a speech by Michelle Bachelet, Chile's current President. There are also relevant photographs interspersed throughout.

The book is recommended for non-Spanish speakers who want to understand the Chilean national identity. I have not seen the other books in this series (for Cuba, Ecuador, Brazil, Argentina, etc.), but I imagine that they are similar in scope and editorial methodology and would serve the same purpose.

## Feature: Books to Show You The World

### Roman Law Interest Group Recommendations

Marylin Raisch

#### THE CAMBRIDGE COMPANION TO ROMAN LAW

By *David Johnston, ed.*

This collection of essays covers the historical, historiographic, and topical approaches to Roman Law in a thorough and accessible way. The essays are separately authored and enable this companion to be used as a reference tool for sound answers to specific questions, or for immersion in the context of the legal issues covered by major phases of ancient Roman law. Most of the essays assume that the modern researcher is attempting to place the study of Roman law in the longer arc of legal history that brought some of the same topics and approaches into modern civil law. As a result, Justinian, Byzantine, and canon law periods are covered, and the overall focus of the collection is to describe both the continuity of ancient law with modern civil law as well as its remoteness from it. This is nicely summarized in a closing essay by the well-known scholar Reinhard Zimmermann.

#### THE OXFORD HANDBOOK OF ROMAN LAW AND SOCIETY

By *Paul J. du Plessis, Clifford Ando, and Kaius Tuori, eds.*

The editors make clear that this collection of essays, intended (like the Cambridge Companion above) to be a solid reference work, will adhere to specific temporal parameters: "...from roughly the second century BC to the sixth century AD." (3). This is a common Republic- to- Empire framework, and these sophisticated and scholarly essays cover procedural and substantive law, both criminal and non-criminal. The tone is technical and highly informative, including evidence for the law and sources from papyrology, conveying the real spirit of the law in its concrete transmission, both orally and in writing. By taking up valid yet modern-sounding concerns that arose in late antiquity, such as urban landlords and market prices, and locating them in the sources, this superb collection demonstrates the sophistication and relevance of ancient Roman law, without in any way making its importance seem forced or driven by a desire to entice reluctant modernity into the study. On the contrary, it inspires the reader to learn how much the law was able to contribute to organizing, and buffering tensions within, human society as it moved toward greater complexity.

#### CICERO'S LAW: RETHINKING ROMAN LAW OF THE LATE REPUBLIC

By *Paul J. du Plessis, ed.*

In an even more restricted frame of time, this study concentrates on the contributions made by what we know of Cicero's career to our knowledge of Roman law in the late Republic. The contributors look at the law, lawyers, and legal practice. Cicero has been seen by many scholars as more significant in politics and political theory than in the study of Roman law, probably owing to his political career and consulship. The contributors focus not only on what survived of Cicero's writings relevant to law, but also on the reception of his legacy contemporaneously and in the later legal culture. This sheds light not so much on his atypical or "outsider" status but perhaps more on why lawyers may have thought themselves better potential politicians at a time when they were better orators. The risks of rhetoric seem mild now when seen from the perspective of "fake news;" however, it was considerably more subtle.

#### SPQR: A HISTORY OF ANCIENT ROME

By *Mary Beard*

Forgot or never really knew Roman history? You will enjoy Mary Beard, a myth-busting and opinionated scholar. This could be an addition to any reference "classics" of history that a law library might already have on hand. Enjoy this along with her feisty TLS blog on classical studies and academics, *A Don's Life*.

## Submissions For Next Issue

**FCIL Newsletter is looking for submissions for our next issue.**

#### ARTICLES

**Conference reports, library visits, exhibit descriptions, resource reviews, member news, etc. Open call for authors.**

#### SUBMISSION DEADLINE

**May 1, 2017.**

#### QUESTIONS?

**Contact [Deborah Schander](#).**

## FCIL-SIS Member Recent Publications Round Up

Our SIS is fortunate to include in its ranks exceptionally talented and enthusiastic writers. With this new feature, we are happy to spread the word of their recent publications.

### SPECTRUM

Roberta I. Shaffer, *Strategist Or Opportunist: What Is Your Career Path?*, 21 AALL: Spectrum, Jan./Feb. 2017, at 14.

### JOURNAL ARTICLES

Alyson M. Drake, *The Need for Experiential Legal Research Education*, 108 Law Libr. J. 511 (2016).

Alex Zhang, *Discovering the Knowledge Monopoly of Law Librarianship under the DIKW Pyramid*, 108 Law Libr. J. 599 (2016).

Frederick W. Dingley, *The Corpus Juris Civilis: A Guide to its History and Use*, 35 Legal Ref. Serv. Q. 231 (2016).

### BOOK CHAPTERS

Timothy G. Kearley, *Justice Fred. H. Blume and the Translation of Justinian's Codex*, in *Codex of Justinian: A New Annotated Translation, with Parallel Latin and Greek Text* (Bruce W. Frier ed., 2016).

### BLOG POSTS

Beau Steenken, *Reference Librarians, Institutional Memory, & Bluebook Common Law*

Beau Steenken, *Bridging the Political Gap (or yawning chasm) in the Classroom*

Kim Nayer: *#Research4Refugees: A Cross-Canada Law Student Effort*

Lyonette Louis-Jacques: *Researching the Rights of Indigenous Peoples in Canada*

### NEWSLETTER ARTICLES

Susan Gaultier, *Leadership Academy Report: Networking, Mentoring, and Collaboration*

Benjamin J. Keele, *Law Libraries as Publishers Producing Articles Instead of Issues*

Aaron Wolfe Kuperman, *Changing Jurisdictions and Cataloging Rules*

Luz Verguizas, *Fear of Commitments: An Acquisitions Librarian's Troubled Relationship with Standing Orders*

Aaron Wolfe Kuperman, *Laws, statutes, etc.*

### BOOK REVIEWS

Sunil Rao, Book Review, 44 Int'l J. Legal Info. 287 (2016) (reviewing John Lawrence Hill, *After the Natural Law: How the Classical Worldview Supports Our Moral and Political Values* (2016)).

Marylin Johnson Raisch, Book Review, 44 Int'l J. Legal Info. 285 (2016) (reviewing J. A. Indaimo, *The Self, Ethics and Human Rights: Lacan, Levinas & Alterity* (2015)).

Herb Somer, Book Review, 44 Int'l J. Legal Info. 290 (2016) (reviewing Agnieszka Jachec-Neale, *The Concept of Military Objectives in International Law and Practice* (2015)).

Fred Dingley, Book Review, 9 Unbound: Rev. Legal Hist. & Rare Books 148 (2016) (reviewing *Business Regulation* (Edward J. Balleisen ed., 2015)).

Kyle K. Courtney, Book Review, 108 LLJ 662 (2016) (reviewing Adam Cohen, *Imbeciles: The Supreme Court, American Eugenics, and the Sterilization of Carrie Buck* (2016)).

Wanita Scroggs, Book Review, 108 LLJ 667 (2016) (reviewing Juan Denzer, *Digital Collections and Exhibits* (2015)).

Benjamin J. Keele, Book Review, 108 LLJ 677 (2016) (reviewing Sahar Maranlou, *Access to Justice in Iran: Women, Perceptions, and Reality* (2015)).

**Do you have items to submit for the next issue? Email Jingwei Zhang.**

## FCIL Newsletter

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