

1-1-2006

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### Recommended Citation

Trone, John (2006) "Print Sources for Historical Constitutions," *International Journal of Legal Information*: Vol. 34: Iss. 3, Article 8.  
Available at: <http://scholarship.law.cornell.edu/ijli/vol34/iss3/8>

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# Print Sources for Historical Constitutions

JOHN TRONE \*

## Introduction

This paper examines the print sources for English language texts of historical constitutions, both national and subnational.<sup>1</sup> Some of these sources are still reasonably current at the time of writing, but they will be examined here because they will in due course become part of historical collections.

## Limitations of Printed Collections

Printed collections of constitutions have obvious advantages for comparative and historical work.

- They are usually the most convenient sources for superceded constitutions.
- They collect numerous constitutions in a single source.
- They provide a snapshot of notable constitutions at a specific moment in time.
- Much historical material is only available in print sources.
- They are easier to read than online sources.

However, such collections generally have several limitations. First, as soon as a book is released it begins to date. This is a necessary limitation of any printed book, and is obviously no reflection upon the editor's efforts. Second, such collections are rarely truly comprehensive. Apart from the national constitution, nations often adopt other Constitutional Laws regarding specific

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<sup>1</sup> For a useful examination of non-English language sources for early European Constitutions, see Bertram Hill, "The Constitutions of Continental Europe 1789-1813" (1936) 8 *Journal of Modern History* 82. Among the more notable sources are: François Rodolphe Dareste, *Les Constitutions Modernes* (Paris: Challamel Aine, 1883; 2nd ed 1891; 3rd ed 1913; 4th ed 1928); Karl H L Pölitz, *Die Europäischen Verfassungen seit dem Jahre 1789 bis auf die neueste Zeit* (2nd ed, Leipzig: Brockhaus, 1832, 1847; repr Hildesheim: Olms, 1999).

matters.<sup>2</sup> However, these are rarely included in most compilations of constitutions. Third, most collections do not include annotations regarding the amendment history of particular sections. It is very rare to see constitutional texts which incorporate the text of each provision as it stood before and after every amendment.<sup>3</sup>

### General Sources for Historical Constitutions

This section discusses sources that have a worldwide scope, though many of the sources are not comprehensive. The larger collections with many volumes are well known and will be dealt with briefly. In addition to these large collections, there have been many one or two volume collections of constitutions of the world published over the years.<sup>4</sup> Only a selection of these books can be discussed here. The sources in this section will be examined in chronological order based on the date of publication.

In 1909 Dodd compiled an excellent two-volume collection of 22 constitutions of primarily European nations.<sup>5</sup> This book has recently been reprinted in a single volume. Each constitution is accompanied by bibliographical and historical notes. This is a very useful source for older Constitutions.<sup>6</sup>

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<sup>2</sup> There are also other fundamental laws such as the Dutch Charter of the Kingdom, which has a higher status than the national constitution. See Art 5(2), *Charter of the Kingdom of the Netherlands* (29 October 1954), Staatsblad 503. Despite its fundamental importance, it is not easy to find an up to date English translation of the Charter.

<sup>3</sup> A superb example is the translation of the Lebanese Constitution appearing in (1997) 12 *Arab Law Quarterly* 224.

<sup>4</sup> Eg Charles E Martin and William H George, *Representative Modern Constitutions; France, Switzerland, Czecho-Slovakia, Mexico, Canada, Italy, Germany, Japan, Russia* (Los Angeles: Times-Mirror Press, 1923); B Shiva Rao, *Select Constitutions of the World* (Mylapore: Madras Law Journal, 1934); Durga Das Basu, *Select Constitutions of the World* (4th ed, New Delhi: Wadhwa Nagpur, 2003); Gokulesh Sharma, *World Constitutions* (New Delhi: Deep and Deep, 2005).

<sup>5</sup> Walter Fairleigh Dodd, *Modern Constitutions: A Collection of Fundamental Laws of Twenty-Two of the Most Important Countries of the World, with Historical and Bibliographical Notes* (Chicago: University of Chicago Press, 1909; repr Buffalo, NY: William S Hein, 2003).

<sup>6</sup> Another early source is George A Glynn, *Foreign Constitutions* (Albany, NY: Argus Co, 1894) (Convention Manual of the Sixth New York State Constitutional Convention, 1894, Part II, Vol III).

Wright edited a collection of the constitutions of 31 of the states involved in the First World War.<sup>7</sup> These are the Constitutions under which these countries entered the war, rather than their post-war Constitutions. Many of the translations are based upon those in Dodd, updated to take account of more recent amendments. However, the translation of the Imperial German Constitution does not include the amendments adopted during the war.<sup>8</sup> Detailed notes throughout the text indicate amendments and related legislation. The historical notes for each Constitution frequently refer to sources for translations of prior constitutions.

In the late 1930s the British Foreign Office intended to publish all of the constitutions of the world in English translation. Only the first volume was ever released. It contained the constitutions of the British Empire.<sup>9</sup>

The famous Peaslee collection first appeared in 1950. It went through four editions over several decades.<sup>10</sup> It remains a very useful source for historical Constitutions that were in force between 1950 and 1985. The first edition contained historical and bibliographical notes for each constitution.

