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International Laws as Integrators and Measurement in Human Rights Debates

David A. Funk

[Much international law writing in the world] prescinds from the hypothesis that international law is the "practice of states". . . . By what philosophical trick such an aggregation of what is, after all, mere fact, is transformed into a system of "oughtness" is unclear . . . 1

Most current writers on international law agree that the present state of the international legal system is not totally satisfactory. 2 It lacks centrally organized sanctions, courts with compulsory jurisdiction, and a body with adequate legislative powers for making and changing laws. The ultimate model of an international legal system is usually similar to the legal system of a modern nation state where laws are accepted as legally binding because they are made, changed, and adjudicated in accordance with generally accepted rules governing these procedures. The attainment of this end by an international legal system presents many difficulties. An obvious difficulty is the creation of international laws which legally bind all states. Various techniques could be tried and perhaps a combination of these will prove most effective. Nevertheless international laws themselves may serve as one technique for helping to achieve this transition. If so, then international law may be said to be lifting itself by its own bootstraps. 3

1 O'Connell, The Role of International Law, 1966 DAEDALUS 627, 632.
3 The analogy is not original. Deutsch, International Covenants on Human Rights and Our Constitutional Policy, 54 A.B.A.J. 238, 242 (1968), applies "The Bootstrap Doctrine" to a rule allowing any domestic issue to be made "the law of the land" by being included in a treaty. G. Myrdal, BEYOND THE WELFARE STATE 280 (1958), has stated that the necessity of proper psychological attitudes such as cooperation for international institutions and the necessity of such institutions for the development of these attitudes is "something very much like trying to lift oneself by one's shoestrings."
The purpose here is to consider how international laws may be said to operate in this way and whether there is any evidence that they actually do so.

In this effort both international jurisprudence and empirical research are being utilized to add to international juridical science. Current theories are viewed to show how international laws may, directly or indirectly, secure support for themselves and help to integrate the international community. Recent research reports are reviewed to determine the extent to which these theories have been substantiated in empirical tests. Finally an attempt is made to determine empirically the acceptance of international human rights norms by United Nations delegates in the debates on the treatment of Indians in the Union of South Africa. The methodological objective is to illustrate how studies of the impact of international laws may test theories of international jurisprudence and thus advance international juridical science. Both theory and research are brought to bear on the substantive question: Whether international laws may be used to strengthen the international legal system and advance the creation of a more integrated international community?

I. Definitions and Assumptions

The basic jurisprudential concepts above are those of H. L. A. Hart, who distinguishes two different kinds of rules in a municipal legal system. Primary rules are orders usually backed by sanctions that oblige a subject to obey or endure the penalty. Secondary rules are those which indicate how primary rules are recognized, changed, and adjudicated. Secondary rules are considered binding if they are generally thought of, spoken of, and function as such. Primary rules made in accordance with secondary rules are legally obligatory, even apart from sanctions. This is shown by general pressure for conformity to the primary rules and claims for compen-

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4 E.g., by constituting international institutions which in turn foster international integration.


6 Id. at 82.

7 Id. at 92-94. Secondary rules of recognition indicate what person or group may promulgate laws recognized as such. Secondary rules of change indicate how new laws may be introduced and old ones eliminated. Secondary rules of adjudication indicate who may authoritatively determine whether a law has been broken.

8 Id. at 226.

9 Id. at 212. Legal obligation is sufficient, though moral obligation may provide one motive for obedience to law. Id. at 225.
sation and reprisals justified by them.\textsuperscript{10} A legal system, for Hart, requires a union of these primary and secondary rules.\textsuperscript{11} International laws currently differ from municipal laws in that they are only a set of primary rules and not part of a legal system.\textsuperscript{12} Nevertheless, insofar as international primary rules are actually accepted as standards of conduct and supported with appropriate forms of social pressure, they are legally obligatory and binding.\textsuperscript{18} However, international laws may currently be in a stage of transition from a mere set of primary rules to a legal system with legally binding secondary rules as well as primary ones.\textsuperscript{14}

Professor Hart notwithstanding, the transitional character of the current international legal system makes it advisable to consider various degrees of international primary rules, international secondary rules, and the international legal system. Of course it is useful to define these terms clearly for logical analysis, but the more important consideration is the extent to which international primary rules, international secondary rules, and the international legal system in fact exist at a given time. Logically, it is pointless to ask whether international laws may induce their own supporting sense of legal obligation, because if a primary rule is an international law, it is by definition legally binding. One could say that international primary rules induce a supporting sense of legal obligation and thereby become international laws. But this construction eliminates from the embryonic international legal system the rudimentary secondary rules which make the primary rules, to some extent, international laws from their inception. The concern here is with the transitional state of the international legal system and the process by which international laws become more legally binding. Therefore it is useful to consider international primary rules as international laws and legally binding to some extent since they are made, changed, and adjudicated in accordance with what are generally accepted as being international secondary rules. It is then appropriate to ask whether these international laws, which are already somewhat legally binding, may help induce a greater sense of legal obligation so that they become more completely international laws. If so, then the embryonic international legal system is maturing into a complete legal system uniting primary and secondary rules.

\textsuperscript{10} Id. at 214-15.
\textsuperscript{11} Id. at 96.
\textsuperscript{12} Id. at 228.
\textsuperscript{13} Id. at 229.
\textsuperscript{14} Id. at 231.
If international laws are matters of degree it is not surprising to find controversy even over whether the term is appropriate. Some claim there are no international primary rules or laws except where an international conference or assembly has been given express authority to bind all by a majority vote. However, since the extensive compilation of Manley O. Hudson, others have taken a more liberal view. A careful reading of Article 38 of the Statute of the International Court of Justice does not foreclose the issue, as that Article speaks throughout of "law" and its sources, not "laws" or "legislation" specifically. An international convention, whether general or particular, establishing rules not expressly recognized by one of the contesting States, may still become a primary rule of international law by immediate international custom, that is, an immediate general practice accepted as law under a prior secondary rule recognizing this as a source of law. It is not too early to consider these rules as international laws or legislation, though the diffused international system gives them special characteristics. Sanctions may consist largely of denial of convention benefits and the pressure of world opinion. Also it may be difficult to distinguish international laws in treaty form from contractual treaties between international subjects who are arranging their affairs under laws empowering them to do so. Thus multipartite international treaties may be regarded to some extent at least as international laws and the primary rules of the present international legal system.

The process or result of building a legal system with primary and secondary rules is the legal aspect of political integration or building a political community. This may occur on the national, as well as the international level, and also implies the development

15 McNair, International Legislation, 19 IOWA L. REV. 177, 178 (1934): "The term "international legislation" is a metaphor . . . . The essence of "legislation" is that it binds all persons subject to the jurisdiction of the body legislating, whether they assent to it or not, whether their duly appointed representatives have assented to it or not. International legislation does not. It only binds parties who have duly signed the law-making treaty and, where necessary, as it usually is, have ratified it.

Cf. C. Parry, The Sources and Evidences of International Law 32 (1965), stated that "the term 'international legislation' has come into common use. But it connotes no more than treaties having certain characteristics."


19 But see Jacob & Teune, The Integrative Process: Guidelines for Analysis of the Bases of Political Community, in The Integration of Political Communities 9 (P. Jacob & J. Toscano eds. 1964), distinguishing integration of a national community
of a sense of "we-feeling," amalgamation of political units or functions, and self-maintenance of a political system. Nevertheless, the political integration process need not occur to the same degree in all social groups. For example, international integration may be more pronounced in heads of state, foreign service officers, officials active in international organizations, or those with personal international experiences, rather than in the general public. Strictly speaking, integration applies only to people, so that it is inaccurate to speak of integration of States except as an elliptical reference to integration of certain groups or people within them.

Even if international laws are agents of international integra-

from international integration as "political integration among political communities" where "[t]he problem is to integrate the already integrated." They regard these two types of integration as not essentially different phenomena, however.

