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Book Review: Sources of State Practice in International Law

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BOOK REVIEW

Sources of State Practice in International Law. EDITED BY RALPH GAEBLER & MARIA SMOLKA-DAY (Ardsey, NY: Transnational Publishers, 2002). \$155, looseleaf.

*Anne Burnett**

International law students and researchers learn early in their studies that Article 38 of the Statute of the International Court of Justice names customary international law as one of the “sources of international law.”¹ Custom as a concept is difficult to define, and reference librarians witness the further difficulties international legal researchers face when attempting to locate the actual documents and publications which provide tangible evidence of custom.² While international agreements are often available in collections—either through an official domestic publication,³ an international organization serving as a repository,⁴ or a commercial publisher compiling treaties by subject⁵—the international legal researcher seeking evidence of customary international law in the form of “state practice” often faces a more daunting task in identifying and locating relevant materials. In his oft-cited international law treatise, Brownlie provides a lengthy list of the sources of custom, including diplomatic correspondence, policy statements, press releases, the opinions of official legal advisers, official manuals on legal questions, executive decisions and practices, orders to naval forces, patterns of treaties, and governmental comments on International Law Commission

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¹ Statute of the International Court of Justice, Oct. 24, 1945, art. 38, 59 Stat. 1031.

² During the discussion of custom and state practice in the University of Georgia School of Law’s course on International & Comparative Legal Research, students often want to know where they can find this type of material. Their frustration grows when they actually tackle a legal issue requiring them to find evidence of state practice in the real world. As I send the students to look for yearbooks, repertories, international law digests, collections of diplomatic documents, etc., I have often lamented the lack of an efficient reference tool that would provide more direction to the search for evidence of a particular state’s practice.

³ See, e.g., CANADA’S TREATY SERIES.

⁴ See, e.g., UNITED NATIONS TREATY SERIES.

⁵ See, e.g., INTERNATIONAL TAX TREATIES OF ALL NATIONS (Walter H. Diamond, ed., 1997).

drafts.⁶ Even savvy international legal researchers, already familiar with the types of publications containing these materials, can spend a great deal of time identifying such publications for a specific jurisdiction. *Sources of State Practice* promises to become the research tool that will economize these efforts.

This kind of jurisdiction-by-jurisdiction work, which anticipates future updates covering many more jurisdictions and including more references to the explosion of internet resources, benefits from the contributions of a distinguished group of international legal information professionals and other legal professionals who serve as jurisdiction authors. Although the editors give each jurisdiction author leeway in the scope of coverage, the presentation of the jurisdictional chapters is sufficiently uniform to allow the researcher to evaluate quickly the type of bibliographic and background information available, and where in each chapter to find that information.

In this inaugural incarnation, *Sources of State Practice* compiles the publications, print and electronic, for fourteen jurisdictions in North America and Europe, plus a multi-jurisdictional chapter. Each jurisdictional chapter includes the following categories of information sources: Issues of Succession, Treaty Implementation, Method of Publication, General Treaty Collections, Topical and Selected Treaty Collections, Treaty Indexes, Diplomatic Documents (and Other Foreign Relations Sources), Yearbooks and Digests of International Practice, and Internet Sources. Two of the jurisdictional chapters also include Archival Sources and Specialized and Historical Treaty Collections, although the editors state that the purpose of *Sources of State Practice* is merely to "provide a useful snapshot of sources currently available." The inclusion of diplomatic sources distinguishes this resource from earlier works that focused on treaty research. For each item cited under the above categories, the jurisdiction author provides bibliographic information and a brief summary describing the item's publication pattern, language(s), scope of coverage, and content.

The multi-jurisdictional chapter, on the other hand, includes topical treaty resources on a large number of individual subjects, ranging from Atomic Energy Cooperation to War, Weapons and War Crimes. This subject-by-subject arrangement provides a new take on the many existing guides to treaty research. Although the jurisdictional chapters provide numerous examples of publications containing *non-treaty* sources of state practice, the addition to the multi-jurisdictional chapter of a brief overview of these types of publications

⁶ See IAN BROWNLIE, *PRINCIPLES OF PUBLIC INTERNATIONAL LAW* 5 (5th ed. 1998).

would be useful for the researcher working in the materials of a jurisdiction not covered by *Sources of State Practice*.

The jurisdictions selected for this first release are representative of the jurisdictions for which a researcher is most likely to find a formalized publication of diplomatic and external relations materials. These jurisdictions therefore provide a means for the editors and jurisdiction authors to “get their feet wet” while mapping the direction this research tool will take. The tougher task will be to find less clearly-defined resources for jurisdictions lacking developed publication patterns, even for such basic resources as court decisions.

Fortunately, the looseleaf binder format allows for easy updating, as research tools of this nature quickly become obsolete. Although the internet is stabilizing to a small degree, internet resources still appear and disappear at a rapid pace. Acknowledging the increasing importance of internet resources in international legal research, the editors appear to be planning for evolution from a traditional bibliography focusing on print resources to a comprehensive guide to both electronic and print resources. This likely will necessitate the inclusion of the electronic references within the regular categories as opposed to an individual “internet resources” section at the end of each jurisdictional chapter. The integration of electronic resources into the categories will make more sense as researchers are becoming accustomed to using both print and electronic formats.

This reviewer hopes that additional jurisdictional chapters will be added soon. However, even with the limited number of jurisdictions currently covered by *Sources of State Practice*, this research tool will be a valuable addition to the reference collection of any academic law library. Researchers needing similar materials in jurisdictions for which there is no current entry will find instructive the types of publications, print and electronic, which the jurisdiction authors have identified and described.