There are few modern collections of historical constitutions. As with past publications, the emphasis of constitutional collections published today emphasize currency. Even so, a 1988 book edited by Blaustein and Sigler has a good balance between the earliest constitutions and the most influential ones.<sup>11</sup> This source contains a preponderance of European and North American constitutions, but there are several constitutions from South America and Asia. Several of the constitutions are not readily available in English translation elsewhere, such as the Swiss Constitution of 1848 and the Bolivian Constitution of 1826. The book contains four American State constitutions which are perhaps

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<sup>7</sup> Herbert F Wright (ed), *The Constitutions of the States at War 1914-1918* (Washington: GPO, 1919), repr in Vol 18, *The Inquiry Handbooks* (Wilmington, Del: Scholarly Resources, 1974).

<sup>8</sup> The amendments are listed in Horst Dippel (ed), *Index of European Constitutions 1850 to 2003* (München: K G Saur, 2005), 115.

<sup>9</sup> Great Britain, Foreign Office, *The Constitutions of All Countries. Vol 1: The British Empire* (London: HMSO, 1938).

<sup>10</sup> Amos J Peaslee (ed), *Constitutions of Nations* (Concord: Rumford Press, 1950); 2nd ed (The Hague: Nijhoff, 1956); 3rd ed by Dorothy Peaslee Xydis (The Hague: Nijhoff, 1965-1970); 4th ed by Dorothy Peaslee Xydis (Dordrecht: Martinus Nijhoff, 1985).

<sup>11</sup> Albert P Blaustein and Jay A Sigler (eds), *Constitutions That Made History* (New York: Paragon House, 1988).

a few too many, since they are easily obtainable in other sources. Together they make up nearly a fifth of the book.

An ambitious attempt to publish all of the national and subnational constitutions of the world since the 1770s is currently being undertaken in two series edited by Dippel.<sup>12</sup> The first series presents constitutions from the 1770s to 1849.<sup>13</sup> This print collection is projected to appear in 26 volumes. The second series collects the very numerous constitutions adopted since 1850, including all of their amendments.<sup>14</sup> This microfiche series is a huge undertaking. Over a thousand microfiche were issued for the European constitutions alone. In both series the constitutions appear in their original language, together with an English translation in many cases.

There are several works which are relatively current, but which become historical sources with the passage of time. The Oceana series, *Constitutions of the Countries of the World*, is a huge twenty-volume collection.<sup>15</sup> It is constantly supplemented with new constitutions and revisions of existing constitutions. The superseded pamphlets are archived in separate binders, providing a valuable resource for historical research. A summary of the amendment history for each constitution is given in a brief introductory note. This series lags somewhat in including the texts of new constitutions, particularly those from Francophone Africa. Occasionally such constitutional laws have been included.<sup>16</sup> However, this series does not include numerous Austrian<sup>17</sup> or Russian<sup>18</sup> federal constitutional laws. Likewise, the Constitutional Court Acts of the various nations are generally

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<sup>12</sup> Horst Dippel, "Constitutions of the World 1776 to the Present: Presentation of Two Publication Projects" (2003) 4 *Historia Constitucional*, <http://hc.rediris.es/>.

<sup>13</sup> Horst Dippel (ed), *Constitutions of the World from the Late 18th Century to the Middle of the 19th Century* (München: K G Saur, 2005-).

<sup>14</sup> Horst Dippel (ed), *Constitutions of the World 1850 to the Present* (München: K G Saur, 2002-).

<sup>15</sup> Gisbert H Flanz (ed), *Constitutions of the Countries of the World* (Dobbs Ferry, NY: Oceana, 1971-).

<sup>16</sup> Eg Czech Republic and Georgia.

<sup>17</sup> Eg *Federal Constitutional Laws: Implementing the International Convention on the Elimination of All Forms of Racial Discrimination* (3 July 1973), Bundesgesetzblatt (BGBl) 390/1973; *Guaranteeing the Independence of Broadcasting* (10 July 1974), BGBl 396/1974; *Environmental Protection* (27 November 1984), BGBl 491/1984; *For a Nuclear Free Austria* (1 July 1999), BGBl I 149/1999.

<sup>18</sup> Eg *Federal Constitutional Laws: Constitutional Court* (21 July 1994); *Judicial System* (31 December 1996); *Government of the Russian Federation* (17 December 1997); *State of Emergency* (30 May 2001); *Martial Law* (30 January 2002).

not included. This is an unfortunate omission since those Acts affect the jurisdiction of those courts. However, the texts of those laws are usually available on the websites of the courts.

