

Review Essay

Ernest Satow's Guides to Diplomatic Practice. From the First Edition in 1917 to the Sixth Edition (2009)*

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The *Guide to Diplomatic Practice* by Ernest Satow is known as a respected work among several generations of diplomats and international lawyers in English speaking countries. The publication of a sixth edition in 2009 permits a comparison with the first edition of 1917 and with some of the subsequent editions.

* Satow, Ernest [Mason]: *A Guide to Diplomatic Practice*. – London: Longmans, Green and Co., 1917. – Volume 1, XXII, 407 pages; Volume 2, IX, 405 pages. (*Contributions to International Law and Diplomacy*. Edited by L. Oppenheim.) – [Several reprints of the first edition are available: Cambridge Scholars Publishing: Vol. 1, ISBN 978-115-227-722-9, € 9.95; Vol. 2, ISBN 978-115-227-7250, € 9.95. – Forgotten Books: Vol. 1, ISBN 978-145-100-4359, € 14.99; Vol. 2, ISBN 978-144-005-7168, € 14.99. – And others.] – *Satow's Diplomatic Practice*. Sixth edition. Edited by Sir Ivor Roberts. – Oxford, etc.: Oxford University Press, 2009. – LVI, 730 pages. ISBN 978-0-19-955927-5. £ 110; € 120.

1. The Sixth Edition (2009)

The new volume is a collaborative venture which takes the form of an edited compilation of chapters written by eight authors, the most prolific of whom has contributed 15 chapters, not always successively, and sometimes writing with a co-author.

The chapters comprising the volume are divided into ten books. The largest of them (Book VI) fills 180 pages or almost a quarter of the main text, while the other books are much smaller. The contents of some chapters are reduced to supplying basic information. Chapter 28, for instance, treats eleven international and regional organizations in 50 pages. The quality of the information that is presented here recalls the bare bones level already noted by Julius Stone for the chapters on the Commonwealth, the United Nations and the specialized agencies in his review of the fourth edition (*Sydney Law Review*, Vol. 23 (1959) 180–184, at 183–184).

The editor of the sixth edition, Sir Ivor Roberts, and one other participant are former career diplomats without education in law. The other contributors are lawyers, most of whom are active or former legal advisors in the British Foreign and Commonwealth Office. In the Preface to the new volume the contributors express their hope that the edition will provide a guide for legal advisors – mentioned in first place – and diplomats in every foreign ministry, and secondarily for international lawyers and students of international relations (p. XXV). If simplifying, one could say that legal advisors have written a book mainly for legal advisors – about diplomatic practice.

The concept of diplomatic practice is referred to in the text of the new edition. Book VI, for instance, announces that subsequent chapters will discuss in detail the conduct of diplomacy by means of the United Nations, regional organizations, in particular the European Union, and other international institutions (p. 287). The entire text of these chapters, however, describes the histories, charters, structures and policies of these organizations and not the relevant diplomatic practice among their members or between them and other subjects. Although the UN Security Council is the essential focal point of diplomatic practice within and of the United Nations system, and although the authors' state of origin, the United Kingdom, and its Anglophone ally, the United States of America, are very important Council members, we find almost nothing on diplomatic practice there. A few cases treated by the Security Council are mentioned, accentuating the question of Korea in the 1950s, and some explanations are provided of the Council's

functions, the quality of which resembles lessons on international law for non-lawyers (pp. 329–340).

In regard to the UN General Assembly readers can learn the names of its six Committees, and that there are two Procedural Committees, but nothing is said about the negotiations carried on within and between the geographical groups for preparing a session or about equitable geographical distribution of the positions in the organization. Another part of the publication (chapters 30 and 31) describes international courts and tribunals, although their practice is definitely not diplomatic. Diplomacy that may occur within the context of judicial settlement of disputes is not mentioned. Overall, many parts of the sixth edition contain information about international law and institutions which is detailed, up-to-date and necessary for a diplomat to know, but do not report about diplomatic practice.