20 K. DEUTSCH ET AL, POLITICAL COMMUNITY AND THE NORTH ATLANTIC AREA 36 (1957), find that a sense of community rests on conditions of "mutual sympathy and loyalties; of 'we-feeling,' trust, and mutual consideration; [and] of partial identification in terms of self-images and interests." E. HAAS, THE UNITING OF EUROPE 5 (1958), finds political community where "specific groups and individuals show more loyalty to their central political institutions than to any other political authority" and "shift their loyalties, expectations, and political activities to a new centre . . . ." Id. at 16. See also Haas, International Integration: The European and the Universal Process, 15 INT'L ORG. 366 (1961). Jacob & Teune, supra note 19, at 4, look for strong cohesiveness within a social group" and "a state of mind or disposition to be cohesive, to act together, to be committed to mutual programs" in political integration. Id. at 10.

21 A. ETZIONI, POLITICAL UNIFICATION 329 (1965), requires three kinds of integration for political community: (1) control over the use of means of violence, and (2) a center of decision making, which (3) "is the dominant focus of political identification for the large majority of politically aware citizens." P. HAY, FEDERALISM AND SUPRANATIONAL ORGANIZATIONS 1 (1966).

22 A. ETZIONI, supra note 21, at 330, defines integration as "the ability of a unit or system to maintain itself in the face of internal and external challenges." With respect to human behavior this has been termed "ultrastability." Lewis, Systems Theory and Judicial Behavioralism, 21 CASE W. RES. L. REV. 361, 381 n.100 (1970). If change is to occur, there should be secondary rules for peaceful change. For K. DEUTSCH, POLITICAL COMMUNITY AT THE INTERNATIONAL LEVEL 33 (1954), it is "the attainment of a sense of community, accompanied by formal or informal institutions or practices, sufficiently strong and widespread to assure peaceful change." Haas, International Integration: The European and the Universal Process, supra note 20, at 366, also emphasizes the "likelihood of internal peaceful change in a setting of contending groups with mutually antagonistic claims."

The process of political integration should be distinguished from political socialization, which is confined to teaching a child to assume a political role in an existing society. H. HYMAN, POLITICAL SOCIALIZATION 25, 69 (1959); Easton & Hess, Youth and the Political System, in CULTURE AND SOCIAL CHARACTER 236 (S. Lipset & L. Lowenthal eds. 1961); Sigel, Assumptions About the Learning of Political Values, 361 ANNALS 1, 2, 7 (1965). But see V. VAN DYKE, INTERNATIONAL POLITICS 18-19 (2d ed. 1966), where the author notes that "law reinforces peace through what may be called a socializing effect."

23 W. COPLIN, THE FUNCTIONS OF INTERNATIONAL LAW 182 (1966), stated "[w]hile international law can 'teach' the leaders of the state the nature of an evolving consensus on the state system, it rarely penetrates the consciousness of the average citizen."
tion, they may not be the only or even very important ones. Persons interested in understanding the whole field of international relations may focus only on what they consider to be the most important agents of integration, or prefer to study the most promising ones first. They may lose interest if the integrative effect of a given factor turns out to be illusory. However, those interested in international laws as phenomena should be interested in their possible integrative role, regardless of the outcome.

The above emphasis on rules helps to separate the concept of international laws from the international legal process as such. It is true that international laws function in a process, and the separation of laws from process is not an attempt to minimize the importance of that process. However, even the supports for laws may be considered as separate from the processes in which they operate. Similarly, it helps to distinguish the concept of international laws from the acts by which they are known. It is the requirement of legal obligation that distinguishes international laws from mere pat-

24 Falk & Mendlovitz, Towards a Warless World: One Legal Formula to Achieve Transition, 73 YALE L.J. 399, 404 (1964), noted that "it seems sensible to make claims modest when discussing the autonomous role of law as a means to promote transition and hasten the acceptance of a warless world" and that "the fundamental commitments are social and political; without these the efforts of jurists are vain futilities." Id. at 404 n.21. Some would see international laws as inhibiting integration. Honigmann, Value Conflicts and Legislation, 7 SOCIAL PROBLEMS 34, 35 (1959), has stated when value conflict becomes the subject of the legal process, one party to the dispute becomes severely disadvantaged, quite without regard to the merits of its position; second, a limited, sectional, social conflict is made more general, involving more nearly the total community; and finally, the level of disequilibrium in social relations is heightened.

25 International laws may have other ultimate functions, such as preservation of order. W. Coplin, supra note 23, passim, suggests that order is preserved explicitly and immediately by (1) the allocation of legal competences among states, that is definition of rights and duties, and (2) controlling or shaping deviant behavior so as to limit violence. He claims that this is done implicitly and gradually by the development of international social and economic welfare legislation and international political culture or consensus through communications and teaching.

26 Myres S. McDougal, however, finds it useful to define international law as a process of authoritative decision, not just rules. McDougal, The Impact of International Law Upon National Law: A Policy-Oriented Perspective, 4 S.D.L. REV. 25, 36 (1959). "The recommendation we make, from perspectives of human dignity and for efficiency of inquiry into varying patterns of authority and control, is, accordingly, that international law be regarded not as mere rules but as a whole process of authoritative decision in the world arena . . . ." Id. McDougal & Reisman, The Changing Structure of International Law: Unchanging Theory for Inquiry, 65 COLUM. L. REV., 810, 835 (1965), have suggested that international law is "a comprehensive and continuing process of authoritative decision in which the peoples of the world, in unorganized as well as organized interactions, clarify and implement their common interests with respect to all values . . . ." See also 2 THE STRATEGY OF WORLD ORDER 1 (R. Falk & S. Mendlovitz eds. 1966).
terns of observed behavior. Observed patterns of behavior may be some evidence of the existence of a legal obligation, since the sense of legal obligation is an internal matter and hence not directly observable.

International laws are most accurately distinguished from municipal ones by their subject matter, though there may be a gradual shading from one into the other and this fuzzy dividing line may change from time to time. Traditionally, relations between States adequately summarized the international subject matter, but this situation no longer obtains. Rules relating to international organizations and even individuals now must be taken into account as international laws, though rules not directly affecting relations between States must have some special relationship to interstate relations to qualify as international laws.

II. Recent Theories

The basic distinctions, definitions, and assumptions set out above have guided the work that follows. In considering how primary international laws may become more legally binding and thus strengthen the international legal system and integrate the international community, the available literature to 1969 was canvassed for existing theories and research. Contemporary theorists generally have advanced three basic explanations of how international laws may directly develop their own support.

The first, based on the natural law position, presumes common insights and fundamental principles discoverable in nature. The assumption is that if international laws enunciate these principles, they will be accepted as legally binding regardless of whether they are authoritatively promulgated. Usually the test suggested is whether a State would accept the rule as "fair" if it were in the position of its opponent. For example, new definitions and improved procedures needed to strengthen international law should immedi-

27 Contra McDougal, Editorial Comment: The Hydrogen Bomb Tests and the International Law of the Sea, 49 AM. J. INT'L L. 356, 358 n.7 (1955), where the author notes that "the reciprocal tolerances of the external decision-makers . . . create the expectations of pattern and uniformity in decision, of practice in accord with rule, commonly regarded as law." A. ROSS, ON LAW AND JUSTICE ix (1959), also notes that "the fundamental legal notions must be interpreted as conceptions of social reality, the behavior of man in society, and as nothing else."

28 G. HACKWORTH, DIGEST OF INTERNATIONAL LAW 1 (1940).

29 O'Connell, supra note 1, at 632-33 passim.

ately be accepted as fair and legally binding if they strike some fundamental chord of human justice. If these new international laws can gain acceptance in this way, their enunciation should supplement already existing international laws and further international integration at least to that extent.

The second explanation maintains that the mere characterization of an international primary rule as a "law" itself secures support for it from an association between international and municipal laws. Support for municipal laws presumably carries over to laws in general, so when the law label is attached to international laws, some of this general support adheres to international laws. Furthermore, municipal government officials cannot interfere with this spillover effect since municipal government itself depends on respect for laws and, without it, government officials cannot exercise power. If they wish to retain power, they must advocate obedience to the laws from which their authority is derived, and it is difficult to maintain a distinction between municipal and international laws. Therefore characterization of an international rule as a "law" makes it risky for government officials to counsel disobedience and hence they must generally support it. This spillover effect is enhanced by "weaving" international rules into municipal ones; the more closely the international rule simulates the municipal rule, the greater the

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81 Wright, Maintaining Peaceful Coexistence, in PREVENTING WORLD WAR III 427-31 (Q. Wright, W. Evan & M. Deutsch eds. 1962). Definitions include "aggression," "defense," and "domestic jurisdiction." Procedures include strengthening the International Law Commission and expanding the jurisdiction of the International Court of Justice.

