

be used in self-defence but where excessive force was actually used. There is after all a great difference in culpability between the contract killer and the person who when confronted with an attacker uses excessive force. The House of Lords has, however, said that only the legislature could introduce this change (*Clegg, supra*, at 500G-H).

Dr Horder also explains some problems with the application of the statutory defence of provocation and he bravely puts forward a replacement statutory provision on provocation, by which “the jury may find the offence [of killing] to be manslaughter if, in its opinion, a temporary state of extreme emotional disturbance produced by a combination of provocation and D’s fear for his or her own safety (or the safety of another) provided a reasonable excuse, in all the circumstances, for D’s act in playing his or her part in the killing”. This reform would be far-reaching as it would mean that the husband, who finds his wife in bed with another, would be unable to invoke this defence unless, which is unlikely to be the case, he was able to show a fear for his own safety or the safety of another when he killed his wife or her companion. The proposed reform does not state significant matters such as, for example, what, if any, particular characteristic of the offender (such as limited intelligence) is relevant in determining if this defence could be invoked or what is meant by “extreme emotional disturbance”. Many practitioners would be excused for thinking that Dr Horder’s proposed reform would make the present law more complicated, more uncertain and probably less fair than the present unsatisfactory law on what constitutes provocation. It will be interesting to see if Dr Horder changes his views during his term at the Law Commission.

There is, however, much to praise in this admirable book as Dr Horder puts forward lucidly and clearly many interesting ideas. For example, he provides an illuminating discussion of the circumstances in which there should be defences to strict liability offences and he also draws skilfully on Commonwealth cases. In summary, this book will provoke much interesting thought and discussion on the scope of the existing excuses to criminal liability as well as the social and philosophical bases for such excuses.

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United Kingdom Materials on International Law 1975-2001. Version 1.0 on CD-ROM. Edited by GEOFFREY MARSTON. [Oxford: Oxford University Press. 2004. Single User Academic Licence: £300; Academic Network Licence: £650; Single User Commercial Licence: £500; Commercial Network Licence: £1,500].

INTERNATIONAL lawyers, especially those of a more positivist persuasion, are the “hunters and gatherers” of the legal profession. More often than not, they must go out and find the law before they are able to apply it. Despite all the attempts at codification of international law over the last decades, and even though more than 40,000 bilateral and multilateral

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treaties have been registered with the Secretary-General of the United Nations, international law is still largely customary international law, created by States in a decentralised way. In the *North Sea Continental Shelf* cases (1969), the International Court of Justice stated that two elements are required for a rule to qualify as one of customary international law: a constant and uniform practice of States, coupled with their conviction that the practice is legally obligatory (*opinio juris vel necessitatis*). The practice of States party to a treaty also plays an important role in the interpretation of the treaty. A major problem for the international lawyer, as well as for the judge and academic, is to unearth the practice of more than 190 States and to prove a certain *opinio juris* on the part of these States. It is here that the *United Kingdom Materials on International Law 1975-2001* ("UKMIL") plays an important role. The work provides a compilation of the practice (and *opinio juris*) of the United Kingdom on international law in the final quarter of the twentieth century. Consisting of ministerial statements, replies to parliamentary questions, parliamentary debates, diplomatic notes, letters sent by the Foreign and Commonwealth Office ("FCO") legal advisers to the courts, statements in international organisations and similar material, UKMIL sets out the official position of the United Kingdom on almost all aspects of international law. While the majority of the materials have been compiled from published sources, a considerable number of texts have been provided by the FCO. The role of the Legal Adviser's Department of the FCO in this publication should not be underestimated and, in many ways, UKMIL may be seen as a semi-official publication of the FCO. After all, it is the FCO that decides which texts to make available for UKMIL and, perhaps more importantly, which not. It seems that the FCO is well aware of the legal and political significance of UKMIL. Since not many States (probably fewer than 30) publish records of their practice in international law, those that do, especially in a language as widely read as English, can exert a disproportionate influence on the codification and progressive development of customary international law. After all, international lawyers, judges and diplomats turn to these publications first (and often last) when trying to find or prove a rule of customary international law.

The United Kingdom has a long tradition of publishing its position on matters of international law. In 1932, Herbert Arthur Smith edited a two volume work entitled *Great Britain and the Law of Nations. A Selection of Documents Illustrating the Views of the Government in the United Kingdom upon Matters of International Law*. This was followed in 1956 by the three volumes of *International Law Opinions* selected and annotated by Arnold Duncan McNair. In the 1950s and 1960s, Elihu Lauterpacht compiled "The Contemporary Practice of the United Kingdom in the Field of International Law [1956-1959]" published in the *International and Comparative Law Quarterly*, and later edited the series *British Practice in International Law* [1962-1967]. At the same time, Clive Parry, following the great American tradition of *Digests of International Law* (edited by Wharton, Moore, Hackworth and Whiteman), started the monumental project of *A British Digest of International Law* of which, however, only

five volumes (2b, 5-8) of Phase I, covering the years 1860 to 1914, were ever published. A continuous publication of the United Kingdom practice in international law started only in 1978, when Geoffrey Marston took on the momentous task of editing the section entitled "United Kingdom Materials in International Law" in the *British Year Book of International Law*, a task he performed admirably for the next 23 years until his death in 2002.