Occasionally in this edition when diplomatic practice is mentioned it relates not to the method or substance of negotiations between states but rather to such formalities as the niceties of correspondence between representatives of states, often introduced as “the current British diplomatic practice” (e.g. British *Notes Verbales* have to be “printed on blue paper with an embossed crest and sent in a matching envelope”, p. 49). The phenomenon of attacks on diplomatic missions is exemplified by extended references to incidents affecting British chancelleries and residences which took place in three capital cities of Asian states in the decade before 1967 (Iraq, Indonesia and China, pp. 229–234).

2. Satow's Biography and Publications

Ernest Satow (1843–1929) was about 74 years old when the first edition of his *Guide to Diplomatic Practice* appeared. His professional career began as a student interpreter in the British consular service by way of a civil service limited competition when he was just 18. As a young man he acquired mastery of the Japanese language in Japan. He had been a British minister plenipotentiary – at Tokyo from 1895 to 1900, when the treaties regarded by Japan as unequal were revised in 1899, and in Beijing from 1900 to 1906, when the Boxer settlement was agreed in September 1901. He was the second ranking plenipotentiary on the British delegation attending the Second Hague Peace Conference in 1907. He was elected *associé* of the Institut de Droit International at the session in Paris in May 1921. His legal education was mentioned in the curriculum published by the Institut as “Avocat 1887”,

which refers to his call to the bar at Lincoln's Inn in that year. Probably the high national and international estimation of his *Guide to Diplomatic Practice* and of his intellectual culture helped him to gain entrance to the Institut among five British and altogether more than thirty candidates elected, who were younger and could offer longer lists of legal qualifications than his.

Among the books he had published which demonstrated his diverse and practical interests, but not diplomatic or legal interests, were an English-Japanese Dictionary of the Spoken Language, first published in 1876, a Handbook for Travellers in central and northern Japan, first published in 1881, and a book about the voyage of Captain John Saris to Japan in 1613, first published in 1900.

3. The First Edition (1917)

Ernest Satow divided his work into two volumes, and these into three books, the third of which on "International Meetings and Transactions" filled the second volume.

According to its author, the edition of 1917 was written in about two and a half years. It was the earliest guide to diplomatic practice published in English. The forerunners which were listed in the edition were not many, and by then were 40 years or more old (Volume I, p. IX). Seemingly the *Guide* has found no successor, or imitators, apart from the revisions.

The first edition opened with an Editorial Introduction supplied by Lassa Oppenheim, who used the opportunity to present his own series of monographs. Satow's volumes were the first item in the series. The prominent position of Oppenheim's opening lines was justified, because he had invited Satow to write the *Guide*. The two men had exchanged ideas on a range of legal and diplomatic issues. The title was Oppenheim's idea and the original sequence of the chapters was revised in accordance with Oppenheim's suggestions. What Satow called the toil of proof-reading was shared by the writer's brother, who was identified by the author as a Master of the Supreme Court of Judicature.

A recent issue of the journal *Diplomacy and Statecraft* contains a special section on Satow which was useful in preparing this review – there are contributions by Nigel J. Brailey, Brian Harris, Ian Nish, Ian Ruxton and Thomas Otte. Thomas Otte has helpfully compared the original sequence of chapter headings of Satow's draft with the final version proposed by Oppenheim (Otte, Thomas G.: 'A Manual of Diplomacy. The Genesis of

Satow's Guide to Diplomatic Practice', *Diplomacy and Statecraft*, Vol. 13 (2002) 229–242, at 239).

The title of Satow's book may be understood as indicating a guide to the diplomatic practice of former times for the edification of international lawyers, the diplomat and the student of history – these are the groups of readers mentioned by Oppenheim – and as a guide designed to support the prospective professional activity of a diplomat in his own career. Satow connected both fields and prepared a description of past diplomacy as beneficial instruction for a diplomat of contemporary times. His method of treatment of the subject was in harmony with that concept. The old practice was often presented by means of examples arranged in a historical time line while the selection and description of the examples was made having in view an active British diplomat as reader.