82 Falk, Janus Tormented: The International Law of Internal War, in INTERNATIONAL ASPECTS OF CIVIL STRIFE 191 (J. Rosenau ed. 1964), asserts that "the characterization of a pattern of restraint as 'law' itself adds obligatory force, since respect for law is itself a factor in the growth and effectiveness of a restraint."

83 Fisher, Bringing Law to Bear on Governments, 74 HARV. L. REV. 1130-40 passim (1961). "A government is . . . a structure which depends for its very existence on respect for rules." Thus "a high official cannot command the breaking of rules without undermining respect for rules generally. And it is upon obedience to rules that his authority to command depends." Id. at 1138-39. Fisher, Constructing Rules That Affect Governments, in ARMS CONTROL, DISARMAMENT AND NATIONAL SECURITY (G. Brennan ed. 1961), reprinted in PREVENTING WORLD WAR III, supra note 31, at 345, notes that

[t]he entire power of a government depends upon the officers and employees within it continuing to function in accordance with an elaborate scheme of rules. The government's ability to break a rule depends upon whether that particular rule can be sorted out and ignored, leaving respect for the other rules intact. Fisher, Internal Enforcement of International Rules, in DISARMAMENT 110 passim (S. Melman ed. 1962), indicates that "there is a personal risk to any officer who suggests to others that they jointly undertake a course of illegal conduct." Cf. L. HENKIN, HOW NATIONS BEHAVE 182 (1968), states that "[l]aw observance is the daily habit of government officials. They live by the law even — or especially — without the intervention of lawyers . . . ."
transference of support. Thus, advocates of this approach to integration specifically advocate blending international and municipal rules as much as possible.\textsuperscript{84} The purpose of blending these rules is not merely the utilization of national power to enforce the international rules, but also to help international rules achieve the same status as municipal ones. Under this theory, international laws may thus help to achieve international integration, but only if they are made, changed, and adjudicated as much as possible within municipal legal systems.

The third position goes one step further and considers international laws as self-fulfilling prophecies\textsuperscript{35} since the mere assertion of a rule as an international law itself affects the social situation. Specifically, an international law becomes an element contributing to the consciousness of policy-makers and the general public by emphasizing that an international legal system exists so that this in turn provides a legal framework for the interaction of States.\textsuperscript{36} The international lawmaker is the “prophet,” and the mechanism by which he influences people is something more than mere statements about international laws or mere propaganda in support of them. Outright propaganda may also help integrate the international community and build support for international laws, but it may be carried on by anyone. The self-fulfilling prophecy argument attaches special importance to the status of the international lawmaker as the speaker and the fact that the message is spoken in the form of laws. When

\textsuperscript{84} Fisher, Internal Enforcement of International Rules, supra note 33, at 100, suggests that “we might seek to weave international obligations into the domestic law of each country so that by and large each government enforced the obligation against itself . . . .” “The rules should be mingled with the regular domestic law to the point where they became indistinguishable.” Id. at 113. Q. WRIGHT, THE ROLE OF INTERNATIONAL LAW IN THE ELIMINATION OF WAR 84 (1961), observes that “a more extensive incorporation of international law in the national legal system, by constitutional provisions or legislative enactment, is desirable.” Cf. Schlesinger, Research on the General Principles of Law Recognized by Civilized Nations: Outline of a New Project, 51 AM. J. INT‘L L. 734-53 (1957), who seeks the rules common to most legal systems so that the international system can be built primarily on these common rules, on the assumption that it is easier to utilize rules already accepted in most States than to introduce new ones.

\textsuperscript{35} The term derives from R. MERTON, SOCIAL THEORY AND SOCIAL STRUCTURE ch. XI, 421-26 (rev. ed. 1957), first printed as The Self-Fulfilling Prophecy, 8 ANTIOCH REV. 193-210 (1948). According to Merton, “[t]he self-fulfilling prophecy is, in the beginning, a false definition of the situation evoking a new behavior which makes the originally false conception come true.” See D. EASTON, THE POLITICAL SYSTEM 24-31 (1965); H. LASSWELL & A. KAPLAN, POWER AND SOCIETY 269 n.25 (1950). For the application of this social mechanism in law generally, see J. STONE, SOCIAL DIMENSIONS OF LAW AND JUSTICE 762 n.70a (1966); A. ROSS, supra note 27, at 47 n.25.

\textsuperscript{36} W. COPLIN, supra note 23, at 192.
the law is initially promulgated it is not widely accepted as an international law, but this expression has a tendency to make it so in time. This argument is based on the view that international laws operate to some extent as symbols.\textsuperscript{37} For this purpose, a symbol is anything that recalls and summarizes experience.\textsuperscript{38} In the realm of symbolic activity, action consists of the manipulation of words,\textsuperscript{39} but this manipulation itself may cause a change in observable human behavior.

The self-fulfilling prophecy mechanism may be particularly important in the civil and human rights movements. Initially secondary rules may not authorize lawmakers to create new rights. However, if they proceed without general support and enunciate laws recognizing new rights, this characterization of rights as laws influences the subsequent perceptions of people who eventually do recognize the rights and consider the laws to be legally binding.\textsuperscript{40} This subsequent recognition increases the support for common standards of international human rights and further integrates the international political community to the extent of this increased support. Again international laws would have played a part in achieving an international community.

The primary purpose of some international laws is to establish or constitute international institutions. Indirectly, those laws may also further international integration by mechanisms other than the international legislation itself. Functionalists regard increased personal contacts of those working in the institutions as the chief inte-


\textsuperscript{38} \textit{Id.} at 353 n.1. A symbol is "anything that brings up from memory something felt, imagined, thought, or learned in the past, and consequently is a means of summarizing experience." This definition includes both the "referential symbols" and "condensation symbols" of J. Edelman, \textit{The Symbolic Uses of Politics} (1964). It is broader than that of C. Friedrich, \textit{Man and His Government} 99 (1963), who includes only "signs for meanings transcending the empirical content," such as flags, coats of arms, signatures, and the like.

\textsuperscript{39} Barkun, \textit{supra} note 37, at 353.

\textsuperscript{40} Bloom, \textit{Steps To Define Offenses Against the Law of Nations}, 18 \textit{CASE W. RES. L. REV.} 1572, 1596 (1967), indicated that "the longer the international community lives with even the verbal identity of such rights formulations, the easier it will become to claim that disregard of them constitutes an international offense." Wise, \textit{Steps Toward the Advancement of Human Rights}, 18 \textit{CASE W. RES. L. REV.} 1548, 1566 (1967), further suggests that "[i]t is no less important to have political values [human rights] asserted in the form of obligatory rules. It gives them fixity and force. It may also so educate men 'that the spirit of the laws can in time suffuse the laws of the spirit.'" Finally Barkun, \textit{supra} note 37, at 354-55, noted that "[a]t the point of decision, human rights norms exercise influence not because of sanctions that lie behind them, but simply because they are perceived to exist."
INTERNATIONAL LAWS AS INTEGRATORS

grating factor.41 Others see new international legal norms arising out of the usages of international organizations.42 At first these are mere customary patterns of behavior; but they then ripen into precedents, and finally they are regarded as binding legal norms.43 The whole international community eventually recognizes these norms as laws and is to this extent integrated.44 Though international laws are indirectly responsible for these integrative processes, the personal contacts and institutional usages are the primary integrative factors. A similar observation concerning municipal integration has been put succinctly as follows: “States have made nations far more often than nations have made states.”45 In other words, the establishment of State institutions sets in operation processes which develop a sense of nationality. Perhaps a similar approach may develop a sense of international community.