The UKMIL CD-ROM contains, in an easily accessible electronic format, the material that has already appeared in the annual "United Kingdom Materials on International Law" section of the *British Year Book* from 1978 to 2001. Material for a further three years, taking the collection back to 1975, has been included, some obsolete material edited out, a numbering scheme to enable cross-referencing for the entire project devised, and comprehensive cross-references added. All the material (over 3,500 pages of printed matter) has been reordered chronologically, according to the 1997 "Amended Model Plan for the Classification of Documents Concerning State Practice in the Field of Public International Law" of the Council of Europe. It is organised in 18 parts, with several further levels of subsections, ranging from "International Law in General" over "Air Space, Outer Space and Antarctica" to "Neutrality and Non-belligerency". The CD-ROM covers almost all areas of international law, although some are covered more extensively than others: for example, a search for the term "international environmental law" produces only two hits. There are other documents dealing with the "marine environment" and special aspects of the protection of the environment. However, a search for the "Kyoto Protocol" does not show any hits at all, and the term "climate change" only features twice in the unrelated context of sources and treaties.

An interesting aspect of UKMIL is that, in an increasing number of cases, the statements reported are no longer those of the United Kingdom alone but are made by the EU Presidency "on behalf of the European Union and its Member States" or simply "on behalf of the EU". This raises a host of interesting questions. To what extent does the practice of the EU in international law replace the practice of the individual Member States? Are the Member States precluded by European law from making any statements on matters of international law in areas of exclusive E.U. competence? Does it matter whether or not a particular EU statement is reported in a semi-official national record of State practice such as UKMIL? Which practice prevails in the case of conflicting statements? Is there a future for UKMIL or will it be replaced in due course by "European Union Materials in International Law" (EUMIL)?

The UKMIL CD-ROM will run on most PCs. System requirements are fairly basic by modern standards: a minimum 486 processor PC with CD-ROM drive, 32 MB of RAM (preferably 64 MB or more), 20 MB of free disk space (30 MB if UKMIL is to be installed on the computer's hard drive which is recommended for faster operation) and MS Windows 98 or later versions. It is easy to install and operation is straightforward (the

“Help” section on the CD-ROM and the accompanying booklet both include full instructions).

The CD-ROM offers three navigation options—contents, index keyword and full text search—and an option to bookmark favourite sections. Clicking on the relevant heading or subheading in the contents tab can only be a first step in any search, as material on a particular topic will usually also be presented under other headings. The same is true of a search using the 250 keywords in the index tab. For example, clicking on the keyword “exclusive economic zone” takes one to Part Eleven, section VI, “Seas and vessels—exclusive economic zone”. However, a full text search of the same term also directs one to 10 other sections of Part Eleven, as well as to 3 other parts. The keywords are taken only from the headings and subheadings: they do not constitute an exhaustive list of all the topics covered by UKMIL. Several important keywords such as “terrorism”, “international criminal law”, “international criminal court”, “obligations *erga omnes*”, “humanitarian intervention” and “international environmental law” are missing from the list. Empty keywords such as “definition”, “general”, “nationality”, “sources”, “States”, or “uses”, without any further indication as to what they relate to in a specific context, are not very helpful. Similarly, keywords such as “Outside the United Nations” do not automatically suggest that what is at issue is “Coercive measures short of the use of force—collective measures—outside the United Nations”.

In comparison with other electronic databases, the search function for full text searches is rather basic and disappointing. Any search for particular terms or phrases using the normal search techniques (Boolean expressions, bracketed expressions and/or words in inverted commas) leads one only to the part or parts in which the term can be found and not to the specific item or items in which the term actually appears. The user is asked to use the Windows search function and to skip through the entire part to locate the keyword in the text. This is a rather inefficient and tedious process, considering that some of the parts contain several hundred items. The search terms are highlighted in dark and light blue (the latter is sometimes difficult to see). But not all terms are highlighted. For example, a search for “exclusive economic zone”, using the Microsoft Word search function, shows that the term is not highlighted if it appears in single inverted commas or in the plural. This is not very sophisticated, especially as wildcards (*) cannot be used to find specific phrases by enclosing the words in inverted commas. For example, a search for “exclusive economic zone*” in order to find both the singular and the plural of the term does not work. A search for <“exclusive economic” NEAR zone*> will highlight all versions of the term, but also all other occurrences of the term zone(s) in the text, which again makes it difficult to survey the results. A search for “government in exile” will not highlight the term “government-in-exile”. A search for “government-in-exile” on the other hand will highlight both “government in exile” and the hyphenated version of the term. These are all problems that can easily be rectified in the next version of the CD-ROM, which should also include such features as KWIC display,

limitation of output by dates, sorting search results by various parameters, downloading of text and number of search results.

Despite these minor criticisms on purely technical grounds, the CD-ROM version of UKMIL is an outstanding resource for anyone interested in what the customary international law is on a certain question. Even a primitive search tool gives an electronic version the edge over any consolidated paper version. For compilations of State practice, such as UKMIL, which reproduce documents without putting them into their historical, political and legal context and without providing much editorial comment, electronic versions should be the future of legal publishing. The consolidated version of 27 years of UKMIL on CD-ROM is the closest the United Kingdom has got to *A British Digest of International Law*. It compares well with the contemporary American Digests (which are still published in hard copy) and because of its search tool is much more user friendly. However, at £300 for a single user academic licence, it will be beyond the reach of most academics.

The UKMIL CD-ROM is a fitting tribute to the late Geoffrey Marston who, by editing the U.K. practice in international law for a considerable part of his working life, provided an invaluable service to the international legal community. His achievement is shown not least by the fact that, since his death, it has taken three and, recently, even five people to perform the same task.

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