

# Foreign Official Gazettes: Solving a Collection Conundrum\*

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*Ms. Tice discusses the importance of foreign official gazettes as sources of legal information and the problems of acquiring, maintaining, and using them. She introduces the guidelines used by the University of Michigan Law Library for collecting gazettes and suggests ways this approach may be adapted for use in other complex collection situations.*

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## Introduction

¶1 No one will be surprised to learn that development of the law collection in a large academic research library is a complex puzzle that requires the balancing of

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many competing priorities. For example, the importance of the material's substantive content must be weighed against considerations of expense, both in terms of budget and staff time. Format preferences and availability of the material must be taken into account. Preservation and archive questions, including shelf space concerns, must be resolved. The numerous issues are multifaceted and interrelated, and every complex collection decision represents a compromise.

¶2 Collection decisions become particularly complicated when the legal material involved is uncommon, difficult to obtain and to maintain, and challenging to use. Such is the case with foreign official gazettes, often referred to as FOGs. Official gazettes in most jurisdictions serve as the primary government publication for official notices and announcements, legislation of all types, and often treaties, court reports, and more. Gazettes thus contain a wealth of important legal information that may be unavailable in other publications. Indeed, in many jurisdictions, the official gazette is the only published source for session laws and other primary legal materials.

¶3 However, developing and maintaining a usable collection of foreign official gazettes is not an easy task. Reductions in library budgets affect the amount of resources allocable to these materials. Difficulties in locating a suitable vendor, sporadic receipt of issues, and variable physical quality of gazettes affect acquisition and preservation efforts. All of these issues, as well as a general lack of useful indexing, affect patron use of foreign official gazettes. And these are but a few of the challenges facing the relatively small number of libraries that collect these problematic, but important, legal materials.

¶4 Yet the conundrum posed by the collection of foreign official gazettes is not insoluble. One workable approach to this complicated puzzle may be found in the Collection Development Policy for Foreign Official Gazettes recently adopted by the University of Michigan Law Library (UMLL).<sup>1</sup> By focusing on the substantive content of official gazettes, UMLL's policy seeks to achieve a reasonable balance among the numerous competing collection concerns raised by these materials. This approach has the potential to be adapted for use in other complex collection development situations as well.

### Foreign Official Gazettes in Context

¶5 Although unfamiliar to many American lawyers and legal researchers, official gazettes are the norm abroad.<sup>2</sup> Indeed, almost every foreign jurisdiction publishes

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1. The Collection Development Policy for Foreign Official Gazettes was developed and implemented by the author, formerly Senior Associate Librarian at UMLL. While at UMLL, the author worked extensively with Michigan's large collection of foreign official gazettes.
  2. American legal publications that most closely resemble official gazettes include the *Federal Register*, *Code of Federal Regulations*, and the *Official Gazette* published by the United States Patent and Trademark Office. However, these and other administrative "gazettes" are much more limited in scope than most foreign official gazettes.

an official gazette.<sup>3</sup> Foreign official gazettes have been in existence since at least the middle of the seventeenth century, when the earliest versions of the Portuguese, Spanish, Austrian, and French gazettes made their appearance.<sup>4</sup> During the nineteenth century, numerous gazettes began publication in jurisdictions in Western and Eastern Europe, South America, Africa, and the Caribbean.<sup>5</sup> Colonial nations of that period were typically covered in one or more imperial gazettes; upon achieving their independence, generally in the late nineteenth and early twentieth centuries, fledgling nations began publishing their own gazettes.<sup>6</sup> Throughout these centuries and continuing today as nations change and reconfigure themselves, new gazettes appear and old gazettes reappear in new formats or under new titles.<sup>7</sup>

¶6 Foreign official gazettes are, quite simply, national, state, or local foreign government publications for the dissemination of official information. All gazettes contain formal governmental, legal, or judicial notices, such as notices of personnel promotions and resignations, auction and sales announcements, and probate notifications. More importantly for legal researchers, gazettes also serve as the first, and often only, official publication of session laws (i.e., legislation published in chronological order). Acts, bills, statutory instruments, orders, decrees, resolutions, and regulations all regularly appear in official gazettes. Treaties and international agreements are also often published in gazettes.<sup>8</sup> Some jurisdictions include

3. Notable exceptions include Denmark, Norway, and Sweden.

4. *Gazeta de Lisboa* (173?–1820) (Portugal); *Gaceta de Madrid* (1742–1936) (Spain); *Gesetze und Verfassungen im Justizfache* (1780–1830) (Austria); *Gazette Nationale Ou, Le Moniteur Universel* (1789–1810) (France). For more information on title history and publication dates of official gazettes in numerous jurisdictions, see THOMAS H. REYNOLDS & ARTURO A. FLORES, *FOREIGN LAW* (1989–). For a listing of current titles and publishers of official gazettes of member states of the International Labour Organization, see PRINCIPAL SOURCES OF NATIONAL LAW, ARRANGED BY MEMBER STATES, at <http://www-ilo-mirror.cornell.edu/public/english/support/lib/howto/natleg.htm#top> (last visited Dec. 22, 2004).

5. E.g., *Gazzetta Ufficiale Del Regno D'italia* (1861–1946) (Italy); *Reichsgesetzblatt* (1871–1945) (Germany); *Durzhaven vestnik* (1879–1946) (Bulgaria); *Gazeta do Rio de Janeiro* (1808–1862) (Brazil); *Gold Coast Government Gazette* (1872–1957) (Ghana); *Official Gazette* (1867–) (Barbados).

6. For example, France typically initiated colonial legislation in the national French government, then reissued relevant laws and regulations at the local level. Accordingly, French colonial legislation typically appears in both the national and local gazette. Compare *Bulletin Officiel de l'Administration des Colonies* (1887–1950; title varies) (France) with *Journal Officiel de la Côte d'Ivoire* (1895–1958) and *Journal Officiel de la République de Côte d'Ivoire* (1958–) (Cote d'Ivoire). See generally REYNOLDS & FLORES, *supra* note 4.

7. For example, Zimbabwe, which has been recognized as an independent state only since 1980, now publishes its own *Government Gazette* (1980–). Throughout the unsettled times prior to independence when it was attached to the British Empire, the region published official gazettes under a number of different titles, including *British South Africa Company Government Gazette* (1894–1923); and *Rhodesia Government Gazette*, *Southern Rhodesia Government Gazette*, and *Zimbabwe Rhodesia Government Gazette* (1923–80). See also *Hayastani hanrapetut'yan pashtonakan teghekgagir* (1997–) (Armenia) (Armenia has been recognized as an independent state only since 1991); *Butletí oficial del Principat d'Andorra* (1989–) (Andorra) (although a state dating back to medieval times, Andorra began publishing an official gazette only in 1989). See generally REYNOLDS & FLORES, *supra* note 4.