There are those who would disagree with all of the foregoing theories on the ground that international laws cannot aid in creation of a world community. It has been claimed that law exacerbates social conflict and cannot change social values46 and that law cannot build a relationship among States not already part of a system.47 Some would admit that international organizations may provide means of more rapid communication,48 but they do not see much hope

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41 E. HAAS, BEYOND THE NATION-STATE 48 (1964). “The most effective carriers of integration, then, are expert managers of functionally specific bureaucracies at the national level, joined together to meet a common need.”

42 R. HIGGINS, THE DEVELOPMENT OF INTERNATIONAL LAW THROUGH THE POLITICAL ORGANS OF THE UNITED NATIONS 4 (1963), observed that “[usage and precedent in political organs develop into legal rules — that is to say into norms which are accepted as legally binding by the vast majority of the states and organs of the United Nations.” Later the author cites cases where the International Court of Justice has interpreted the United Nations Charter in accordance with the “subsequent practice” of the parties. “Seventeen years’ work by the United Nations has provided us with an important new source of customary international law.” Id. at 10.

43 Skubiszewski, Forms of Participation of International Organizations in the Lawmaking Process, 18 INT’L ORGANIZATION 790, 795 passim (1964). “Patterns of conduct suggested by acts emanating from international bodies may slowly evolve into binding customary rules and practices . . . .”


45 Fox, Forward to A. ETZIONI, supra note 21, at vii. For a similar point of view with respect to the European Economic Community, see W. FELD, THE COURT OF THE EUROPEAN COMMUNITIES 121 (1964); Bebr, The Development of Community Law by the Court of the European Coal and Steel Community, 42 MINN. L. REV. 845, 850-54 (1958); LaGrange, The Court of Justice as a Factor in European Integration, 15 AM. J. COMP. L. 709, 724 (1967).

46 Honigmann, supra note 24, at 35.

47 Aubert, Courts and Conflict Resolution, 11 J. CONFLICT RESOLUTION 40-51 (1967).

for integration. Still others make the point that international law is not a very significant factor in building an international community.

Theoretical analysis can isolate variables such as international law and degrees of integration in the international legal community. It can also formulate hypotheses as to whether and why there is a positive or negative correlation between these variables, or no correlation at all. Empirical testing helps to verify which of competing hypotheses is most likely to be correct. Generally, those who have used empirical methods to test the correlation of these variables have been looking for positive correlation, that is whether variation in international laws is positively associated with a more integrated international community. Obviously laboratory testing is impossible and it is difficult to isolate the relevant variables, so strict research requirements must be overlooked. Nevertheless a start has been made.

III. RECENT RESEARCH

Some rudimentary empirical work has been done recently to test the first two basic theories as to how international laws may build their own supports, namely that fundamentally fair rules are immediately accepted and the spillover effect assures support of municipal government officials. Two of these studies have some bearing on whether fundamentally fair rules are immediately recognized as legally binding in an international setting. The first measured changes in the attitudes of United Nations delegates as a result of actual contact with the rules and procedures of that body. The goal was to measure United Nations work as a learning experience. Personal interviews were conducted at the United Nations among 25 new representatives chosen at random. After a year of

40 See, e.g., J. BRIERLY, THE OUTLOOK FOR INTERNATIONAL LAW 115-16 (1944), who sees little hope for integration even through a world supreme court, since it would be too unfamiliar with conditions in a particular State to form an opinion which would win confidence.

50 Falk & Mendlovitz, supra note 24, at 404; Falk, REVOLUTIONARY NATIONS AND THE QUALITY OF INTERNATIONAL LEGAL ORDER, in THE REVOLUTION IN WORLD POLITICS 301-31 (M. Kaplan ed. 1962), reprinted in DYNAMICS OF WORLD POLITICS 126, 127 (L. Miller ed. 1968), where it is observed that "[l]aw is a relatively dependent variable, significantly useful in a stable social system, dramatically marginal in an unstable social system. By itself, legal technique cannot introduce stability."

61 This is the null hypothesis that any apparent correlation is only what would be expected under laws of chance within the levels of accuracy previously selected. See, e.g., J. MYERS, FUNDAMENTALS OF EXPERIMENTAL DESIGN 27 (1966).

experience these representatives were interviewed again and there was indeed a greater tendency to see the world as one political system. Perhaps increased support for international laws could be deduced from this, though there was no attempt to test the specific effect of increased knowledge of international laws. On the other hand, representatives also saw the United Nations more as an instrument for gradual adjustment toward consensus and less as a device for producing immediate solutions to problems. Therefore working with the rules did not induce any great confidence in them as measures of reform as compared with the effect of the institutional contacts. Here the key factor was the "new linkages" that were formed between formerly isolated roles played in individual units and new roles played in the context of the institution, which would tend to support the functionalist argument. In the end this small study failed to show any definite effect of international laws on the perceptions of delegates, though it does illustrate the type of work which could be done on this question and thus can be considered heuristic.

The second study was more specifically related to laws but dealt with an even more specialized type of person. Its purpose was to determine how judges on the International Court of Justice voted when their own State was a party. The Statute of the International Court of Justice provides that a State is always entitled to have a judge on the court in a case in which it is a party, so if one of the permanent judges is not a citizen of that party, a special ad hoc judge is appointed for that case. The permanent or special judge was considered a "national" judge and the objective was to compare the votes and viewpoints of the "national" judges with the others. The other judges were considered neutral for that case so they served as a control group. The analysis was limited to cases in the years 1945-60. Though the preliminary edition only covered "contentious" proceedings, advisory opinions are also to be included in the final edition when published. Unfortunately the sample used is quite

53 Id. at 422 n.16.
54 Id. at 425.
55 Id. at 426. However, the one delegate who had been a judge before coming to the United Nations predicted little relationship between his judicial post and his new position in the United Nations. Id. at 421.
57 I.C.J. STAT. art. 31.
58 Of course the entire study assumes that points of view are confined strictly within national boundaries. Perhaps an analysis based on major bloc viewpoints might yield different results. Very few Communist Bloc judges were involved; however an analysis along developed-underdeveloped or imperialist-colony lines could have been done and might have been instructive.
small, as there have only been 33 separate contentious matters and 11 advisory opinions, for a total of 44. Of the separate contentious matters, four were pending at the end of 1960. Of the remainder, 13 were disposed of by order and 16 by judgment. Moreover, two permanent judges (Hackworth of the United States and McNair of the United Kingdom) were “national” judges in 11 and 10 matters respectively, so that only 20 other judges were involved, and for the most part, they participated in only one or two “national” matters. Due to the small numbers involved the study is necessarily more episodic than statistical.

Nevertheless, within these limitations some tentative conclusions could be drawn.\(^{59}\) National judges as a whole voted “for” their State on 77% of the issues and “against” their State on only 23% of the issues. They never voted “against” their State in a dissenting opinion; every time they voted “against” their State it was also the judgment of the court. On 11% of the issues, while the national judge was voting “against” his State, some other judge or judges were voting “for” his State. Permanent national judges were never the only ones voting “for” their State and usually three or four others joined in that vote. Ad hoc national judges, on the other hand, were the only ones voting “for” their State in 8% of the issues in which they were involved, and in another 8% of the issues in which they were involved, only one other judge joined them in voting “for” their State. Ad hoc national judges voted “for” their State, though the court did not, on 41% of the issues, but permanent judges did so only on about half this percentage (22%) of the issues. Thus national judges obviously do not always vote “for” their State, nor do they always do so even when some other judge votes for that point of view. But ad hoc national judges are more inclined to vote the national point of view than permanent ones.

In order to relate this behavior pattern to international laws, it must be assumed that the rules of international law (including international laws) account for any deviations from consistent support of the State. If this is true, then international laws apparently have some independent appeal to the national judges. Other factors being equal, presumably the greater influence of international laws on the permanent judges is reflected in their greater deviation from the national point of view. However, it must be remembered that the ad hoc judges must return sooner to their constituents and were named with a particular case in mind, which might also explain

\(^{59}\) P. LIACOURAS, supra note 56, at 526-27b, Tables 2 and 3.
these differences. A legal realist could argue that the amount of deviation from the expected norm is so small as to prove the irrelevance of international laws altogether. In addition, there are many differences between these law-oriented men and political leaders or the public at large with respect to the formation of an integrated political community. However, if there were no influence of international laws on this group of jurists, then it surely would be cause for despair. At least the influence of legal rules seems to be gaining some support in this quarter.