The book compiled by Pylee comprises the full text of constitutions.<sup>19</sup> Much of the content is outdated. In fact, one of the constitutions in this book is no longer even in force.<sup>20</sup> Another constitution, Sri Lanka, is only a draft.<sup>21</sup> Another drawback is that many of the constitutions do not incorporate recent amendments.<sup>22</sup>

Each of the eleven volumes in the collection compiled by Sinha is relatively thin, but the total length comes to over 3500 pages.<sup>23</sup> A good selection is provided by the inclusion of 41 constitutions, but rather surprisingly, France is not among those included. This collection is generally fairly up to date.<sup>24</sup> However, there are a number of unfortunate omissions in the texts presented.<sup>25</sup> The texts of several constitutions are very incomplete, with only part of the text being printed.<sup>26</sup> In one case, the wrong text of the constitution has been printed.<sup>27</sup>

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<sup>19</sup> M V Pylee (ed), *Constitutions of the World* (2nd ed, Delhi: Universal Law Publishing, 2003).

<sup>20</sup> p 1. Albania's 1991 constitution was replaced by a new one in 1998.

<sup>21</sup> Sri Lanka, draft of 27 March 1997 (p 1514). The 1978 Constitution remains in force.

<sup>22</sup> For example, the French Constitution appears to be current only to 18 June 1976 (p 415).

<sup>23</sup> P C Sinha, *Encyclopaedia of World Constitutions* (New Delhi: Anmol Publications, 2006).

<sup>24</sup> For example, the 2004 Constitution of Afghanistan is included, as are the most recent amendments to several of the Constitutions. See eg Vol 9, p 2511 (Afghanistan); Vol 9, p 2561 (China, 14 March 2004); Vol 2, p 367 (Indonesia, 17 August 2002); Vol 11, p 3229 (Switzerland, 8 February 2004).

<sup>25</sup> The bills of rights of the US and Canadian Constitutions have been omitted: Vol 3, p 643 (US); Vol 2, p 309 (Canada). The Constitution of Taiwan does not include the Additional Articles which contain the amendments: Vol 9, p 2609.

<sup>26</sup> Eg India (omits Articles 152-395 and the 12 Schedules: Vol 1, p 260); Egypt (omits Articles 127-211: Vol 10, p 3197); Bangladesh (omits Arts 94-133: Vol 2, p 625); Mexico (omits Arts 123-136 and transitory provisions: Vol 7, p 2151).

<sup>27</sup> The text of the Sri Lankan 'Constitution' is an August 2000 draft, not the 1978 Constitution that is currently in force: Vol 6, p 1591. The South Korean Constitution is printed twice: Vol 10, p 3093; Vol 11, p 3401.

A number of journals have reproduced constitutional texts from various nations. *British and Foreign State Papers*<sup>28</sup> is an invaluable resource for constitutions adopted before the Second World War. During its long period of publication this series published translations of a wide range of constitutions from across the world.<sup>29</sup> For many constitutions, this is the sole source in which an English translation may be found. This is also a very useful source for locating the text of constitutional amendments. The constitutions printed were often updated by reproducing the amendments in subsequent volumes.

Following World War Two, the United Nations Secretariat began publishing the *Yearbook on Human Rights*.<sup>30</sup> Unlike the British series, this journal contained only extracts rather than the full text of constitutions. Some of these constitutions are not available elsewhere in English translation. Like the British series, amendments were also printed. This journal ceased printing extracts from constitutions when the Oceana series began publication. Two other journals also often published translations of recently adopted constitutions. The older issues of *Constitutional and Parliamentary Information*<sup>31</sup> contained many such translations, and the *Review of Socialist Law* published translations of Communist constitutions.<sup>32</sup>

Finally, there are several thematic compilations of constitutions. The provisions of national and sub-national constitutions regarding social and economic rights were collected in a 1944 book published by the International Labour Organisation.<sup>33</sup> Likewise, a collection of federal and unitary constitutions was published in 1923.<sup>34</sup>

### **Regional Sources for Historical Constitutions**

The regional sources for constitutions will be discussed in chronological order under each region.

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<sup>28</sup> Great Britain, Foreign Office, 1812-1977.

<sup>29</sup> Some constitutions appeared in other languages.

<sup>30</sup> United Nations, 1946-.

<sup>31</sup> International Parliamentary Union, 1948-.

<sup>32</sup> Martinus Nijhoff, 1975-1991.

<sup>33</sup> International Labour Office, *Constitutional Provisions Concerning Social and Economic Policy* (Montreal: ILO, 1944).

<sup>34</sup> Arthur Percival Newton, *Federal and Unified Constitutions* (London: Longmans Green, 1923).

*Europe*

A well known book by McBain and Rogers includes constitutions adopted in the immediate aftermath of the First World War, along with several of the older constitutions as amended.<sup>35</sup> Several of the translated constitutions are not readily available elsewhere, such as Danzig (1920),<sup>36</sup> Prussia (1920)<sup>37</sup> and the Austrian Constitutional Law concerning the transition to the new constitution.<sup>38</sup> There are lengthy survey chapters that comprise about a quarter of the book.