In compiling his *Guide*, Satow often went into detail when describing particular terms, events and procedures of former diplomatic practice. When illustrating his topics he brought easily together the names of persons and places, interrelationships, dates, causes of events, and citations which were connected to them. For instance, for 30 international congresses and 30 further conferences held since 1648, and a great number of treaties resulting from them (Book III), he reported on the general political situation, the procedure of negotiations, the names of diplomats and the occurring diplomatic practices. As designated diplomatic activities he mentioned that the plenipotentiaries proceeded to the verification of their full powers, that some representatives were authorized solely to take part in the discussions, but had no power to sign, that it was agreed whether the proceedings should be kept secret or not, that the *procès-verbaux* were read and adopted, that it was decided to confine the proceedings to the preparation of a draft, etc. In regard to treaties Satow narrated events and explained definitions of terms or acts such as agreement, arrangement, declaration, protocol, *procès-verbal*, exchange of notes, reversals, *compromis d'arbitrage*, *modus vivendi*, ratification, adhesion and succession, etc.

The contents of the chapters of the *Guide* were often presented chronologically. Satow's intention had been to pursue a historical approach, bringing in Wicquefort and Finett, while Oppenheim had reminded him that he wanted a book written for practice (Otte, *ibid.*, pp. 231 and 235). Satow's inclination towards history may have given the law professor a feeling similar to Cecil Hurst, who as a reviewer of the second edition was not far from reproaching Satow that some of his material had little or no bearing on the

modern methods of diplomatic intercourse and could be of small use to the diplomat of those days (*British Year Book of International Law*, Vol. 4 (1923–1924) 193–194, at 194). In so doing Hurst argued as a lawyer, and as a judge which he became later. As such he could settle a case brought before his court by recourse to the law in force and by means of a single judgment. In contrast, a diplomat would have to negotiate a resolution of a problem with possible resort to different methods while remaining in intercourse with many persons. Often several solutions could be envisaged as acceptable outcomes. Historical insight could often be advantageous for a diplomat in reaching towards a result. Satow's *Guide* contained sufficient historical coverage to enable a diplomat to understand the diplomatic practice of the two previous centuries. It seems that the historical method and historical intensity of the *Guide* were among the reasons for its success.

Ernest Satow wrote a guide to practice. For him the relevant practical diplomacy comprised mainly the behaviour of the great European powers between themselves after the Westphalian peace. The powers were France, Britain, the Holy Roman Empire or Austria, Spain, Russia and Prussia. They were not only legally equal, but of similar importance in regard to power within their club. Among them diplomacy was important, and a mistake committed by a diplomat might never be repaired. The flourishing diplomatic practice in that political system, which aimed at maintaining a "balance of power" and a "concert of Europe", among these states, provided Satow with his examples. The diplomatic problems that had arisen in the Europe of the 18th and 19th centuries were for him still current problems, or served to explain current issues. Most of the rest of the world was not treated by Satow. He gave no attention to the relations between European and non-European subjects, in which the Europeans usually were powerful enough to be able to have recourse to the use of force. Especially, he made no comment on the European and American diplomacy that was directed towards China and Japan in the second half of the 19th century, or on the developing diplomatic activity of these non-colonized states, which he knew so very well.

Satow's *Guide* was an unofficial publication. It was created, however, in the near vicinity of the British Foreign Office. Satow was in contact with his colleagues and the Librarian of the Foreign Office when preparing it. In his text he made perceptible a difference between Britain as the country of main interest and the other – foreign – states. As a British diplomat he probably wrote primarily for his professional colleagues within the British diplomatic

and consular services. For them it was useful that he wrote in English. To them he directed his practical approach, while including appendixes with international law literature selected for diplomats. He recommended that, given the importance of Grotius, every diplomatic mission should possess a copy of *De Jure Belli et Pacis*, and he provided the title of a new English translation.