The second theory above asserts that the law label attached to an international rule helps it gain acceptance, at least to the extent that government officials cannot very well counsel violation. A start has been made toward seeing whether this "spillover effect" is observable in actual decision-making activities. The specific purpose of one study was to evaluate the weight given to the legal factor in making specific policy decisions. Two case studies were undertaken which dealt with decision-making by United States Government officials. The decisions involved how to respond to the attack on Korea and the threat to Formosa. In the former, the decision was to rely on United Nations procedures, whereas in the latter, the officials decided on unilateral action. The basic method was to review all available records of communications among those involved during the process of decision. The assumption was that if international laws were important in decision-making, they would be mentioned and, in fact, should have provided an important foundation for at least one proposed course of action. Furthermore, this course of action should have won adherents partly on the ground of support of international laws, and ultimately should have been adopted. One conclusion involved the Korean decision where legal and political factors pointed to the same general course of action. However, "[t]he outlook of the policy-makers was also conditioned by their conviction, that what was happening was 'aggression,' an international wrong, and a clear-cut violation of the law of the [United Nations] Charter." On the other hand, it was concluded that "law was not a factor in the Formosa decision." There, law seemed to be only a "mine of arguments applied as justification after the event"

60 See notes 32-34 supra & accompanying text.
62 Id. at 53.
63 Id. at 66.
and "window-dressing rather than real reasons for the policy adopted at that time."\textsuperscript{64}

One problem, of course, is the difficulty of obtaining full and accurate information about the actual decision-making process. Also, a very detailed study of a few situations can only provide a reasonably reliable answer to a very limited question: Whether international laws were an important factor in these particular decisions? If enough careful work is done, however, then some broader conclusions might be drawn. This study suggests seven other recent United States decisions that could be similarly reviewed.\textsuperscript{65} Particular attention to the role of the legal advisers of the State Department and the reaction of decision-makers to their advice would probably also be fruitful.\textsuperscript{66} Eventually some conclusions could be drawn concerning government officials' actual reactions to international laws at the point of decision. The Formosa decision suggests they can and sometimes do ignore the legal factor, while the Korean decision suggests that they are influenced by it when it is consistent with the national interest. Perhaps further research would show government officials acceding to international laws in the actual process of decision-making, even when it is against the national interest. They might even appear to do this out of respect for an obligation to support international laws, rather than fear of sanctions in case of violation. If so, then this would be some evidence of growing international integration, at least among these government decision-makers.

Another study implies that international laws sometimes do and sometimes do not have an integrating effect. The goal was to determine how States actually behave with respect to international laws.\textsuperscript{67} The author concluded that "[i]n our world, international law is observed because of political reasons — the fear of political

\textsuperscript{64} Id.

\textsuperscript{65} Id. at 74-75 n.106. These are as follows: the question of intervention in Indochina, the Guatemalan case, the treaty with Chiang Kai-shek, incidents concerning the Chinese "off-shore" islands, intervention in Lebanon, the Suez crisis, and the Cuban crisis.

\textsuperscript{66} The role of the legal adviser is just beginning to be studied and is still on the level of mere description. See H. Merillat, Legal Advisers & Foreign Affairs (1964); H. Merillat, Legal Advisers and International Organizations (1966); Bilder, The Office of the Legal Advisor: The State Department Lawyer in Foreign Affairs, 56 Am. J. Int'l L. 633 (1962); Fitzmaurice, Legal Advisors and Foreign Affairs, 59 Am. J. Int'l L. 72 (1965); cf. 1-3 A. McNaIr, International Law Opinions, Selected and Annotated (1956).

\textsuperscript{67} L. Henkin, supra note 33.
sanctions, of responses and consequences."  Four specific case studies were undertaken. With respect to Nasser's nationalization of the Suez Canal, the conclusion was that "the law works." Laws influenced Nasser to undertake adequate compensation and guarantee continued free passage in the Canal and they helped persuade Britain at least to postpone the use of force to give diplomacy an opportunity. A different conclusion was reached concerning the 1956 outbreak at Suez and Sinai where law failed initially, but was later vindicated. Similarly law failed in the Adolf Eichmann case.

Finally legal considerations influenced United States policy-makers to some extent with respect to the Cuban missile quarantine in that, at least for some policy-makers, international laws helped carry the day for quarantine as a first step instead of bombing.

The indirect integrative effect of international laws operating through international institutions may be deduced from a few extant studies. One has analyzed the effects of personal contacts in the International Labour Organization and found integration resulting more from the logic of hostile confrontation than jurisprudence.

Another has reviewed the development of international laws through the political organs of the United Nations. The basic approach of this study was to examine certain broad rules developed by the United Nations concerning: (1) statehood; (2) domestic jurisdiction; (3) recognition, representation, and credentials; (4) legal limits to the use of force; and, (5) the law of treaties. The development in the United Nations of each concept is traced in detail and the various statements of the rule, including the qualifica-

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68 Id. at 225.
69 Notwithstanding, the case study method itself was said to distort conclusions because a case study must usually rely on printed evidence of the decision-making process, although this is generally available only for the unusual, crucial decisions. The principal effect of international laws is in shaping policy in the daily operations of governments, but these decisions are not reported in sufficient detail to enable accurate analysis. Id. at 178-79.
70 Id. at 186-94.
71 Id. at 189.
72 Id. at 194.
73 Id. at 195-205.
74 Id. at 206-15.
75 Id. at 216-42.
76 Id. at 226-27.
77 E. HAAS, supra note 41, at 126 et seq.
78 Id. at 425.
79 R. HIGGINS, supra note 42.
tions, refinements, and special circumstances, are set forth. The actual practice of the United Nations members with respect to each rule is then observed. However, there was no effort to test the key element — whether the laws were accepted as legally binding. It is conceded that this is crucial, but the great difficulties of such an undertaking are recognized. The author was able to show that practice was consistent with reasonably simple rules. If the rules had been accepted as legally binding, then practice in accord with the rules would be expected; however, if the rules are not accepted as legally binding, the obverse would not obtain. Practice consistent with the rules does not necessarily show that the rules have been accepted as binding. Of course all "proof" depends on this same post hoc, ergo propter hoc fallacy, but the conclusions advanced would be more convincing if there were at least some attempt to deal directly with the acceptance of the rules. Undoubtedly, this work is valuable for what it attempts to do and should be useful to those doing further research in the area. However, the limited scope of the inquiry leaves doubt as to whether its conclusions are adequately supported.

Other studies hold out even less hope for international laws as

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80 "Usage and precedent in political organs develop into legal rules — that is to say into norms which are accepted as legally binding by the vast majority of the states and organs of the United Nations." Id. at 4. "The only possible answer to the problem of at what stage a usage becomes law must be at that point at which states regard themselves as legally bound by the practice — a point which can only be ascertained by the close examination of states' attitudes and public statements." Id. at 6.

81 Id. at 6.

82 For a review, highly complimentary in general, but criticizing Mrs. Higgins on this point, see Schwebel, Book Review, 75 YALE L.J. 677-81 (1966).