Several other books collected the European constitutions of the interwar period. The Irish Free State Constitutional Commission produced a useful collection of predominantly European constitutions.<sup>39</sup> Two other books collected the constitutions of Eastern and Central Europe, together with various historical documents.<sup>40</sup>

Europe's fall into totalitarianism is reflected in the constitutional collections published in the 1930s. A book compiled by Andrew in 1931 contains translations of the most important 'constitutional laws' of the Italian fascist regime<sup>41</sup> and documents regarding the King's seizure of power in Yugoslavia.<sup>42</sup> Rappard's 1937 book includes the Italian Fascist laws and the major Nazi decrees that essentially dismantled the Weimar Constitution.<sup>43</sup>

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<sup>35</sup> Howard Lee McBain and Lindsay Rogers, *The New Constitutions of Europe* (Garden City, NY: Doubleday, Page & Co, 1922).

<sup>36</sup> p 429. This Constitution also appeared in the *League of Nations Official Journal*, December 1930, p 1794.

<sup>37</sup> p 217. This Constitution also appeared in 121 *British and Foreign State Papers* 1107.

<sup>38</sup> *Constitutional Law concerning the Transition to the Constitution of the Federal State* (1 October 1920), *Bundesgesetzblatt* 2/1920 (p 292).

<sup>39</sup> Irish Free State Constitutional Commission, *Select Constitutions of the World* (Dublin: Stationery Office, 1922).

<sup>40</sup> Malbone W Graham and Robert C Binkley, *New Governments of Central Europe* (New York: Henry Holt and Company, 1924); Malbone W Graham, *New Governments of Eastern Europe* (New York: Henry Holt, 1927; repr New York: Kraus, 1969).

<sup>41</sup> Milton H Andrew, *Twelve Leading Constitutions* (Compton, Calif: American University Series, 1931), 157-176.

<sup>42</sup> pp 379-384.

<sup>43</sup> William Emmanuel Rappard et al, *Source Book of European Governments: Switzerland, France, Italy, Germany, the Soviet Union and England* (New York: Van Nostrand, 1937), IV-14 ff (Germany), III-7 ff (Italy).



Following the collapse of Communism, many of the more recent collections of European constitutions have concentrated on Eastern European nations.<sup>44</sup> One of these books contains a detailed history of the constitution-making process in each country.<sup>45</sup>

There have been two recent compilations of European constitutions. The *Global Constitutional Law Collection* contains only European constitutions.<sup>46</sup> In four volumes it contains all European constitutions as of the dates of printing. A two volume collection of European constitutions has been prepared by the Venice Commission of the Council of Europe.<sup>47</sup> Its 2000 pages contain 45 constitutions. Though this book was published in 2004, the texts were last updated on 1 March 2002.<sup>48</sup> Footnotes throughout the text indicate how the provisions were affected by the more recent constitutional amendments.<sup>49</sup>

A number of omissions should be noted. There is an entry for the United Kingdom, but no British constitutional statutes are reproduced. The book should have included the *Human Rights Act* 1998, the *Parliament Acts* of 1911 and 1949 and the devolution legislation. The Constitution of Monaco is not included. However, the book does include several of the many Austrian federal constitutional laws<sup>50</sup> and the Czech Charter of Fundamental Rights and Freedoms.<sup>51</sup>

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<sup>44</sup> Eg Peter Raina (ed), *The Constitutions of New Democracies in Europe* (np: Merlin, 1995); International Institute for Democracy, *Rebirth of Democracy: 12 Constitutions of Central and Eastern Europe* 2nd ed (Strasbourg: Council of Europe Publishing, 1996); Florence Benoît-Röhmer, *Transition to Democracy: Constitutions of the New Independent States and Mongolia* (Strasbourg: Council of Europe Publishing, 1997); William E Butler (ed), *Constitutional Foundations of the CIS Countries* (The Hague: Kluwer Law International, 1999).

<sup>45</sup> Rett L Ludwikowski, *Constitution-making in the Region of Former Soviet Dominance* (Durham, NC: Duke University Press, 1996).

<sup>46</sup> (Boxtel, Netherlands: Global Law Association, 1996-1999).

<sup>47</sup> Council of Europe, *Constitutions of Europe* (Leiden: Martinus Nijhoff, 2004).

<sup>48</sup> However, the text of the Greek Constitution does not incorporate the extensive amendments of 6 April 2001: Vol 1, p 823.

<sup>49</sup> Shortly before publication of this book the provisions of the Romanian Constitution were renumbered (following the Amendment of 29 October 2003). The book includes the former numbering sequence.

<sup>50</sup> pp 198-214.

<sup>51</sup> (9 January 1991), p 555.

Dippel has compiled a catalogue of European national and subnational constitutions adopted since 1850.<sup>52</sup> Each entry provides full references to the original publication of each document in official sources and often gives references to English translations of European constitutions. However, the listings omit numerous constitutional laws from Austria, Russia and Croatia.<sup>53</sup> It also omits the separate Bills of Rights adopted by Serbia-Montenegro and Latvia.<sup>54</sup>

### *Asia*

A good single volume collection of Asian constitutions was published in 1968.<sup>55</sup> This book includes several interesting superceded constitutions: Pakistan (1962), South Korea (1962) and South Vietnam (1965).<sup>56</sup> Amendments to each provision are noted in most of the constitutions. However, the Constitution of Taiwan omits the Temporary Provisions,<sup>57</sup> which diminished the effectiveness of the constitution during the martial law period.<sup>58</sup>

### *Latin America*

In 1906 Rodriguez published a collection of the constitutions of the Americas.<sup>59</sup> Many of the constitutions included herein are not readily available in English translation elsewhere. This is a very conscientious production, noting

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<sup>52</sup> Horst Dippel (ed), *Index of European Constitutions 1850 to 2003* (München: K G Saur, 2005).