The fact that the *Guide to Diplomatic Practice* and also the *British and Foreign State Papers* were prepared in Britain may indicate that in the foreign policy of this state diplomatic practice, and treaties, and therefore also diplomats, had a primary position. If this was the case, the preparation of the *Guide* for the use of British diplomats was a patriotic undertaking. The high level of education of the functionaries active in the foreign service of the then still greatest empire seen in the world may have been a stimulus for Satow when determining the standard of his *Guide*. In contrast, for instance, Oppenheim as a law professor who wrote for students characterized his treatise as an “elementary book for those who are beginning to study International Law” (Oppenheim, Lassa: *International Law. A Treatise*, Vol. I, 1905, p. VI). Oppenheim thus was disposed to offer an English translation of the original French texts which he omitted because of lack of space (*ibid.*, second edition, Vol. II, 1912, p. VII).

4. The Revised Editions

Revised editions of the *Guide* appeared in 1922, 1932, 1957, 1979, and 2009. The second edition was slightly enlarged by Ernest Satow himself. All the other editions were taken care of by retired diplomats. In the third edition the two volumes were brought within the compass of a single volume and this remained the form of publication of the *Guide*.

The different circumstances in which the revised editions appeared necessitated modernizations. A treatment of the League of Nations had to be included in the third edition, which in turn had to be replaced by a presentation of the United Nations in the fourth edition. The three conferences convened at Vienna in the 1960s caused a rewriting of 20 out of 44 chapters of the fifth edition. For the sixth edition, again, “radical surgery” was required (Preface, p. XXV).

5. Comparison between the First and Sixth Editions

A comparison of the first and sixth editions across an interval of more than 90 years shows a change from one author throughout to several contributors of different numbers of articles, and from a sequence of three books to an arrangement of several books including one that is disproportionately long. The substitution of the broad culture of the original author by the narrowly legal education of most of the present collaborators was accompanied by replacement of the depiction of diplomatic practice by descriptions of political institutions and reports of legal decisions in many parts of the sixth edition. The new edition is written almost entirely in English.

The historical awareness which was fully expressed in the editions authorized by Ernest Satow is found much diminished in the new publication. In the sixth edition (p. XXXI), as in the fifth edition, for instance, Ernest Satow is referred to as “the son of a Swedish merchant who had settled in England”. If the author’s father was born in 1801 near Wismar, attention to history should have provoked mistrust that he could have been Swedish. The King of Sweden had received this territory as a fief of the Empire and ruled it like a vassal of the Empire as Lord of Wismar (Treaty of Osnabrück, 1648, Art. X). The region and its inhabitants had remained German. In order to demonstrate the Swedishness of the father, which is asserted but not justified in the sixth edition, arguments additional to his place of birth would have had to be adduced.

The diplomatic reserve esteemed by readers of the first edition is now occasionally accompanied by expressions of political partiality emanating from an Anglo-American standpoint. For instance, in the concluding chapter of the sixth edition, which is headed “Advice to Diplomats”, the editor himself, writing about truth as a quality of a diplomat, compromises undiplomatically several statesmen for not having respected truth, namely: 1) “a Soviet foreign minister [who] told the president of the United States ...”, 2) “the former Iraqi leader Saddam Hussein whose lies and deception ...”, and 3) “similarly Bismarck ... by sending ... the famous Ems telegram” (p. 624). The disqualification of Bismarck, who was mentioned respectfully by Satow in his *Guide* written during the First World War, and not in regard to the *Emser Depesche*, is accompanied by the lengthiest footnote of the entire sixth edition, which is a mere reprint from the online edition of the *Encyclopedia Britannica*.