83 For example, in general, 17 years of work by the United Nations are said to provide us with "an important new source of customary international law." R. HIGGINS, supra note 42, at 10. On some of the issues practice does conform to a pattern that may be expressed in rules. States have not been admitted to membership on a "political" basis and members have adhered to legal criteria, though these must be variously interpreted to explain their actions. Id. at 12-14, 54. In fixing the limits of domestic jurisdiction, actions are said to conform to international laws, but this includes the principle that international laws change and develop, not arbitrarily, but by good faith interpretation. Id. at 130. On some other issues, however, the analysis does not seem to show a consistent pattern of action. Interpretation of rules on recognition, representation, and credentials seems to be significantly influenced by policy considerations. Id. at 133. These questions are approached pragmatically. Id. at 165. The rule that force is to be used only for self defense is said to be too general to be useful. Id. at 167. However, international laws in this area are apparently expected to develop in the future. Id. at 259. Similarly, practice respecting treaty law apparently is developing new rules, but the analysis does not demonstrate their acceptance. Id. at 256. It is conceded that practice sometimes derives from fear of response if an opposite course is taken, or from self-interest. Id. at 8. The study leaves for another day "the close examination of states' attitudes and public statements." Id. at 6. This, rather than mere practice, seems to be the crucial element.
integrators than those already mentioned. For example, one concludes that international laws do not integrate.\(^{84}\) Governments often formulate their mutual relations in terms of law, but it is a law of excessive flexibility at the service of the subjectively defined interests of each State, so there is an intimate connection between the statement of the rule and the specific interest of the moment. In such a milieu, rules and system have little meaning.\(^{85}\) The author proposes to measure in some degree the influence of legal notions on foreign policy,\(^ {86}\) respecting: (1) the *mare clausum* and the *mare liberum*;\(^ {87}\) (2) international arbitration of disputes;\(^ {88}\) (3) attempts to settle disputes through international organizations;\(^ {89}\) and (4) the human rights movement.\(^ {90}\) Actually there is not much effort to state precisely the standards of applicable international laws and carefully measure the conduct of States against them, but perhaps this is not possible with the view of international law adopted. With respect to arbitration, it is observed that "[t]he body of material known as international law is so vague and debatable that justification can be found in it for any award a reasonable man would be likely to make."\(^ {91}\) If this view were correct, there would be no point in measuring the behavior of States against such an amorphous standard. The international juridical scientist should then posit some determinants of behavior other than laws and compare the actual behavior with those determinants. This would not prove that laws are not a determinant, but at least it would support the other possibilities as the significant ones. However, until more empirical research is done such a pessimistic view seems unwarranted.

With so much writing in the field of international law, it is disappointing to find so few attempts at empirical research, especially on whether and how international laws may foster international integration. Particularly in the field of international law, legal scholars cannot limit juridical science to the analytical exposition of existing principles, but should consider the effects, if any, of international laws on the embryonic international system. This requires moving

\(^{84}\) P. CORBETT, LAW IN DIPLOMACY (1959).
\(^{85}\) Id. at 271-75.
\(^{86}\) Id. at vii.
\(^{87}\) Id. at 110-35.
\(^{88}\) Id. at 136-86.
\(^{89}\) Id. at 187-250.
\(^{90}\) Id. at 251-70.
\(^{91}\) Id. at 137.
beyond mere analyses of the laws, decisions, and authorities into empirical methods, well adumbrated in the following:

[T]he new methods will be concerned with the psychological determination of international legal constructs as they appear in the minds of the relevant national decision-makers and their legal counsel, and as they have been employed in international bargaining and claim-conflict situations. The methods will involve interview data, content analyses of memoirs, biographical data, and state papers, and the use of multiple regression analysis to determine the various "weights" to be assigned to various kinds and forms of legal argumentation that have been relatively persuasive in cases of international bargaining. . . . This should serve to put the "traditional" learning in its proper setting as part of the psychological mechanism that goes into influencing the behavior of others by invoking the terminology of "law."92

IV. MEASUREMENT IN THE UNITED NATIONS SOUTH AFRICAN INDIAN DEBATES

The foregoing amply illustrates that international juridical science is still in its infancy and the main tasks lie ahead. Nevertheless, by focusing on one small facet of international integration via international laws, perhaps a small contribution can be made to this discipline. The results of measuring one index — the effect of international laws creating human rights in one particular context — will be reported here to see if in this respect such laws are inducing a supporting obligation to obey them. Though much descriptive material has been written on international human rights laws, a careful study of their impact has yet to be undertaken.93

92 D'Amato, Book Review, 11 J. CONFLICT RESOLUTION 504, 509 (1967).
93 Some attention has been given, however, to a similar problem concerning civil rights in the United States. William K. Muir, Jr. happened to interview a limited sample of school board members, superintendents, and principals prior to the decision of School District of Abingdon Township v. Schempp, 374 U.S. 208 (1963). After the Schempp decision, he carried out follow-up interviews to determine the resulting change in attitudes. This furnished a unique opportunity to measure the reaction of at least one small group to the enunciation of new civil rights standards. Of course, the enunciation was authoritative and in a national judicial setting, but it illustrates that, to some extent, the mere enunciation of rights eventually brings them into existence. W. MUIR, PRAYER IN THE PUBLIC SCHOOLS (1967).
David J. Danelski urges similar research in the human rights area in the following terms:

Each of the component behaviors of human rights can be specified empirically and survey research methods can be used for that purpose. World-wide inventories of man's perceptions of man, of his acknowledgments of the kind of treatment man is entitled to as man, and of rights in action would be a beginning . . . . With such data, men's perceptions of other men could be explored more fully and profoundly than they have ever before, and hypotheses concerning man's failure to perceive some of his fellow men as fully human could be tested. The whole acknowledgment process could be explored in
In all but one of the first 16 sessions of the United Nations General Assembly, the treatment of Indians in the Union of South Africa was debated by the General Assembly or its committees. A considerable number of Indian workers had gone to the Union of South Africa in the late 1800's under arrangements between the two governments. Governmental policies in South Africa imposed various restrictions on these immigrants; therefore special treaties were ratified between India and the Union of South Africa in 1927 and 1932 to guarantee certain minimum rights. After World War II, the Union of South Africa increasingly applied policies of racial segregation (apartheid) discriminating against non-Caucasians in matters concerning employment, residence, and many other aspects of life. In 1950 the South African Parliament enacted the Group Areas Act which was designed to further segregate the peoples of various races in South Africa. Though these measures were directed primarily against Negroes, they created hardships for Indians as well. India claimed that they violated not only the terms under which the Indians had originally emigrated, and the treaties, but the United Nations Charter and the Universal Declaration of Human Rights as well. The Union of South Africa claimed that treatment of Indians in South Africa was a matter of domestic jurisdiction and not an appropriate subject for United Nations discussion. This dispute provides a relatively stable context in which delegate statements of general acceptance or rejection of international human rights standards may be compared from one session to another.

The examination was limited to delegates' statements concerning the application of such standards in their own States, on the assumption that "admissions against interest" in an international forum are more significant indications of true mental attitudes than gratuitous advice on how other States should conduct their affairs. Rough methods of content analysis were applied to these statements to measure any increasing or decreasing sense of obligation with respect to human rights norms. The results show almost immediate acceptance of these norms after their enunciation as international laws,
subject to a temporary decline in sessions VI through VIII. The pattern suggests that human rights norms derive their ultimate support from coincidence with fundamental notions of fairness rather than through the gradual mechanism of self-fulfilling prophecy.

Some international jurists would say that human rights standards have not yet been included in international legislation. Others would say that, while the early formulations of these norms were not international laws, later ones were. Finally, a third group would say that human rights norms became international laws, however indefinite, when the United Nations Charter was signed. The argument could be made that the human rights provisions of the United Nations Charter are too general to constitute international laws, or that the Charter was only an “agreement to agree.” But the Charter provisions were part of an almost universal international treaty which is the most accepted current form of international legislation. Even if these Charter provisions were too vague to constitute international laws on the ratification of the Charter, the adoption of Resolution 44(I) and the Declaration of Human Rights in 1948 remedied this defect shortly thereafter. The aggregate indicates an intent to supply some specific standards in an almost universal treaty which should constitute international law to some extent at least. The procedures about to be described were designed to try to measure one index to the degree of acceptance of these international laws. Even customary international law requires a supporting sense of legal obligation. Mere acts in the form of practices of States without proper attitudes are not sufficient. The problem

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96 This may be explained by the interplay of international legal obligation and national self-interest.

97 See P. Drost, Human Rights as Legal Rights 29-36 (1951); H. Kelsen, The Law of the United Nations 27-42 (1951); Hudson, Integrity of International Instruments, 42 Am. J. Int’l L. 105-08 (1948); see also Korey, The Key to Human Rights — Implementation, 570 Int’l Conciliation 5, 7 (1968) (referring to statements of Eleanor Roosevelt often cited to the effect that the Declaration of Human Rights did not impose legal obligations).