8. In many jurisdictions, publication in the official gazette serves as the operative act of effectuation, the ratification of legislation and international agreements, or both. See *infra* notes 22–23 and accompanying text.

selected court reports, usually from the highest court, in the gazette. Gazettes may also contain other official information, such as transcripts of legislative debates, corporate financial statements, policy statements, and legal advertisements. Often information of a less strictly official nature is included as well, such as crop reports, weather reports, and summaries of births and deaths.<sup>9</sup>

¶7 The arrangement of the information in gazettes differs by jurisdiction. Many jurisdictions organize their gazettes into discrete parts or series, each containing different categories of official information, such as notices, administrative materials, or legislation. Indeed, legislation is typically published separately from the rest of the gazette. Various types of legislation may appear as individual items, in supplements, in their own part or series, or in “extra” or “extraordinary” issues.<sup>10</sup>

¶8 Official gazettes are published in a wide variety of frequencies. They may appear monthly, bimonthly, weekly, daily, or on no set schedule at all.<sup>11</sup> The available formats and physical characteristics of gazettes vary widely as well, although virtually all are published in paper. Paper gazettes are issued as individual unbound pamphlets; some are also offered as cumulative bound volumes.<sup>12</sup> The quality of the paper on which gazettes are printed ranges from poor quality newsprint to acceptable paper stock, although very few, if any, appear on acid-free paper.<sup>13</sup> Several jurisdictions offer their official gazette on CD-ROM.<sup>14</sup> A growing number

9. For analyses of the information contained in official gazettes, see JOHN E. ROBERTS, *A GUIDE TO OFFICIAL GAZETTES AND THEIR CONTENTS* (1985); GESETZ- UND AMTSBLÄTTER DES AUSLANDES UND DER DDR IN DEUTSCHEN BIBLIOTHEKEN (1986); DAG HAMMARSKJÖLD LIBRARY, *GOVERNMENT GAZETTES* (1964); UNITED NATIONS LIBRARY, *ANALYSIS OF MATERIAL PUBLISHED REGULARLY IN OFFICIAL GAZETTES* (1958); REYNOLDS & FLORES, *supra* note 4.
10. For example, the *Bundesgesetzblatt* (Germany) is issued in two parts: *Teil I* contains legislation, including administrative regulations, and *Teil II* contains international agreements and agreements between the federal government and the Länder (states). The *Gazette of Pakistan* (Pakistan) appears in a regular edition, divided into separate parts containing official notices, and an extraordinary edition, divided into separate parts containing primary law. See generally ROBERTS, *supra* note 9.
11. For example, *al-Jarāidah al-rasmāyah lil-jumhūrāyah al-Sāūdānāyah al Dāimuqrātāyah* (Sudan) and the *Montserrat Gazette* (Montserrat) are published monthly; *Journal Officiel de la République du Niger* (Niger) and *Journal Officiel de la République Islamique de Mauritanie* (Mauritania) are published bimonthly; *Sri Lanka Prajatantrika Samajavadi Janarajaye Gasat Patrayal Gazette of the Democratic Socialist Republic of Sri Lanka* (Sri Lanka) and the *Government of Belize Gazette* (Belize) are published weekly; and *Republic of Singapore Government Gazette* (Singapore) and *Diario Oficial* (El Salvador) are published daily. *Mémorial: Journal Officiel du Grand-duché de Luxembourg* (Luxembourg) and *Gazetta Tal-gvern Ta Malta/Malta Government Gazette* (Malta), among others, are published on an irregular basis. See generally REYNOLDS & FLORES, *supra* note 4; ROBERTS, *supra* note 9.
12. For example, the *Grenada Government Gazette* (Grenada) and *Diario Oficial* (Mexico) are available as bound volumes.
13. For example, gazettes from Caribbean jurisdictions, particularly members of the Commonwealth of Nations, are among those printed on better quality paper, e.g., *Government Gazette* (Anguilla); *Antigua and Barbuda Official Gazette* (Antigua and Barbuda). Gazettes from Central and South America are frequently printed on poorer quality newsprint, e.g., *La Gaceta, Diario Oficial De La República De Honduras* (Honduras); *Diario Oficial* (Colombia).
14. For example, *Butlletí Oficial del Principat D'andorra* (Andorra) is available on CD-ROM from 1995 to date. See GOVERN D'ANDORRA: BUTLLETÍ OFICIAL DEL PRINCIPAT D'ANDORRA, at <http://www.bopa.ad/bopa.nsf> (last visited Dec. 23, 2004); RÉPUBLIQUE ALGÉRIENNE DÉMOCRATIQUE ET POPULAIRE: SECRETARIAT GÉNÉRAL DU GOUVERNEMENT, at <http://www.joradp.dz/HFR> (last visited Dec. 23, 2004) (JOURNAL OFFICIEL DE LA RÉPUBLIQUE ALGÉRIENNE DÉMOCRATIQUE ET POPULAIRE (Algeria), available on CD-ROM from 1996–2003).

of jurisdictions are making their official gazettes available online, both in PDF and HTML formats, and often with a keyword search feature. While most of these Web sites are offered on a subscription basis, many provide free online access to at least the most current issue.<sup>15</sup> Microfiche and microfilm copies of gazettes from quite a few jurisdictions are available from commercial and other sources as well.<sup>16</sup>

## Pros and Cons of Collecting Foreign Official Gazettes

### *Unique and Important Sources of Information*

¶9 There are numerous reasons why a permanent collection of foreign official gazettes adds significant value to the intellectual quality of a major law library collection. From a legal research perspective, the importance of official gazettes is clear: Gazettes are the official source for legislation of all types, as well as other primary legal materials. Although in many jurisdictions legislation is also available in commercially prepared (and often widely used) codes or compilations of laws, the official version as set forth in the gazette is considered the binding text of the law in the case of inconsistencies. Even in jurisdictions that publish separate volumes of session laws or official codifications of legislation, the official gazette is usually deemed the authoritative statement of the law.<sup>17</sup> Official gazettes are also typically a preferred source for proper legal citation. According to the *Bluebook*, for example, statutes and decrees are to be cited to the *Boletín Oficial* for Argentina, the *Journal Officiel de la République Française* for France, and the *Bundesgesetzblatt* for Germany.<sup>18</sup>

¶10 In addition, gazettes are usually the most current source of a jurisdiction's primary legal information. Many gazettes are published on a relatively frequent schedule, whereas compiled versions of legislation or codifications tend not to be as regularly updated.<sup>19</sup> Moreover, in many jurisdictions, gazettes are the only

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15. Official gazettes from more than fifty jurisdictions are now available electronically. For an extensive annotated compilation of links, see GOVERNMENT GAZETTES ONLINE: BIBLIOGRAPHY, at <http://www.lib.umich.edu/govdocs/gazettes/bibliography.htm> (last visited Dec. 23, 2004). See *infra* notes 38–39 and accompanying text for a discussion of problems associated with relying on the Internet for collecting official gazettes.
  16. Commercial sources for microform official gazettes include the Library of Congress Photoduplication Service and Norman Ross Publishing (now part of ProQuest Information and Learning). The Photoduplication Service offers gazettes on microfilm from a large number of jurisdictions, with coverage ranging from the earliest issues to more current holdings. Although Norman Ross previously offered issues for many jurisdictions dating back in some instances to the earliest issues, as well as current subscriptions on microfiche to several major official gazettes, its coverage now (with some exceptions) seems limited to back issues from the 1950s through 1980s. See *infra* notes 36–37 and accompanying text for further discussion of problems associated with collecting gazettes on microform.
  17. See, e.g., HERSCHEL WEBB, RESEARCH IN JAPANESE SOURCES 115 (1965) (“No other source is as authoritative [as *Kanpō* (Japan)], and students are advised to refer to it and cite it whenever they need an official statement about some affair of the government.”).
  18. THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION 246, 262, 265 (Columbia Law Review Ass’n et al. eds., 17th ed. 2000) (capitalization as set forth in the *Bluebook*).
  19. Unfortunately, current publication of a gazette in a foreign jurisdiction does not necessarily ensure current receipt of that gazette by the library. See *infra* text accompanying notes 33–35 for a discussion of problems associated with receiving official gazettes.

published source of session laws.<sup>20</sup> In some jurisdictions, particularly those that produce few legal publications, gazettes are the only current published source of primary law.<sup>21</sup> Researching the laws of these jurisdictions is therefore impossible without reference to the official gazette. For jurisdictions in which the official gazette is or was the only source of primary legal materials, a collection of gazettes further provides an irreplaceable archive of historical legal information.