A main difference between the two editions is that the sixth edition does not report about diplomatic practice up to the time of publication in

2009, as the first edition did up to 1917. Political events, including recent events, are taken into account, but diplomatic activities as such caused by the main political events of the 20th and 21st centuries are not described or discussed in the new edition. The Two-Plus-Four-Treaty (1990), for instance, which by its very name gives notice of a diplomatic process, is not listed in the Index. Whereas Ernest Satow reserved one of his two volumes for depicting the real practice of conferences and treaty making, the sixth edition, as in former edited editions, considers these topics only under a formal aspect (“International Transactions”, Book IX, pp. 521–614). In this manner of presentation adopted in the sixth edition may be seen a movement by the editor and contributors away from Satow’s method of treating diplomatic practice, which was concrete and practical, towards rendering an account of the supposed “essence” of international relations, which would be more abstract or theoretical (and cf. the short chapter 22, pp. 317–320, on multilateralism; contrast e.g. Jönsson, Christer & Hall, Martin: *Essence of Diplomacy*, Palgrave Macmillan, 2005, IX, 207 pp., not included in the bibliography of the sixth edition).

The changed and still changing framework of diplomatic practice during the 20th and 21st centuries is not surveyed in the sixth edition, nor are the consequences of the changes for the new diplomatic practice initiated after the Great War elucidated in contrast to the old practice as described by the author in the first edition. Satow, in the first edition, had understood diplomatic practice as operations conducted among the dominant – and dominating – European states in the era after the Westphalian peace. The diplomatic practice of this period was still functioning for him up to the time of his preparation of the *Guide*. However, “the First World War also brought an end to old or orthodox diplomacy”, as is stated correctly in the sixth edition (p. 13). The reporting time of Satow’s *Guide* coincided with the end of the epoch he treated. His work, since it appeared in 1917, was a description of a then closed historical diplomatic practice.

The new conditions of diplomatic practice after the epochal break included various specific features: another number of states relevant for diplomacy, another hierarchy among the states, a growing number of diplomats, the new relevance of international organizations, etc. In addition, the scope of diplomatic practice was restricted by the growth of another method of action in international relations, namely the increasing resort by states to the use of international tribunals. Their numbers and the scope of their jurisdiction were enlarged continuously. In traditional diplomatic practice, third states

could interfere more easily in disputes, and parties could find options for solutions among several possible outcomes. In 1919, the victorious states planned the establishment of a Permanent Court of International Justice (Covenant of the League of Nations, Art. 14) and proclaimed the constitution of a special tribunal to try Emperor William II (Treaty of Versailles, Art. 227). After 1945 the victorious states condemned the losers by means of military tribunals convened at Nuremberg and Tokyo, but were not able to agree diplomatically about a peace treaty with Germany. By the year 2009 a great number of international tribunals existed, some with global and others with regional jurisdiction, and most were in action with cases pending before them.

The newest technological circumstances of diplomatic practice and their effect on the diplomat's activity are reported only occasionally in the sixth edition. Shuttle diplomacy is illustrated by some short examples, and video conferencing and transmissions via internet are briefly mentioned (pp. XXVI and 54–55).

6. Satow's One Life

The two volumes of a treatise on international law (1905, 1906) by Lassa Oppenheim, who was younger than Ernest Satow, were attributed with nine lives after the appearance of the ninth edition in 1992 (see Reisman, Michael W.: 'Lassa Oppenheim's Nine Lives', *Yale Journal of International Law*, Vol. 19 (1994) 255–284). One reason for the alleged resurrections was the updating with continuing treatment of the vigorously developing international law kept within the structure of the first edition. From the six Guides bearing the name of Ernest Satow we would attribute a long life only to the authentic and irrevocably valid text of the first edition. Its characteristic style based on frequent chronological presentations would have needed not updates but continuations.

The editor's elevation of Satow's name into the title of the sixth edition, imitating the recomposition of the title of Oppenheim's treatise, while deleting the hallmark *Guide*, which was a correct and distinctive appellation, seems unjustifiable. The current text cannot claim to be written in the spirit of Ernest Satow. The new title would have been appropriate for the first edition. From the two volumes of that edition today's diplomats and the members of other professions involved with the conduct of international relations can still learn with profit for their contemporary activity

how diplomatic practice was carried on in a long period of its ascendancy, prosperity and decadence.

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