<sup>53</sup> See *supra* n **Error! Bookmark not defined.**; *Croatia: Constitutional Law on Temporary Inability of the President of the Republic to Perform his Duties* (24 November 1999); *Constitutional Law on Human Rights and Freedoms and Rights of Ethnic and National Communities or Minorities* (4 December 1991); *Constitutional Act on Cooperation with the International Criminal Tribunal* (19 April 1996); *Constitutional Law on the Rights of National Minorities* (13 December 2002).

<sup>54</sup> *Charter of Human and Minority Rights and Civil Liberties* (28 February 2003) (Serbia-Montenegro) (continued in force in independent Serbia); *Constitutional Law on the Rights and Obligations of a Citizen and a Person* (10 December 1991) (Latvia) (in force 1991-1998).

<sup>55</sup> *Constitutions of Asian Countries* (Bombay: Tripathi, 1968).

<sup>56</sup> pp 71, 534, 882, 1127.

<sup>57</sup> p 132.

<sup>58</sup> See Linda Chao and Ramon H Myers, *The First Chinese Democracy: Political Life in the Republic of China on Taiwan* (Baltimore, Md: Johns Hopkins University Press, 1998), 48-50.

<sup>59</sup> José Ignacio Rodríguez, *American Constitutions: A Compilation of the Political Constitutions of the Independent Nations of the New World, with short historical notes and various appendixes* (Washington: US Government Printing Office, 1906-1907).

even discrepancies between the texts published in the official journal and those in other sources. The texts of each constitution in both English and the original language are displayed in parallel columns. The main text of each constitution is the text as it was originally adopted. Each amendment is given separately, which facilitates an understanding of how the text evolved over time. The main text is cross-referenced to the amendments.

Most of the constitutions contained in Fitzgibbon's 1948 collection<sup>60</sup> are also included in the first edition of Peaslee, which was published two years later. This book also contains a useful bibliography of English language secondary sources.<sup>61</sup> A much shorter book published in 1968 contains the abridged texts of six Latin American constitutions.<sup>62</sup>

### *Africa*

A good two volume collection of African constitutions was published in 1972.<sup>63</sup> The "laws" adopted by coup makers in Nigeria and Uganda are included in this work.<sup>64</sup> The texts of such usurper laws are often difficult to track down.

### *Middle East*

Davis collected the constitutions of the Middle East in two editions (1947 and 1953).<sup>65</sup> Another collection published in 1968 is even more detailed.<sup>66</sup> It is extensively annotated with editorial notes. One collection of Asian constitutions also includes those of many Middle Eastern nations.<sup>67</sup>

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<sup>60</sup> Russell H Fitzgibbon (ed), *The Constitutions of the Americas* (Chicago: University of Chicago Press, 1948).

<sup>61</sup> p 819.

<sup>62</sup> Gerald E Fitzgerald (ed), *The Constitutions of Latin America* (Chicago: Henry Regnery, 1968).

<sup>63</sup> *Constitutions of African States* (New Delhi: Asian African Legal Consultative Committee / New York: Oceana, 1972).

<sup>64</sup> Vol 2, pp 1274-1308 (Nigeria), 1686-1690 (Uganda).

<sup>65</sup> Helen Miller Davis, *Constitutions, Electoral Laws and Treaties of States in the Near and the Middle East* 2nd ed (Durham: Duke University Press, 1953). See also Ramesh Chandra Ghosh, *Constitutional Documents of the Major Islamic States* (Lahore: M Ashraf, 1947).

<sup>66</sup> Abid A Al-Marayati, *Middle Eastern Constitutions and Electoral Laws* (New York: Frederick A Praeger, 1968).

<sup>67</sup> *Constitutions of Asian Countries* (Bombay: Tripathi, 1968) (Iran, Iraq, Jordan, Kuwait, Lebanon, Syria, Turkey and Yemen).

*Pacific*

Paterson has collected many Pacific Constitutions in a book published in 2000.<sup>68</sup> Coverage is limited to jurisdictions within the region of the University of the South Pacific. Hence this collection does not include Papua New Guinea, Micronesia or Palau. It was originally intended that the 1997 Fijian constitution would be included. At the time of publication, the constitution had been purportedly abrogated during an attempted coup, so it was dropped from the book. Shortly after publication, the Fijian Court of Appeal held that the constitution was still in force.<sup>69</sup> Two older collections were more comprehensive in scope.<sup>70</sup>

*Communist Nations*

There were two collections of the constitutions of Communist countries. A 1968 book by Triska includes all of the present and prior constitutions of each Communist state at that date.<sup>71</sup> However, the text of the Cuban Fundamental Law of 1959 could have been included.<sup>72</sup> In 1980 Simons produced another collection of the Communist constitutions.<sup>73</sup> This book contains the 1968 Constitutional Law on the Czechoslovakian Federation,<sup>74</sup> which is not readily available elsewhere.