98 E.g., E. Schwelb, Human Rights and the International Community 74 (1964).


102 I.C.J. Stat. art. 38, para.1b; R. Higgins, supra note 42, at 6; H. Kelsen, Principles of International Law 307 (1952), where it is noted that: [the] frequency of conduct, the fact that certain actions or abstentions have repeatedly been performed during a certain period of time, is only one element of the law-creating fact called custom. The second element is the fact that the
is how to measure these attitudes of legal obligation accurately enough for meaningful conclusions to be drawn.

The measurement of legal obligation supporting international laws may be obtained through attitude testing. One way to ascertain attitudes is simply to ask people what they think about a subject. With public figures, it is sometimes easier to analyze what they have already said about it. Another approach is to deduce attitudes from especially significant actions such as votes on a particular issue. The problem, however, is that as a practical matter most delegates must vote on texts of resolutions which have been prepared by others. Thus delegate statements are probably a more sensitive indicator of attitudes due to greater control over the particular words used to express the delegate's position. In the case of United Nations delegates, expressions of views and votes have already been recognized as some evidence of attitudes toward legal obligation and statements of official representatives have even been recognized as some evidence of the growth of customary international law.\textsuperscript{103} To date, however, no one seems to have thoroughly studied delegate statements as indicia of international legal obligations.\textsuperscript{104}

No claim is made that delegate statements in the United Nations are legally binding; though, like votes on resolutions, they may evince recognition by a State of a particular rule of international

\textsuperscript{103} Engel, 'Living' International Constitutions and the World Court (The Subsequent Practice of International Organs Under Their Constituent Instruments), 16 INT'L & COMP. L.Q. 865, 909-10 (1967), notes that "it is the practice of members\textit{qua} members and not the resolution of the organ\textit{qua} resolution which matters." See also R. Higgins, supra note 42, at 2, where she notes that "the votes and views of states have come to have legal significance as evidence of customary law." Bleicher, The Legal Significance of Re-Citation of General Assembly Resolutions, 63 AM. J. INT'L L. 444 (1969), provides an excellent resolution voting study as an index to acceptance of customary international law. Schachter, supra note 102, at 185, adds that "assertions of law . . . may be stated in the resolutions or they may be implied from the consensus expressed in the debates."

\textsuperscript{104} Citations to a few delegate statements were utilized, however, in M. McDougal, H. Lasswell & I. Vlasic, LAW AND PUBLIC ORDER IN SPACE 230 (1963), to support "recognition of inclusive competence over activities in space."
law. An argument could be made that a delegate’s statement may raise an estoppel, though estoppel is not readily implied in international law. Delegate statements may have some minimal probative force per se, though most often they are considered mere rhetoric. Perhaps what official representatives say in a public forum should carry some weight and, in fact, other

105 Bleicher, supra note 103, at 447:
[A] vote for a particular General Assembly resolution by itself creates little more basis for a fixed expectation [for purposes of estoppel] than does a unilateral declaration of intended future behavior by a representative of that state, which in the absence of special circumstances can be altered at will. . . . However, if some basis is found for a reasonable expectation that a favorable General Assembly vote was thought by the voters to require conforming conduct, the difficulty of attributing legal significance to the General Assembly resolution is largely overcome. If, for example, a resolution declares a rule to be preexisting law and attributes it to a recognized source of international law, a foundation has been established for reliance upon that resolution as a limitation on the freedom of action of at least those who voted for it. A nation’s vote for such a resolution is in effect a public statement of adherence to the legal principles embodied in the resolution.

Virally, The Sources of International Law, in Manual of Public International Law 161-62 (M. Sorensen ed. 1968), suggests that it may be fairly asked whether the principle of good faith will permit a state to disregard a recommendation which it has formally approved by its affirmative vote. No customary rule to this effect has so far emerged . . . . [But declarations like the Human Rights Declaration] may manifest a recognition of certain legal principles by the member states voting for their adoption. If adopted by a majority verging on unanimity, or virtually without opposition, they may contribute to the formation of customary rule or evidence that it is already formed.


107 Fitzmaurice, supra note 106, at 44, states that "The admission of another State’s claim or right, or the abandonment of a State’s own position, will not lightly be implied." However, "[a] statement or act may fairly be interpreted as an admission when it appears to embody or represent the bona fide belief of the party making it." Id. at 45.


109 Virally, supra note 105, at 140. "[S]tate representatives, under the influence of . . . rhetoricism, do not always weigh their words."

110 Schachter, supra note 102, at 188, states that official positions of States announced in the General Assembly or Security Council cannot be considered in legal effect as no more than judgments of private persons. They constitute evidence of contemporaneous construction by
States do occasionally point out inconsistencies in the arguments of their opponents. But whatever their international standing as such, statements are being measured here only as indices to legal obligation, not as independent international acts.

It was assumed that international juridical science is a subject matter science, so that there are no a priori limitations on research method. Therefore, any method which aids in understanding the international legal process should be acceptable to the international juridical scientist. This may not be true for the international lawyer who may be more interested in methods more useful in practice, such as logical analysis. An international lawyer may find this method adequate in the practice of international law; but an international juridical scientist, who seeks to understand international law fully, needs to go beyond logical analysis of accepted rules to see how attitudes are created in support of new ones.

This task has recently become easier as more precise methods of content analysis to measure meaning have been developed by communications engineers, partly in response to modern computer capabilities. International political scientists are beginning to use these techniques to better understand their field of international relations. Within the field of content analysis, specialized techniques have been developed for analysis of evaluative assertions. The pioneering explanation of these techniques describes procedures

the parties that is entitled to weight in determining the meaning and effect of a treaty provision.


112 If States A and B agree on p, and if, on close analysis, p really includes q as part of its meaning, then the legal science of the international lawyer properly demonstrates that A and B are legally bound by q. A study of the human rights issue by Hersch Lauterpacht relies primarily on this method. H. LAUTERPACHT, supra note 99. He has been highly complimented for showing that "the impact and effect of the Universal Declaration of Human Rights was stronger than many of its drafters intended." E. SCHWELB, supra note 98, at 75.

113 Conceptually, the international lawyer as practitioner and the international juridical scientist as legal scholar are related to each other in the subfield of international law, in somewhat the same way as the diplomat as practitioner and the international political scientist as scholar are related to each other in the total field of international relations. Of course in the work of any one person there may be considerable overlapping of approaches and fields.


for extracting from a message the evaluations being made of significant concepts and assigning numbers representing the direction and intensity of these evaluations. Fortunately a rule of parsimony is applicable here:

As in other scientific investigations, content analysis should be done not as precisely as possible but rather as imprecisely as possible — that is, as roughly as the circumstances of the study will allow (in order to minimize costs relative to returns) . . . . If the study does not deal with a large and representative body of material to be analyzed in terms of a set of highly specifiable categories which appear with substantial frequencies in order to produce objective and precise results — if these conditions are not met, careful counting is probably not warranted.

Where analysis is conducted by a research team working under a project director, masking techniques are necessary and appropriate dictionaries must be developed to assure uniformity of analysis. However, when a single analyst is used, as here, these precautions are not so necessary.

Without content analysis techniques of some sort, it is hard to achieve scientific precision when dealing with a very broad concept. Hence, as a topic attains unmanageable proportions, there is a tendency to subdivide it, by definition, into compartments. However, evaluative assertion analysis is more useful than excessive specification in measuring acceptance of international human rights laws in the United Nations South African Indian debates.

Most public statements of acceptance or rejection of human rights standards in these debates were phrased in rather general terms. Statements that could be categorized by specific fact situations usually related to what other States, especially South Africa, should do. Nevertheless, analysis of the intensity of the general statements may disclose something about acceptance or rejection of human rights standards. In the instant study the specific fact category of the treatment of Indians in the Union of South Africa remained constant. Therefore, the effect, if any, of this specific fact situation


\[118\] These have been described by Osgood, Saporta & Nunnally and Holsti, *supra* note 116.
should not explain any variations in intensity of the general statements being measured.\footnote{119}

Each statement was weighted according to the single factor of the "Human Rights Acceptance" scaled as shown in Table 1. This was constructed upon a consideration of factors and gradations of human rights acceptance. As is customary in attitude scaling,\footnote{120} the scale was constructed with seven categories around a zero median. This provides a convenient high-medium-low breakdown of acceptance, as well as rejection, and a neutral median. Eight guides to acceptance or rejection were used. These were specificity, the form of the statement, the scope of the rights accepted, the strength of the statement of a general rule, the relation of the statement to the speaker's State, identification of the source of the norm, reference to the United Nations General Assembly powers, and the "common law evidence analogy" explained below. At first glance, this appears to be a fairly large number of guides to use, and no doubt some of them could be resolved into others on further analysis. However, usually only a few of the guides applied to a given statement so it was helpful to have all of them available in specific terms. In fact, actual scaling according to these factors was not especially difficult.