¶11 Official gazettes are important not only as sources for the text of the law itself. In numerous jurisdictions, publication in the official gazette is the operative act that causes a law to come into force and effect.<sup>22</sup> Likewise, publication of a treaty in the official gazette frequently serves as the act of ratification.<sup>23</sup> Thus official gazettes provide key information regarding the status of a jurisdiction's legislation and international agreements.

¶12 Finally, official gazettes are important from a sociological perspective. As the official publication of foreign governments, gazettes also provide a record of societal trends and major state and world events as reflected through governmental administration. For example, both during and after World War II, provisional governments were established in many occupied territories. A number of these occupational administrations published official gazettes, which now serve as unique documentation of that significant period in history.<sup>24</sup> Gazettes can even be informative in their absence: In many jurisdictions, publication of the official gazette was suspended completely during wartime periods and resumed under the auspices of a post-war occupational government or as an entirely new publication.<sup>25</sup>

### *Problematic to Acquire, Maintain, and Use*

¶13 Despite their undoubted importance as sources of legal and other information, foreign official gazettes are challenging to acquire, maintain, and use. Although not every

20. For example, the session laws of St. Lucia are published only as supplements to the *St. Lucia Official Gazette*. Austrian session laws are likewise published only in the *Bundesgesetzblatt für die Republik Österreich*. Many other examples exist. See generally REYNOLDS & FLORES, *supra* note 4.
21. For example, Bahrain does not publish any official compilation of laws or session laws, and its available codes are very outdated. Accordingly, *al-Jaridah al-rasmiyah* (Bahrain) is effectively the only current source of published law. Other examples include *Faafinta rasmi ah* (Somalia) (no alternate current source of Somali law) and *Journal Officiel de la République Togolaise* (Togo) (no alternate current source of Togolese law). See generally REYNOLDS & FLORES, *supra* note 4.
22. See generally, e.g., 1 INTERNATIONAL ENCYCLOPEDIA OF COMPARATIVE LAW (1971) (national reports).
23. See generally, e.g., SOURCES OF STATE PRACTICE IN INTERNATIONAL LAW (Ralph Gaebler & Maria Smolka-Day eds., 2002-).
24. Gazettes published in territories under German occupation include *Amtsblatt des Generalkommissars in Reval* (1942–44) (Estonia), *Verordnungsblatt des Militärbefehlshabers in Belgien und Nordfrankreich für die besetzten Gebiete Belgiens und Nordfrankreichs* (1940–44) (Belgium), and *Verordnungsblatt des Militärbefehlshabers in Frankreich* (1940–43) (France). Gazettes published in territories under Japanese occupation include *Official Gazette* (1942–43) (Philippines). Gazettes published in territories under Allied occupation include the *Allied Military Government Gazette* (1945–47) (Italy), *Military Government Gazette, Germany, United States Area of Control* (1946–49) (Germany), and *Official Gazette* (English ed.) (1946–52) (Japan). See also *infra* note 59 (describing content of Imperial German *Reichsgesetzblatt* from 1940).
25. Many gazettes suspended publication during World War II, including *Monitor Polski* (Poland) (suspended 1941–44), *Bundesgesetzblatt für das Land Österreich* (Austria) (suspended 1939–44), and *Ephêmeris tâes kyvernâeseâos tou Vasileiou tâes Hellados* (Greece) (suspended 1941–44, although the exiled government published its own gazette). See generally REYNOLDS & FLORES, *supra* note 4.

difficulty discussed below occurs with every gazette,<sup>26</sup> collecting official gazettes is nevertheless a time-consuming process that is rarely trouble-free. Perhaps for this reason, and others, few libraries support extensive collections of official gazettes.<sup>27</sup>

¶14 An initial consideration with respect to the collection of foreign official gazettes is cost. Libraries coping with increasingly restricted budgets must determine the amount of resources that can be committed to funding and renewing subscriptions to these materials, which are admittedly not among the most frequently used sources in the collection. Annual subscription rates for foreign official gazettes run anywhere from \$100 to \$1000, although most subscriptions range between \$200 and \$500.<sup>28</sup> While these rates are relatively inexpensive as single items, in aggregate the amounts are not insignificant. Further, since gazettes are only truly valuable as continuations, budgetary provisions must be made to accommodate annually increasing subscription rates on an ongoing basis.

¶15 Even when funds are available, the actual acquisition of official gazettes presents its own complex set of difficulties.<sup>29</sup> A preliminary hurdle to successful acquisition is the fact that the book trade in many foreign jurisdictions does not recognize the predominantly western notion of the subscription. Local vendors and the government publishers that produce official gazettes are in many cases simply not equipped to service subscriptions on a regular basis, especially for customers overseas. Reliable vendors cannot always be located, and subscription orders placed directly with the government publisher are often misunderstood (especially when English is not the primary language of the jurisdiction), disregarded, or both. At times, a regular subscription service is simply unobtainable.<sup>30</sup> Unhappily, this often happens with small or developing jurisdictions for which other sources of legal information are not readily available. Indeed, political situations worldwide can have a direct impact on the ability to acquire official gazettes in affected jurisdictions.<sup>31</sup>

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26. For example, in recent years UMLL has experienced very few problems with its subscriptions to *Diario Oficial* (Mexico), *Công báo* (Vietnam), and *Bundesgesetzblatt für die Republik Österreich* (Austria), among others.

27. Libraries with significant current and historical collections of official gazettes include the Center for Research Libraries, Harvard Law School Library, the Library of Congress, the Los Angeles County Law Library, and the University of Michigan Law Library. (The New York Public Library has phased out its extensive collection of gazettes, giving the majority of its holdings to the Center for Research Libraries.)

28. As of 2004, among the more expensive annual gazette subscription rates paid by UMLL are \$873 for *Fletorja zyrtare e Republikës të Shqipërisë* (Albania), \$716 for *Sakartvelos Sakanonmdeblo Macne* (Republic of Georgia), and \$650 for *Hayastani Hanrapetut'yan Pashtonakan Teghekgagir* (Armenia).

29. For a general discussion of foreign legal serials acquisition, see Pamela Bluh, *The Acquisition and Handling of Foreign Legal Serials: The Practical Aspects*, 79 LAW LIBR. J. 115 (1987).

30. In this case, libraries sometimes must use creative approaches to acquire vital gazettes. For example, at various times UMLL has contracted with a law firm or other agent in a jurisdiction to hire individual citizens to purchase gazettes on a daily basis and send them regularly to the library.

31. For example, the government publisher in Cuba does not accept direct communications from overseas library subscribers. In order to acquire *Gaceta Oficial de la República De Cuba*, UMLL contacted the Center for Cuban Studies in New York. UMLL entered into an arrangement whereby the Center in effect subscribes to the Cuban gazette on UMLL's behalf; the government publisher stockpiles the issues and sends them annually to UMLL. The Center for Cuban Studies invoices UMLL, handles all claims, and acts as the go-between with respect to all communications regarding the gazette. Gazettes from war-torn jurisdictions are also obviously difficult to collect. For example, although the UMLL foreign selector received word from a British civilian participating in the restructuring of Afghanistan that *Resmi Jaridah Da Adli Vizarat*, the Afghan official gazette, is once again being published regularly, UMLL has so far been unable to acquire it.

¶16 Paying for gazette subscriptions can cause additional problems. Very few, if any, foreign government publishers accept payment by credit card. Although many publishers do accept checks, some require that payment be by bank draft or wired directly into their accounts. Adding to these complications is the fact that government publishers in numerous jurisdictions do not accept U.S. dollars, but instead require payment in their own currency. Not only does this involve an additional step in the acquisitions process (buying foreign currency), some foreign currencies prove difficult or impossible to purchase in the United States.<sup>32</sup>

¶17 Once a subscription to a foreign official gazette has been secured, the process does not always proceed smoothly. It is not unusual to find that receipt of official gazettes, even those published on a regular schedule, is sporadic. Claiming missing issues, while often necessary, is problematic and time-consuming as well. Because numerous government publishers do not have a subscription infrastructure in place, many of them neither recognize nor respond to claim forms.<sup>33</sup> Further, it is often difficult to know when an annual subscription is complete, so that claiming may (or may not) be necessary; this point is especially true for gazettes that are published irregularly or with nonstandard numbering. And even when a claim is taken up by a publisher, paper copies of back issues may be impossible to obtain.