Triska is a better historical resource than Simons, which includes only the then current constitution of each country. However, both books are important because each contains much that is not available in the other. For example, Simons includes the many new constitutions adopted after the publication of Triska. It also contains the heavily amended text of several constitutions that had been published in Triska in their earlier form (e.g. Poland, Hungary and Romania).

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<sup>68</sup> Don Paterson (ed), *Selected Constitutions of the South Pacific* (Suva: Institute of Justice and Applied Legal Studies, University of the South Pacific, Suva, 2000).

<sup>69</sup> *Republic of Fiji v Prasad* [2001] 2 LRC 743.

<sup>70</sup> *Pacific Constitutions* (Suva: University of the South Pacific, 1983; 2nd ed, Suva: University of the South Pacific Institute of Social and Administrative Studies, Institute of Pacific Studies, School of Social and Economic Development, 1991).

<sup>71</sup> Jan F Triska, *Constitutions of the Communist Party States* (Stanford: Stanford University Press, 1968).

<sup>72</sup> However, there are lengthy essays about the Cuban Constitution: pp 256 ff.

<sup>73</sup> William B Simons, *The Constitutions of the Communist World* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1980).

<sup>74</sup> pp 581-624.

### Sources for Particular Countries

There appear to be few lists of the location of English translations of historical constitutions. A detailed list published in 1904 lists English translations for many constitutions.<sup>75</sup> These translations are usually from *British and Foreign States Papers* or the *Monthly Bulletin of the International Bureau of American Republics*.<sup>76</sup>

There are many collections of all of the constitutions of a particular country. There is a good collection of all Spanish constitutions down to the 1931 Republican constitution.<sup>77</sup> The later fascist constitutional documents appear in Peaslee.<sup>78</sup> Another book compiles all of the Colombian constitutions until 1945.<sup>79</sup> This collection includes all of the prior constitutions of Colombia.

Anderson compiled a collection of historical documents that includes all of the French constitutions up to the beginning of the Third Republic.<sup>80</sup> Lockwood's book about French constitutional history also includes translations of the constitutions as appendices.<sup>81</sup> A very useful book by Hucko contains translations of each of the German national constitutions as they were originally adopted.<sup>82</sup> There is a lengthy and informative historical introduction for each constitution.

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<sup>75</sup> A R Hasse, "List of Books and Some Articles in Periodicals in the New York Public Library, Relating to Political Rights, Constitutions and Constitutional Law" (1904) 8 *Bulletin of the New York Public Library* 52.

<sup>76</sup> Bureau of the American Republics, 1893-1902.

<sup>77</sup> Arnold Verduin (ed), *Manual of Spanish Constitutions, 1808-1931* (Ypsilanti, Mich: University Lithoprinters, 1941).

<sup>78</sup> 1st ed, Vol 3, p 77 ff; 3rd ed, Vol 3, p 810.

<sup>79</sup> William Marion Gibson, *The Constitutions of Colombia* (Durham, NC: Duke University Press, 1948).

<sup>80</sup> Frank Maloy Anderson, *The Constitutions and Other Select Documents Illustrative of the History of France 1789-1907* (2nd ed, Minneapolis: H W Wilson, 1908; repr New York: Russell and Russell, 1967).

<sup>81</sup> Henry C Lockwood, *Constitutional History of France* (Chicago: Rand McNally, 1897; repr Holmes Beach, Fla: Gaunt, 2003).

<sup>82</sup> Elmar M Hucko (ed), *The Democratic Tradition: Four German Constitutions* (Leamington Spa: Berg, 1987).

There is a very useful collection of Philippine constitutional documents edited by Rodriguez.<sup>83</sup> Some of these documents are relatively difficult to obtain elsewhere: the numerous constitutional instruments adopted during the American colonial period, the 1943 constitution adopted during the Japanese occupation,<sup>84</sup> and the 1986 provisional constitution adopted after the fall of Marcos.<sup>85</sup> This book also contains an interesting historical introduction to the complicated constitutional history of the Philippines.

A 1981 book contains all four Soviet constitutions.<sup>86</sup> Each of the constitutions is analyzed in a detailed essay. Extensive notes compare the 1977 constitution with its drafts. This book does not include the amendments adopted towards the end of the Soviet period.<sup>87</sup> Other books have collected the Chinese,<sup>88</sup> Cambodian,<sup>89</sup> Ghanaian,<sup>90</sup> Nepalese,<sup>91</sup> and Thai constitutions.<sup>92</sup>

### Sources for Other Historical Constitutional Documents

A complete collection of the Declarations of Independence of various nations was published in 1977.<sup>93</sup> Obviously, this book predates the breakup of

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<sup>83</sup> Rufus B Rodriguez, *Constitutionalism in the Philippines: with complete texts of the 1987 Constitution and other previous organic acts and Constitutions* (Manila: Rex Book Store, 1997).

