



Evidence and Burden of Proof in Foreign Sovereign Immunity Litigation: A Guide for International Law Practitioners and Government Counsel

Pierre F. Walter

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The present study is the first specialized, and very practically important, analysis of the evidence problems and the burden of proof in matters of foreign sovereign immunity litigation, both regarding jurisdictional immunities and immunity from execution. The monograph is a comparative law analysis that spans six of the seven existing national statutes on foreign sovereign immunity, starting with the United States' Foreign Sovereign Immunities Act, 1976, to the Canadian State Immunity Act, 1982. The study concludes in demonstrating two distinct rules of the burden of proof, for each kind of immunity; the rules are widely uniform, and were corroborated by case law and scholarly opinion in all of the examined jurisdictions. They can be said to form today rules of international law. The monograph is of high practical value for litigation involving foreign sovereign immunity, particularly for international lawyers and government counsel. It can be taken as a reference guide for solving the evidence problems in those trials, and as such is a precious asset in any international law library. The only titles that in scope, depth and size can be compared with the present study are already quite out of date, and they have, if ever, only randomly dealt with the specific procedural problems of evidence and burden of proof in international sovereign immunity litigation.

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