¶18 A key factor in the receipt, or lack thereof, of regular and claimed issues of gazettes is the widely varying quality of mail service worldwide. Official gazettes are not always packaged well or properly addressed for mailing, so the U.S. Postal Service must sometimes make heroic efforts to deliver them; it is impossible to know how many issues end up in the dead letter office.<sup>34</sup> Mail service in many foreign jurisdictions can be slow and unreliable. Again, when issues are not received or claims are not answered, it is impossible to know whether the correspondence or payment involved ever reached its intended recipient in the first place.<sup>35</sup>

¶19 Although gazettes from a number of jurisdictions are available commercially on microform, this is not a perfect solution to the problems of acquiring official gazettes. Microform collections of gazettes are often incomplete, since commercial publishers suffer from the same difficulties in acquiring complete runs of official gazettes as do libraries. Many times the microform offered by a vendor

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32. For example, in 1988, after years of accepting payment in U.S. dollars, the government printer in Zambia, publisher of the *Zambian Government Gazette*, changed its policy and demanded payment in Zambian kwachas. UMLL was unable to acquire kwachas in the United States, and so was forced to drop its subscription. The *Government Gazette* remains impossible to acquire on a current basis.

33. This is a particular problem when sophisticated U.S. library claim forms are sent to jurisdictions in which the primary language is not English.

34. Often gazettes are folded multiple times, secured with a narrow paper band bearing the recipient's address and stamps, and then put into the mail, in full faith that the paper band will remain secure and the gazettes will arrive safely at their destination overseas.

35. For example, it is not uncommon to learn that the check for a subscription renewal never arrived at the publisher, but was lost or stolen. The global advent of e-mail has made things a bit easier. In fact, a Brazilian vendor has asked UMLL to use only e-mail to correspond about subscriptions because she feels that mail service between Brazil and the United State is unreliable. (Payment to this vendor is made by check to a Swiss post office box.)

has been filmed by another source, which frequently makes it impossible for the vendor to vouch for the completeness of the material or to identify gaps.<sup>36</sup> Even when a “current” subscription to an official gazette is available, microform is less current than its paper counterpart owing, among other things, to the inevitable delay necessitated by filming the original.<sup>37</sup>

¶20 In spite of the increasing presence of official gazettes online, the Internet also is not a guaranteed solution for collecting gazettes on a permanent basis. Because of the uncertainty of archiving at many of the gazette Web sites, as well as the ephemeral nature of online information in general, the Internet cannot be relied upon to provide a long-term source for official gazettes. While online access to the current issue of a gazette is frequently assured, it is not always clear whether a government intends to archive back issues permanently at the site. On the other hand, some Web sites offer only back issues of the gazette and do not provide access to the current information.<sup>38</sup> Though online access to official gazettes, particularly in a keyword-searchable format, is a boon to researchers, relying on the Internet as a collection source for official gazettes is inadvisable.<sup>39</sup>

¶21 Collections of official gazettes are also troublesome to maintain for patron use. Most gazettes are only issued as individual pamphlets, making binding a necessity, both for usability and preservation concerns. But the physical condition in which gazettes arrive often hinders the binding process. Because many gazettes are folded multiple times or rolled before mailing, the creases and curves in the paper must be physically flattened out before binding is possible.<sup>40</sup> In addition, the irregular receipt of many gazettes and government publishers’ indifference to claiming requests may result in difficult binding decisions. For example, if individual issues are missing, should the library proceed with binding a volume or wait until all possibilities for filling gaps have been exhausted (and run the risk of misplacing additional unbound issues in the meantime)? What should the library

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36. In a catalog issued by Norman Ross Publishing (since acquired by ProQuest Information and Learning), the following disclaimer appears: “Most Gazettes and Journals listed here have been filmed by sources other than Norman Ross Publishing, but are distributed by NRP. To the best of our knowledge, the runs are complete, but we cannot warrant that each and every page or issue of each title has been filmed.” NORMAN ROSS PUBL’G, OFFICIAL JOURNALS AND GAZETTES FROM AROUND THE WORLD 8 (n.d.).

37. For example, on Mar. 15, 2004, the latest microform issue of the daily *Journal Officiel de la République Française (Lois et Décrets)* received by UMLL was Nov. 15, 2003.

38. Of the more than fifty foreign official gazettes linked through GOVERNMENT GAZETTES ONLINE, *supra* note 15, most Web sites offer between three and five years of coverage, including the current issue. Several Web sites offer ten or more years of back issues online (Algeria, Chile, Croatia, Czech Republic, Finland, France, Greece, and Mexico), while others (Austria, Belize, Chile, Croatia, Ecuador, El Salvador, and São Tomé e Príncipe) do not offer access to the current issue.

39. Nevertheless, the importance to researchers of online access to searchable versions of official gazettes cannot be understated. *See infra* note 47 and accompanying text. Even if a library chooses not to rely on online versions of official gazettes as a vehicle for permanent collection, it should consider placing a link to the online gazette in the library’s electronic catalog, Web page, or both.

40. *See supra* note 34. UMLL maintains an old nipping press and a stack of paper-wrapped bricks for this purpose. Flattening several creased issues of a gazette at once requires at least two weeks.

do with issues that are received after the relevant volume has been bound? The option of acquiring missing issues via interlibrary loan to photocopy and bind is not always available because so few libraries collect official gazettes; those that do experience similar problems in attempting to acquire complete runs.

¶22 Preservation of official gazettes can pose problems as well. Gazettes printed on poorer quality paper are difficult to maintain for long-term use; in particular, inexpensive newsprint yellows quickly and becomes brittle.<sup>41</sup> Storage of unbound issues presents another problem. When stored flat, as is preferred, individual issues take up maximum space and are troublesome to find and use; when stored upright, even in acid-free boxes or other containers, the bottom pages tend to bend, curl, and eventually break. Shelf space is also a concern. Because official gazettes will presumably continue into perpetuity, substantial allowance must be made for growth of the gazette collection. This point is especially true for gazettes that are published on a daily or other frequent basis.<sup>42</sup> As previously discussed, space-saving microform is not always a viable solution to official gazette problems, due to gaps in content and coverage of jurisdictions and lack of currency.

¶23 Finally, foreign official gazettes are notoriously difficult for patrons to use. Although several important bibliographies and legal research guides provide key bibliographic information about gazettes by jurisdiction,<sup>43</sup> none offers much advice on actually performing research in official gazettes, which can be a daunting assignment. To begin with, locating the gazette in a library catalog is not always a simple task. Gazettes frequently undergo title changes, and subject headings are not always applied to bibliographic records for official gazettes in a uniform manner. Once the gazette is located, finding desired information within it can be difficult as well. Since official gazettes are only rarely translated into English,<sup>44</sup> researchers are often attempting to work with difficult materials in an unfamiliar language. Even when the language is well known, the organization of a gazette can be opaque. Useful indexing does not, as a rule, exist. Although a number of gazettes claim to be indexed, true subject-indexing is relatively rare, and cumulative indexing even more so.<sup>45</sup> Most indexes are simply chronological lists by title of legislation and other information. And because legislation is published sequentially, without regard to subject, individual laws are difficult to locate in a gazette unless the researcher has an exact citation, and often issue-by-

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41. While deacidification of paper gazettes is a possibility, it is doubtful whether these seldom-used continuations would ever be a priority for libraries selecting materials for this process.