<sup>84</sup> (7 September 1943), p 236.

<sup>85</sup> (25 March 1986), p 340.

<sup>86</sup> Aryeh L Unger, *Constitutional Development in the USSR: A Guide to the Soviet Constitutions* (London: Methuen, 1981).

<sup>87</sup> Some of those amendments are included in the version of the 1977 Constitution published in (1990) 16 *Review of Socialist Law* 167.

<sup>88</sup> Pan Wei-Tung, *The Chinese Constitution: A Study of Forty Years of Constitution-making in China* (Washington: Institute of Chinese Culture, 1945), 145 ff; William L Tung, *The Political Institutions of Modern China* (The Hague: Martinus Nijhoff, 1968), 318 ff. Subsequent constitutions were adopted in 1975, 1978 and 1982.

<sup>89</sup> Raoul M Jennar, *The Cambodian Constitutions, 1953-1993* (Bangkok: White Lotus, 1995).

<sup>90</sup> Samuel O Gyandoh Jr and J Griffiths, *A Sourcebook of the Constitutional Law of Ghana* (Legon: Faculty of Law, University of Ghana, 1972).

<sup>91</sup> P Neupane (ed and trans), *The Constitution & Constitutions of Nepal* (Kathmandu: Ratna Pustak Bhandar, 1969).

<sup>92</sup> Thak Chaloemtiarana (ed), *Thai Politics: 1932-1957* (Bangkok: Social Science Association of Thailand, 1978), 96, 504, 524, 822, 858.

<sup>93</sup> Albert P Blaustein, Jay Sigler, Benjamin R Beede, Wayne E Olson (eds), *Independence Documents of the World* (Dobbs Ferry, NY: Oceana, 1977). Some

the Soviet Union and Yugoslavia. Some of the independence declarations from those countries are available in more recent national collections.<sup>94</sup>

### Sub-national Constitutions

Another Oceana series contains a reasonably full collection of the sub-national constitutions of, among others, Spain, Italy, Micronesia and Palau.<sup>95</sup> It also contains a few representative examples of Russian, Swiss, Mexican and Argentine sub-national constitutions. More readily available sub-national constitutions such as those of Australia and Canada are also included.

There are a few general sources which include sub-national constitutions. The early volumes of *Yearbook on Human Rights*<sup>96</sup> included extracts from the sub-national constitutions of Germany, Switzerland, Mexico, Argentina, Brazil, the Soviet Union and Yugoslavia.<sup>97</sup>

There have been many English translations of the constitutions of the German Länder, but they appear in relatively obscure sources. They are not included in the Oceana series. Shortly after the First World War, the US Government Printing Office issued a compilation of English translations of the constitutions of each German state under the monarchy.<sup>98</sup> Each constitution is extensively annotated with references to amendments and related legislation. English translations of the Land constitutions under the Weimar Republic appeared in *British and Foreign State Papers*.<sup>99</sup>

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independence documents also appear in R C Winter, *Blueprints for Independence: The New States and their Constituting Instruments* (Amsterdam: Djambatan, 1961).

<sup>94</sup> Eg Charles F Furtado Jr and Andrea Chandler (eds), *Perestroika in the Soviet Republics: Documents on the National Question* (Boulder, Col: Westview Press, 1992); Snežana Trifunovska, *Yugoslavia Through Documents: From its Creation to its Dissolution* (Dordrecht: Martinus Nijhoff, 1994); William E Butler (ed), *Constitutional Foundations of the CIS Countries* (The Hague: Kluwer Law International, 1999).

<sup>95</sup> Gisbert H Flanz (ed), *Constitutions of Dependencies and Territories* (Dobbs Ferry, NY: Oceana, 1975-).

<sup>96</sup> United Nations, 1946-.

<sup>97</sup> Rappard included the former Constitution of Berne (1893): p I-55.

<sup>98</sup> Edwin H Zeydel (ed), *Constitutions of the German Empire and German States* (Washington: Government Printing Office, 1919), repr in Vol 18, *The Inquiry Handbooks* (Wilmington, Del: Scholarly Resources, 1974).

<sup>99</sup> The Prussian Constitution of 1920 also appears in McBain: p 217.

The first Land constitutions of the Federal Republic and the German Democratic Republic are contained in an American military compilation.<sup>100</sup> Many of these constitutions have been superceded. However, several remain in effect, albeit having been amended many times: Bavaria, Bremen, Hessen and Rhineland-Palatinate. There are few English translations of the more recent constitutions.<sup>101</sup>

There is a collected edition of the constitutions of the Malaysian States.<sup>102</sup> I have only used the first edition, published in 1991. One minor difficulty is that it does not clearly list the date of adoption for each constitution.