42. For example, UMLL holds a substantially complete run of *Diario Oficial* (Mexico), a daily gazette, under various titles dating back to 1867. To date, this gazette occupies approximately 234 feet of shelf space, and counting.

43. E.g., REYNOLDS & FLORES, *supra* note 4; BROWN, *supra* note 9.

44. Exceptions include *Ephêmeris Tâes Kyvernâeseâos Tâes Hellâenikâes Dâemokratias Teuchos Parartâema* (Greece) and *Công báo* (Vietnam).

45. On the other hand, some jurisdictions do provide useful indexes to the official gazette. E.g., *Index zum österreichischen Reichs-, Staats- und Bundesgesetzblatt* (1995–) (Austria); *Fundstellennachweis. A* (1972–), *Fundstellennachweis. B* (1972–) (Germany).

issue browsing is required.<sup>46</sup> Updating legislation is equally problematic without a citation, and researching the law by subject in official gazettes is in many cases impossible.<sup>47</sup>

### UMLL's Collection Development Policy for Foreign Official Gazettes

¶24 The University of Michigan Law Library maintains an extensive collection of foreign legal materials. According to UMLL's Collection Development Statement, the library seeks to "build a collection of all primary and major secondary works of the United States and all other nations and international organizations . . ." for the use of current and future legal researchers.<sup>48</sup> "[A]ll other nations" includes more than two hundred foreign jurisdictions of the world outside of the United States.<sup>49</sup>

¶25 With respect to foreign law, the Collection Development Statement sets forth specific parameters for the collection of primary legal materials from each foreign jurisdiction. In-force legislation, preferably in an official authoritative compilation (or unofficial compilation recognized as authoritative in the originating jurisdiction), is collected. All codes for every civil law jurisdiction are collected as well. Session laws are collected, regardless of whether an authoritative compilation or code is available. Compilations of bilateral and multilateral treaties are collected, as are reports from all courts of last resort and constitutional courts.<sup>50</sup> Administrative materials are collected only selectively and, with certain exceptions, primary materials from the equivalent of state or local governments are not collected at all.<sup>51</sup> Foreign official gazettes are mentioned in the statement as the least preferred source for primary legal materials. Unless a jurisdiction's primary material cannot be acquired through alternate sources, or the alternate sources are unacceptably late in publication or receipt, the official gazette will not be collected.<sup>52</sup>

¶26 The UMLL foreign law selector is responsible for selecting and deselecting foreign legal materials according to the guiding principles set forth in the

46. REYNOLDS & FLORES, *supra* note 4, is an invaluable resource in this regard, as the subject arrangement section provided for each jurisdiction includes exact citations to the official gazette where appropriate. Nevertheless, the necessity of browsing official gazettes makes it difficult for patrons without access to gazette collections to conduct this research using interlibrary loan, as it is often impossible to specify which issue(s) of a gazette are required.

47. Electronic access to gazettes in a keyword searchable format helps alleviate this problem, but the availability and date coverage of foreign gazettes offered online is by no means comprehensive. See *supra* ¶ 20.

48. University of Michigan Law Library Collection Development Policy 7 (Dec. 23, 2003) (on file with author).

49. UMLL defines "foreign law" as the law of all non-United States jurisdictions, including civil law, common law, and mixed jurisdictions.

50. University of Michigan Law Library Collection Development Policy, *supra* note 48, at 27. The collection of court reports is selectively expanded for common law jurisdictions. *Id.* at 26.

51. *Id.* at 26–28. Thus UMLL does not collect foreign official gazettes that originate below the federal level.

52. *Id.* at 27.

Collection Development Statement and subsidiary collection policies.<sup>53</sup> Upon a recent review of the foreign law collection, it became apparent that these principles were not sufficiently detailed to inform consistent collection decisions involving official gazettes. Subscriptions to gazettes in various jurisdictions were held, or not held, according to variable and sometimes inconsistent standards. In addition, UMLL holds a number of unbound and in some cases deteriorating gazettes, many wrapped in brown paper and tied with string, that are essentially inaccessible to patrons but occupy significant shelf space. Further, UMLL staff spends considerable time coping with the many problematic issues involved in the collection of foreign official gazettes. On the other hand, many of the gazettes contain important primary legal information that is difficult or impossible to locate in other publications. A policy was needed to balance these and other competing priorities, consistent with the Collection Development Statement guidelines.

¶27 In crafting a collection development policy for foreign official gazettes, several assumptions were used as starting points. First was the basic assumption that the law library wished to continue to work toward its overarching goal of building a collection of “all primary materials” from foreign jurisdictions. The specific collection parameters for foreign law were to be followed, including the provision that official gazettes should be relied on as little as possible to meet these objectives. In this regard, it was assumed that, in cases where the official gazette must be collected, only the relevant law-related portions of the gazette would be added to and retained in the collection.

¶28 Another assumption was that the foreign selector would make collection decisions regarding official gazettes on a case-by-case basis. Because of the unique considerations presented by each foreign jurisdiction, no single collection policy could be universally applied to all official gazettes. Accompanying this issue was a determination that no collection decisions would be made based on a categorization of preferred jurisdictions by perceived importance or “major” versus “minor” status. Because the Collection Development Statement confirms that materials of all jurisdictions should be collected regardless of global significance, such a categorization would be irrelevant.<sup>54</sup>

¶29 A final assumption underlying the policy for official gazettes involved the fundamental collection development objective. While collection decisions regarding gazettes should take into account competing concerns as much as possible, the focus should remain on the goal of making available to current and future

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53. At UMLL, the reference department is responsible for developing the library’s collection. The author was responsible for development of the foreign and comparative law collection, as well as the private international law, Roman law, and Canon law, Islamic law, and other theocratic law collections.

54. Indeed, it is precisely those jurisdictions that do not publish many legal materials—typically “minor” jurisdictions—whose official gazettes are necessary sources of primary law. *See, e.g.*, sources cited *supra* notes 20–21.

researchers a complete collection of primary law from every jurisdiction in the world. Therefore, it was decided that even in the face of other important collection priorities, the prime consideration underlying the official gazettes policy should be the availability of primary law.

¶30 The resulting UMLL Collection Development Policy for Foreign Official Gazettes is a prioritized series of guidelines to be applied by the selector in determining whether to add, retain, or withdraw official gazettes in the UMLL collection. By focusing on the intellectual content of the foreign primary law collection as a whole, the policy seeks to balance in a reasoned manner the many issues involved in collecting foreign gazettes, based on the substantive requirements of a large research collection. It should be emphasized that none of the guidelines set forth in the following sections is, by itself, dispositive of the decision. In each case, the selector must weigh the answers to the questions posed in the guidelines, as well as take into account standard selection criteria such as cost, budget, and faculty research interests. When all relevant information has been gathered, the selector must use his or her best judgment in making collection decisions about foreign official gazettes.

### ***Description of the UMLL Policy***

#### ***Guideline #1: The Threshold***

Does the gazette contain primary material that (1) UMLL collects according to the Collection Development Statement; and (2) can't be collected via any alternative source?

- If YES: Apply Guidelines #3, #4, and #5, below.
- If NO, AND UMLL holds the gazette:
  - Apply Guideline #2 to determine whether the gazette has historical importance or other unique characteristics that favor its retention.

¶31 The guidelines begin with an important threshold question: Is it necessary even to collect a certain gazette at all? As the Collection Development Statement makes clear, foreign official gazettes are the least preferred source of primary material. This disfavor for gazettes arises from the numerous difficulties inherent in their collection and use. If gazettes are not indispensable to the intellectual content of the overall collection, then in the interests of efficient use of library resources, they should be avoided. Guideline #1 thus requires the foreign selector to research the available sources of legislation for each jurisdiction and determine whether collecting the gazette is necessary to maintain a complete collection of primary materials.<sup>55</sup> So, for example, UMLL does not collect the *Boletín oficial de la Republica Argentina* because authoritative publications of Argentine legislation and session

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55. While this may require that the selector devote a considerable amount of time to this project, it also provides a valuable opportunity for the selector to perform a thorough review and update of the collection for each jurisdiction. *See infra* ¶ 59.

laws are available in other sources.<sup>56</sup> On the other hand, UMLL does collect *La Gaceta* for Honduras because no alternate source for session laws is available.

¶32 Currency and timeliness of alternate sources must also be considered. If an alternate source for primary material is either published or routinely received so late that its information is no longer current, that publication cannot truly be considered an alternate source for primary law; in such cases, the official gazette should be collected. For instance, UMLL collects the *Antigua and Barbuda Government Gazette* because the official source for session laws, *The Laws of Antigua and Barbuda*, runs unacceptably late.<sup>57</sup>

¶33 When applying guideline #1, the foreign selector should identify and withdraw any gazettes, or portions thereof, that are duplicative of alternate sources of primary law also in the collection. For instance, UMLL cancelled its subscription and withdrew its holdings of the *Grenada Government Gazette*, as it exactly duplicated *Grenada Laws*, the official publication of session laws. Nonetheless, the selector must also be certain to retain in the collection any official gazettes that bridge a gap in intellectual content between alternate sources. For example, UMLL owns the *Laws of Anguilla*, an authoritative publication of session laws, from 1971 to 1989, when it appears to have ceased publication. The library also owns *Statutes and Regulations of Anguilla* for 2001, with a subscription for upkeep; however, this is a loose-leaf statutory compilation that does not substitute for session laws. The *Official Gazette* thus must be collected for the years 1989 forward in order to have a complete set of session laws for Anguilla (unless and until another source of session laws becomes available).

#### *Guideline #2: Exception for Uniqueness and/or Historical Importance*

Is the gazette important because it is rare or otherwise unique, or for historical reasons?

- If YES, presumption in favor of retaining in collection, *even if* primary material is available through another source.
  - Purchase microform as an added copy (in accordance with Guideline #4).

¶34 For gazettes already held in the collection, guideline #2 requires the selector to research each gazette's place in history, as well as determine other libraries' holdings of the gazette. This factor represents the single exception to the threshold guideline #1. There is a presumption in favor of retaining historically important gazettes in the collection as "rare books," even if the jurisdiction's legislation is available through another source. In addition, where UMLL is the only U.S.

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56. Argentina's five major codes (civil, criminal, commercial, civil procedure, and criminal procedure) are available in recent editions from several publishers, and Argentine session laws are published in *Revista de Legislacion Argentina* (1959?-). (Argentine court reports are not included in the official gazette, but are available in other sources.)

57. On Mar. 15, 2004, the most recent volume in this series received by UMLL was 1998; the most recent issue of the *Government Gazette* received was dated Jan. 29, 2004. UMLL retains the *Government Gazette* until replaced by a bound volume.

library holding the gazette, there is also a presumption in favor of retaining these items in order to provide researchers access to otherwise unavailable material. Because unique and historically important materials should be protected against loss or damage, microform versions of the relevant portions of the gazette should be purchased as an added copy whenever possible.

¶35 One example of a historically important official gazette in the UMLL collection is the post-World War II English edition of the Japanese gazette *Kanpô*.<sup>58</sup> Another example is a complete run, including indexes, of the *Reichsgesetzblatt* from Imperial Germany (1871–1945).<sup>59</sup> These and similar gazettes should be retained in the collection not only for their intellectual content, but as items of historical importance as well.

¶36 Guidelines #1 and #2 are primarily concerned with the substantive content of foreign official gazettes. If a gazette is selected for retention or addition under these two guidelines, then the selector has determined, in effect, that the importance to the collection of the information in the gazette outweighs any inherent difficulties in its acquisition. This is a significant decision that should weigh strongly in favor of collecting the gazette. However, to provide an appropriate balance, guidelines #3, #4, and #5 take into account the practical consequences of maintaining and using gazettes. These factors should be weighed against each other, and against the important intellectual assessment in favor of collecting the gazette, to reach a final collection decision.

### *Guideline #3: Physical Condition*

What is the physical condition of the gazette?

- If all or part is in GOOD condition (usable for research now and into the foreseeable future), presumption in favor of retaining part(s) in good condition in collection.
- If all or part is in POOR condition (deteriorated paper, missing pages, unbound, crumbling, or any other condition that makes it unusable for research now into the foreseeable future) . . .
  - *and it is salvageable* by binding, organizing into acid-free containers, and/or any other process, presumption in favor of retaining salvageable part(s) in collection and commencing salvage process.
  - *and it is not salvageable* by binding, and/or any other process, presumption in favor of withdrawing part(s) in poor condition from collection and replacing with microform (in accordance with Guideline #4).

¶37 Guideline #3 addresses the physical usability of foreign official gazettes. If a gazette is unusable as a practical matter, then the information contained therein

58. See *supra* note 24 and accompanying text.

59. The Imperial German gazette is important for sociological reasons as well. Issues from the 1940s, some of which are bound with end sheets of silver paper imprinted with red swastikas, include such information as the proper uniform for Nazi military officers, complete with illustrations. REICHSGESETZBLATT I, at 463 (Mar. 12, 1940).

is essentially unavailable. Because the collection is clearly not enhanced by the retention of unusable materials, such gazettes should be withdrawn in order to save space. This guideline requires the selector physically to examine the library's holdings of each gazette to determine their condition and possible salvageability. Simply stated, if a gazette is in good condition, it should be retained in the collection, subject to the application of other guidelines. If a gazette is in poor condition but is nevertheless usable for research with appropriate care, it should be retained and made accessible for patron use. For instance, unbound issues with crumbling paper might be organized into appropriately labeled acid-free boxes. If a gazette is in such poor condition that it simply cannot be used, it should be withdrawn and, if possible, replaced with microform. For example, UMLL holds a substantial run of Guatemala's *Diario de Centro América*, from 1940 to date. The earlier volumes are bound and in good condition. Commencing in the early 1970s, issues were no longer bound, but were either wrapped into bundles in brown paper and tied with string or placed loose on the shelves. The paper of the older unbound gazettes is brittle and crumbling at the edges, but most of the issues may still be used for research, if handled with care. A few of the older issues are deteriorated beyond usability. The newer issues, from at least the last five years or so, are in sufficiently good condition that they may be bound. Accordingly, UMLL will retain the bound volumes and resume binding current issues in good condition and future issues. The library will organize the usable unbound issues into acid-free boxes and withdraw those that are unusable. And because back issues of *Diario de Centro América* are available on microfilm,<sup>60</sup> UMLL will consider replacing the withdrawn issues with film.

#### *Guideline #4: Microform Availability*

Is the gazette available in microform in a complete or near-complete run?

- If *yes*, presumption in favor of replacing paper gazette with microform, subject to other Guidelines and considerations of overall cost.
- If *yes*, *and* choosing to retain paper, presumption in favor of purchasing microform as an added copy.
- If *no* (microform not available *or* microform available but incomplete), presumption against purchasing microform.

¶38 Guideline #4 addresses the preservation and related shelf space concerns that arise with respect to collection and retention of foreign official gazettes. If a gazette is available on microform, there is generally a presumption in favor of replacing the paper version of the gazette with a microform copy. This practice saves space and eliminates the need to bind, store, or otherwise deal with the variety of preservation issues presented by gazettes. The guideline also represents a proactive

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60. Both Norman Ross Publishing and the Library of Congress Photoduplication Service offer back issues on microfilm, with varying date coverage.

response to the fact that paper gazettes inevitably deteriorate over time. Although microfiche and microfilm are inconvenient for patrons to use, official gazettes are not typically in heavy demand, which makes collecting them on microform an appropriate compromise.