The sources for historical State constitutions of the United States are well known. Two collections were issued by the US Government Printing Office. The first was a two volume collection edited by Poore.<sup>103</sup> The later seven volume collection by Thorpe includes all of the present and prior constitutions of each State as of 1909.<sup>104</sup> Both of these collections are available in the Congressional Serial Set.<sup>105</sup> There are also several sets published at later dates.<sup>106</sup>

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<sup>100</sup> *Constitutions of the German Laender* (Berlin: Civil Administration Division, Office of Military Government (US), 1947). Several Land Constitutions are also contained in Harold O Lewis, *New Constitutions in Occupied Germany* (Washington: Foundation for Foreign Affairs, 1948).

<sup>101</sup> A translation of the Constitution of Mecklenburg-West Pomerania (1993) appears in Christian Starck, *The Constitutions of the New German Länder and their Origin: A Comparative Analysis* (Johannesburg: Konrad-Adenauer-Stiftung, 1995), 39-54.

<sup>102</sup> *Constitutions of the States of Malaysia* (2nd ed, Kuala Lumpur: International Law Book Services, 1998).

<sup>103</sup> Benjamin Perley Poore, *The Federal and State Constitutions, Colonial Charters, and Organic Laws of the United States* (2nd ed, Washington: Government Printing Office, 1878; repr 2001 by Lawbook Exchange, 2001).

<sup>104</sup> Francis Newton Thorpe, *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America* (Washington: Government Printing Office, 1909; repr Buffalo, NY: William S Hein, 1993).

<sup>105</sup> Poore: 44th Cong, 2d Sess, Sen Misc Doc, Serial Nos 1730-1731; Thorpe: 59th Cong, 2d Sess, House Doc 357, Serial Nos 5910 to 5914-3. Thorpe is also available in the Legal Classics Library on Hein Online.

<sup>106</sup> Eg Charles Kettleborough (ed), *The State Constitutions and the Federal Constitution and Organic Laws of the Territories and Other Colonial Dependencies of the United States of America* (Indianapolis: B F Bowen, 1918); *Constitutions of the States and United States* (New York: New York State Constitutional Convention Committee, 1938; Vol 3 of the Convention Reports); William F Swindler (ed), *Sources*



The Soviet Republican constitutions adopted under the 1936 constitution were translated in the early volumes of the *Yearbook on Human Rights*. Feldbrugge published a full translation of the Russian SFSFR constitution adopted under the 1977 constitution.<sup>107</sup> The equivalent section numbers of the other Republican constitutions and any variations in the text are described in detailed notes.

### **Indexing of Constitutions**

Unfortunately, there is little subject matter indexing of historical constitutions. For more recent Constitutions, this problem is obviated somewhat by the availability of the Oceana collection in electronic form. However, there is very patchy indexing of the earlier Constitutions.

Most of the books discussed in this paper do not contain indexes. A 1942 index of the constitutions of 26 nations remains useful for historical reference.<sup>108</sup> Dodd, Wright and the Irish Free State collection all have detailed indexes, arranged under subject headings and each individual country. A few books contain comparative tables that are of considerable interest. The first edition of Peaslee contains tables comparing the form of government, constitutional guarantees and the three branches of government in each nation.<sup>109</sup> Each table refers to the relevant constitutional provisions for each country. Simons contains a useful series of tables comparing the treatment of over 150 topics in the Communist constitutions in force in 1980.<sup>110</sup>

Several useful journals are well indexed. The constitutions in *British and Foreign State Papers* are indexed under that heading in consolidated indexes. Each volume of the *Yearbook on Human Rights* had a comprehensive index, but there was no consolidated index for that series.

As far as regional sources are concerned, Fitzgibbon contains an index of the South American constitutions in force in 1948. In relation to particular

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*and Documents of United States Constitutions* (Dobbs Ferry, NY: Oceana, 1973-1979; Second series, edited by William F Swindler and D Musch, 1982-1986).

<sup>107</sup> F J M Feldbrugge (ed), *The Constitutions of the USSR and the Union Republics: Analysis, Texts, Reports* (Alphen aan den Rijn, The Netherlands: Sijthoff and Noordhoff, 1979), 262-342.

<sup>108</sup> Richard C Spencer, *Topical Index to National Constitutions* (Philadelphia: American Academy of Political and Social Science, 1942).

<sup>109</sup> 1st ed, Vol III, pp 550-591.

<sup>110</sup> pp 626-644.

countries, the Gibson collection of Colombian constitutions has a comprehensive index.

Indexing of subnational Constitutions is much more scattered. There is an excellent index in the US military compilation of German Land constitutions. Thorpe contains a very full index of the fifty state Constitutions as they stood in 1909. There have also been several later indexes to the State Constitutions.<sup>111</sup>

### **Conclusion**

This paper has examined general, regional, and country-specific print sources for historical national and sub-national constitutions. It has also discussed sources that index those constitutions. The print sources for English translations of historical constitutions and other constitutional laws and documents remain widely scattered. This paper has sought to offer some guidance to those who need to find and use these scattered sources.

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<sup>111</sup> See Columbia University Legislative Drafting Research Fund, *Index Digest of State Constitutions* (Albany: New York State Constitutional Convention Commission, 1915; 2nd ed, New York: np, 1959).