¶39 On the other hand, replacement of usable issues of a gazette with microform should not be done blindly on a wholesale basis. The budgetary impact of large microform purchases must be considered, as well as staff time involved in the withdrawal of the paper gazettes and the preparation of microform for patron use. The immediacy of the need for shelf space should also be taken into account. In many cases, it may be advisable to purchase microform replacements slowly over the course of several fiscal years in order to minimize any significant impact in terms of overall cost.

¶40 Because many film or fiche copies of gazettes contain numerous gaps, before withdrawing and discarding the paper gazettes the selector must be careful to ascertain that the available microform is sufficiently complete to enhance the collection. If the vendor does not provide this information, the fiche or film should be spot-checked to determine completeness. If there are too many gaps, the presumption will be against purchasing the microform.

¶41 Sometimes other guidelines weigh in favor of retaining the paper copies of a gazette in the collection, even if replacement microform is available. In that case, the presumption is in favor of purchasing the fiche or film as an added copy to replace the paper gazette in the event of loss or deterioration. For example, under guideline #2, the historically significant German *Reichsgesetzblatt* should be retained in the collection, even though this gazette is available on microfilm.<sup>61</sup> UMLL will therefore consider adding the microfilm version as an added copy and transferring this important gazette to its rare book facility.

¶42 Finally, guideline #4 should always be applied in terms of maintaining the intellectual integrity of the collection. For example, if UMLL holds a gazette in paper (in usable condition) with a 10% gap in content, and a microfilm version of that gazette is available, but has a different 10% gap in content, the presumption would generally be to purchase the microform and retain the paper.<sup>62</sup> In this way, the greatest availability of the most complete content is assured.

#### *Guideline #5: Completeness of Run*

Does UMLL hold a complete or nearly complete run of the gazette?

- If yes, presumption in favor of retaining in collection, subject to other considerations.

61. The Library of Congress Photoduplication Service offers the entire run of *Reichsgesetzblatt* on microfilm.

62. As a practical matter, it would probably take numerous staff hours to determine the exact overlap of gaps between paper and microform versions of a gazette, especially if the gazette is offered on microfilm. In these cases, it would be most efficient to simply retain the (usable) paper gazette and purchase the microform as an added copy, as budget permits.

- If *no*, AND UMLL holds only single or widely scattered issues, presumption in favor of withdrawing from collection, subject to other considerations.

¶43 Guideline #5 is intended to address the situation where a gazette contains primary material that is not available through an alternate source (and therefore should be collected according to the Collection Development Statement), but UMLL holds only widely scattered or single issues. In this case, the collection is not significantly enhanced by retaining such incomplete holdings, and the presumption is that they will be withdrawn. So, for example, UMLL holds only scattered issues between 1969 and 1972 of the *Moniteur congolais* (Congo (Democratic Republic)), which does not support meaningful research for this jurisdiction. In such cases, UMLL should seek to start a current subscription to the gazette on microform, if possible, or paper.

¶44 Note that holding a complete run of a gazette should not, by itself, create a presumption in favor of retention. It is the intellectual content of the gazette, not the completeness of the library's holdings, that is the primary issue.

#### *The UMLL Policy in Action*

¶45 The Collection Development Policy for Foreign Official Gazettes was adopted on May 16, 2002. Since then, the policy has been applied jurisdiction by jurisdiction in roughly alphabetical order, concurrently with other library work. Although this project has not progressed rapidly, the comprehensive work involved and ensuing value added to the foreign law collection has more than justified the time spent on the policy's development and application.

#### *A Detailed Example: Venezuela*

¶46 As a detailed example of the policy in action, consider the case of Venezuela. One of the four federal republics of South America, Venezuela is a civil law jurisdiction. Per the Collection Development Statement, UMLL seeks to collect Venezuelan legislation, session laws, international agreements, and reports from the Tribunal Suprema de Justicia, Venezuela's highest court.

¶47 As is common in traditional civil law jurisdictions, Venezuela's legislation is codified into five codes—*Código civil*, *Código de procedimiento civil*, *Código de comercio*, *Código penal*, and *Código orgánico proceso penal*—which are available, with relevant subsidiary legislation, in current editions. In addition, uncodified legislation and other subsidiary legislation are available as separate items. Venezuela does not publish any current compilations of laws, session laws, or treaties. Court reports are available in several journal publications; decisions of the Tribunal Suprema are published separately in *Jurisprudencia del Tribunal Suprema de Justicia* and are also included in the official gazette.<sup>63</sup>

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63. See generally REYNOLDS & FLORES, *supra* note 4.

¶48 The official gazette of Venezuela, currently titled *Gaceta oficial de la República bolivariana de Venezuela*, has been in publication under various titles since approximately 1873. *Gaceta oficial* presently appears in a daily ordinary series and an irregularly published extraordinary series. It includes laws, international agreements, reports of the Tribunal Suprema, ministerial decrees and other information, presidential decrees, congressional resolutions, reports of government bodies, and legal and judicial notices.

¶49 *Gaceta oficial* is published in paper and is also available online.<sup>64</sup> Back issues of *Gaceta oficial* are offered on microfilm from 1827 through 2001 from the Library of Congress Photoduplication Service and from 1960 through 1970 from Norman Ross Publishing. UMLL holds *Gaceta oficial* in a complete run from 1925 through July 1959.

¶50 When deciding whether to collect the official gazette for Venezuela, the UMLL selector begins by applying guideline #1 to determine if the gazette contains primary legal information that cannot be acquired through an alternate source. Because Venezuela does not publish any current collections of session laws, a current subscription to *Gaceta oficial*, at an annual cost of approximately \$500, will be necessary to maintain a complete collection of Venezuelan primary law. The gazette will also provide access to individual uncodified laws and subsidiary legislation, as well as treaties and international agreements. Although reports from the Tribunal Suprema appear in *Gaceta oficial*, these are also available separately in *Jurisprudencia del Tribunal Suprema de Justicia*. Since official gazettes are the least preferred source for primary materials, UMLL has entered a subscription for *Jurisprudencia* and will not rely on *Gaceta oficial* for Venezuelan court reports.

¶51 Guideline #1 therefore clearly calls for UMLL to begin a current subscription to *Gaceta oficial*. Because UMLL wishes to build a historical as well as a current collection, the library would also like to acquire as many back issues as possible in order to fill the gap in its holdings from 1959 to the present. Having thus established that *Gaceta oficial* meets the intellectual threshold for collection, the UMLL selector must now consider the practical factors in guidelines #3, #4, and #5.<sup>65</sup>

¶52 Guideline #3 requires the selector to analyze the physical condition of UMLL's holdings of *Gaceta oficial* (1925–July 1959) to determine whether they should remain in the collection. The volumes of *Gaceta oficial* dating from January 1925 through May/June 1958 are bound and in relatively good condition; all of these volumes are usable for research. Individual issues from July 1958 through July 1959 are unbound. These have been wrapped in brown paper, tied with string, and placed on end in the stacks, so that they are now severely bent and crumpled.

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64. GACETA OFICIAL, at <http://www.tsj.gov.ve/gaceta/gacetaoficial.asp> (covering Feb. 19, 2000 to present).

65. Because it was determined under guideline #1 that *Gaceta oficial* should be collected, guideline #2 is not implicated in this case.

However, the paper of these issues is in surprisingly good condition, and they still are usable for research.

¶53 Guideline #4 calls for the UMLL selector to determine the availability of *Gaceta oficial* on microform. As previously mentioned, back issues are offered on microfilm covering the years 1827 through 2001, with some gaps, from the Library of Congress Photoduplication Service. The Photoduplication Service apparently films *Gaceta oficial* on an ongoing basis, with the film version appearing about three years behind the paper publication. At a cost of \$72 per reel, a conservative estimate of the total cost for one year of *Gaceta oficial* on microfilm would be between \$500 and \$700.

¶54 Finally, guideline #5 requires that the UMLL selector review the holdings of *Gaceta oficial* for completeness. The library holds a full run of the gazette in paper from January 1925 through July 1959. Several other libraries also hold *Gaceta oficial* in runs of varying length, both in paper and on microform, including the Library of Congress, the Harvard Law School Library, the Los Angeles County Law Library, the Center for Research Libraries, the University of Pennsylvania Law Library, and the graduate libraries at the University of California at Berkeley and the University of Florida.

¶55 After carefully balancing all of the considerations under the guidelines and the Collection Development Statement, and taking into account the primary intellectual decision in guideline #1, the UMLL selector recommends the following: UMLL should begin a current subscription to *Gaceta oficial* in paper and should also subscribe currently to the microfilm version offered by the Library of Congress Photoduplication Service. The paper should be retained unbound on the shelves until it is replaced by microfilm; before the paper is discarded, the film should be spot-checked to ensure that it provides adequate coverage.<sup>66</sup> Although this recommendation amounts to a double subscription to this gazette, it will serve both the intellectual goal of making available current legal information and the practical goals of preservation and saving space. The combined price of both subscriptions (approximately \$1200), while not insignificant, is nevertheless affordable, and additional funds will be saved in terms of staff time by not having to bind and otherwise care for the paper issues. The older holdings of *Gaceta oficial* that are already in the UMLL collection should be retained; the small number of unbound issues should be unwrapped, flattened, and then organized into properly labeled acid-free boxes. As budget permits, the paper should be replaced with microfilm to save space and prevent reliance on materials that will certainly deteriorate further with the passage of time.

#### *Impact on the UMLL Collection and Staff*

¶56 Although not yet completed, the application of the Collection Development Policy for Foreign Official Gazettes has already had a significant impact on the

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66. If significant or numerous gaps are found in the film, either selected paper issues should be retained to fill the gaps, or the microfilm should be rejected and all paper issues retained permanently in the collection.

foreign law collection at UMLL. Indeed, as the policy has been applied to successive jurisdictions, it has given rise to some interesting results. One unanticipated consequence of the application of the policy has been the recognition of the sheer number of official gazettes that UMLL must collect to accomplish its goal of building a complete collection of primary legal materials for all jurisdictions of the world. New subscriptions to gazettes have far outnumbered subscription cancellations, and withdrawals based on duplication of content in alternate sources have been relatively few.<sup>67</sup> This fact highlights the importance of official gazettes as legal publications in foreign jurisdictions and confirms the need to include them in a comprehensive foreign law collection.

¶57 Also surprising has been the comparatively few withdrawals necessitated by poor physical condition of gazettes. Because of the large number of older unbound issues held by UMLL, either wrapped in brown paper bundles or stacked unprotected on open shelves, it was assumed that many—if not most—had deteriorated beyond the point of use and so would need to be discarded. Happily, the majority of these unbound issues, although fragile, can still be used for research. Any issues not replaced by microform will be organized into acid-free boxes to protect them as much as possible, yet make them accessible to researchers.

¶58 A related discovery has been the fairly large number of back issues of gazettes that are available on microform, mostly microfilm. Although current issues are not typically available, it is nevertheless possible to maintain an extensive historical collection of gazettes on microform. While these versions are not guaranteed to be complete, spot-checking of various filmed copies of gazettes indicates that most are substantially inclusive. However, because of the generally usable condition of UMLL's runs of historical gazettes, as well as budgetary and other considerations, the purchase of gazettes in microform, particularly as added copies, has been for the most part deferred.

¶59 The application of the Collection Development Policy for Foreign Official Gazettes has also had an impact on library staff. As predicted, the process of applying the policy has been time-consuming for the selector, who must first research the legal structure and publishing practices of the jurisdiction, assess UMLL's holdings of primary legal materials, and then weigh the considerations set forth in the guidelines to reach a final collection decision regarding the official gazette. However, this process also provides a valuable opportunity for a systematic review and update of the collection for each jurisdiction, which would not necessarily be accomplished otherwise in the course of regular foreign law selection. Furthermore, the selector has made it a practice to memorialize her reasoning and decision for each jurisdiction. In this way, her extensive work, which need never be repeated, becomes a building block for future development of the foreign law collection.

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67. In all, UMLL will need to add some two dozen current subscriptions to gazettes to have a complete collection of foreign primary legal materials. By contrast, UMLL will cancel no more than half a dozen subscriptions.

¶60 The policy has also impacted staff in the acquisitions, continuations, and other units in technical services, as well as circulation staff, who must service an increased number of gazette subscriptions with all of their attendant problems. However, as the Collection Development Statement and the policy both confirm, the intellectual content of the collection is the paramount consideration. While it is unfortunate that collecting official gazettes can be problematic, such difficulties are an inescapable consequence of maintaining a comprehensive collection of foreign law.

### **Using the UMLL Policy for Other Complex Collection Decisions**

¶61 While the specifics of the UMLL Collection Development Policy for Foreign Official Gazettes are not likely to be transferable, some of the guiding principles underlying the policy may prove useful in other collection development situations calling for complex decisions. One such important principle is the need to articulate one or more overarching collection development goals intended to be addressed by the decision. This goal permits a selector to focus on the intellectual substance of the material rather than its form; thus, the primary issue for UMLL was not simply whether to collect official gazettes, but how best to build a collection of foreign primary legal materials. In this way, decisions may be made within a reasoned context and informed by the collection development mission of the library.

¶62 A similar principle is the need to determine, clearly articulate, and if possible prioritize the competing factors that must be balanced in order to reach a final decision. By thus examining each concern in detail, a selector also becomes able to consider the reasons underlying the concern, which are not always obvious. In crafting the UMLL policy, for example, it was important for the selector to understand how and why the acquisition of foreign gazettes is so problematic, and precisely what impact those problems have on all aspects of library work, before she was able to balance appropriately the considerations set forth in the guidelines. Only by thoroughly understanding all of the issues involved can a selector make fully informed collection decisions that will be in the best interests of the library and its patrons.

¶63 Finally, even though the above principles call for the development of clearly defined policies and guidelines, it is important to remember that collection development is not a science. No policy can be applied mechanically to achieve ideal results; in fact, since every complex collection decision represents a compromise among competing priorities, a perfect solution is rarely available. Instead, when reaching a decision, the selector must in the final analysis rely on his or her best judgment, based on a full understanding of the decision's impact. To that end, it is important to build enough flexibility into the decision-making process so that the selector can make his or her own final decision. In UMLL's policy, this flexibility is embodied in the fact that the guidelines are balancing tests, not bright-line rules. Moreover, further flexibility is provided by the application of these guiding

principles on a case-by-case basis, with differing outcomes contemplated in different circumstances. This flexible application of well-articulated guidelines provides the selector with both sufficient information and independence to make, in her judgment, the best collection decision possible.

### **Conclusion**

¶64 Foreign official gazettes pose a conundrum for a selector that is as complicated as any brainteaser. The importance of gazettes' intellectual content must be weighed against the difficulties inherent in their acquisition and maintenance, and many competing priorities must be balanced. However, though complex, the task is not impossible. The University of Michigan Law Library's Collection Development Policy for Foreign Official Gazettes offers a workable approach for achieving a reasonable equilibrium among many significant considerations. Through this reasoned approach, based on substantive content, UMLL will be able to collect and preserve the official gazettes that form a vital component of a major collection of past, current, and future foreign legal resources.