The scale is constructed so that the eight factors are equally important in judging human rights acceptance. However, some judgment had to be used in assigning particular intensity weights within each factor. Some factors indicated the degree of acceptance but were ambiguous as to the degree of rejection, while others did not differentiate between two degrees of acceptance or rejection. In these respects, the scale is not neatly logical. As has been observed, intensity of evaluation "is largely a semantic problem and there are few linguistic guides."\footnote{121} Reading all the material to be scaled be-

\footnote{119 \textit{But see} Schachter, \textit{supra} note 102, at 179, to the effect general statements only appear so, and in fact are related to the specific context in which they are made. It should be possible to test this contention using the methods of this study. The other non-apartheid human rights contexts are indicated in Table 2. Statements of acceptance or rejection of human rights norms in these other contexts could be scaled on the Human Rights Acceptance Scale in Table 1, and these could be plotted on Figures 1, 2, & 3. Statistical measures of consistency could then be applied, and this should show the degree to which the context affects the statements of acceptance or rejection. These operations have not been performed, so the question remains an open one. If context is an important factor, then the conclusions of this study are limited more specifically to human rights laws involved in the treatment of Indians in the Union of South Africa. If context is not a very important factor, the conclusions of this study relate to human rights laws in general. But at least the variations in the findings reported here may not be explained by the specific issue being discussed, as this study has been planned so that the context remains constant.}

\footnote{120 Osgood, \textit{et al., supra} note 116, at 86.}

\footnote{121 \textit{Id.}}
forehand was helpful in constructing the scale;\textsuperscript{122} nevertheless, some scale adjustments had to be made in the course of rereading for scaling.

Each scale factor, itself, follows from certain assumptions. A specific statement is presumed to be stronger than the denial of its opposite. Acceptance of a greater number of specific human rights is presumed stronger than acceptance of only a few. This is aside from the degree to which the statement is specific or the strength of the terms in which it is made. Whenever a delegate speaks, he speaks for his State to some extent; but if he makes this explicit, it is stronger evidence of acceptance or rejection by his State, and this is what is being measured. Sometimes the delegate makes specific reference to the source of the norms he is accepting and this also indicates a higher degree of acceptance. Finally, a claim of more extensive powers of the General Assembly to deal with a violation is presumed to indicate a greater acceptance of the obligation. No doubt different observers would differ somewhat on the specific intensities assigned to these factors, though most would probably agree on the general principles on which they are based.

Common law lawyers may find an analogy from the law of evidence useful in understanding construction of the scale. Let us assume that a human rights case were being litigated against a particular State in some appropriate tribunal. Assume further that a statement had previously been made in the United Nations and the State making it was charged with violating the very human rights standards covered by the statement or subsumed under it. The opposing lawyer would want to find admissions by the delegate of that State that these human rights norms are binding obligations. Of course, if a delegate had said these human rights norms are not binding obligations, then such a statement is a self-serving declaration and of no particular importance for this case. This distinction may not actually govern the admission of evidence as a matter of international law, but common law lawyers are used to working with it in preparing municipal cases for trial so it may provide an overall rule of thumb for scaling purposes. In simple terms: Would the opposing lawyer reading the statement think he had really found something useful? Or would he find it useless for trial because a self-serving statement? If an admission, the question is how damaging is it? If self-serving, how self-serving?

\textsuperscript{122} This may have introduced some unconscious bias, but it was not possible to predict the outcome until the graphs in Figures 1 through 3 were actually drawn.
Of course, the object of scaling is not primarily to ascertain the attitudes of delegates as individuals, but as representative of attitudes in the States for which they speak. There should be some connection since the statements were made officially on behalf of these States in an international arena. However, United Nations delegates are undoubtedly more prone than other public officials to justify real or hypothetical state action in terms of international standards of conduct. So their attitudes may not even be typical of diplomats as a whole, much less of significant policy-making groups within the State. Nevertheless, it seemed most fruitful to begin with an analysis of United Nations delegate statements and reserve for others the investigation of correlations with attitudes of other significant groups at home.\textsuperscript{123}

The actual statements of acceptance or rejection of human rights standards were collected by examining the official records for the first 16 General Assembly sessions of debates on the status of Indians in the Union of South Africa.\textsuperscript{124} In each session there was a lengthy discussion by Indian and South African delegates. South African delegates uniformly objected to any United Nations intervention and relied on many arguments to support this position. Consequently, South Africa was uniformly scaled as minus three (maximum rejection) on the Human Rights Acceptance Scale. Indian delegates argued for removal of the restrictions on Indians in South Africa, but scrupulously avoided statements concerning what stance the United Nations could take in India if an appropriate case arose there. Since a statement by a delegate on what could be done at home was taken to be a better indication of true acceptance or rejection than a statement on what should be done by some other government, India was uniformly scored as zero (neutral) on the Human Rights Acceptance Scale.\textsuperscript{125} One special aspect of the treatment of

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{123} For other types of studies that have been done (1) of diplomats and foreign office legal advisers, see notes 61-66, supra; (2) of newspaper editors, Namenwirth, Zvi & Brewer, Elite Editorial Comment on the European and Atlantic Communities in Four Countries, in P. Stone, et al., supra note 114, at 401-27; and (3) of elite public opinion, W. Buchanan, & H. Cantril, How Nations See Each Other (1953); K. Deutsch, L. Edinger, R. Macridis, & R. Merritt, France, Germany and the Western Alliance (1967).
\item \textsuperscript{124} Discussions are reported verbatim only for plenary sessions, the other discussions being recorded in fairly full paraphrase. It seemed easier to detect attitude variations in verbatim text than in paraphrase, but on the other hand, it took longer to locate pertinent material in examining verbatim text. Beginning with session V, there is an index to the official records which makes it easier to locate pertinent discussions. For the first three sessions agenda items had to be used, and this is somewhat less reliable.
\item \textsuperscript{125} The statements of the South African and Indian delegates were not examined in detail, since they were voluminous and somewhat repetitious. Also it appeared that
\end{itemize}
\end{footnotesize}
Indians in the Union of South Africa required special attention. India's argument was based, in part, on the enforcement of the special treaties signed by South Africa in 1927 and 1932, as well as the particular arrangements under which Indians emigrated to the Union in the late 1800's. Some discussions urged United Nations intervention on this ground, and of course these were omitted from consideration.

Beginning with session XVII, discussion of the treatment of Indians in the Union of South Africa merged with discussion of apartheid in general. Since this was a change in context, statements for session XVII and after were not examined. Also, most discussions of the Indian issue took place in the General Assembly or its Committees, so the investigation was not extended to Security Council records or International Court of Justice proceedings.

After each statement was read and collected, the analysis was begun by making a list of United Nations members for each General Assembly session from I through XVI (except session IV). Of course, the number of States in the United Nations increased steadily over this period. The membership list for each session was then rearranged into six regional groupings: Western Europe and Dispersion; Latin America; Communist Bloc; Near East and Northern Africa; Southern Africa (except the Union of South Africa); and Far East. This division was based on a general

The scale values assigned as indicated in the text would not be affected by a full examination. Indian delegates generally stated their positions more calmly and South African delegates generally did so more positively, though this difference is not reflected in the scale values assigned to these two States.

Western Europe and Dispersion included: Australia; Austria; Belgium; Canada; Denmark; Finland; France; Greece; Iceland; Ireland; Israel; Italy; Luxembourg; Netherlands; New Zealand; Norway; Portugal; Union of South Africa; Spain; Sweden; United Kingdom; and United States. "Dispersion" obviously is analogous to the Diaspora and refers to Western European peoples living outside Western Europe in States predominantly Western European in culture.

Latin America included: Argentina; Bolivia; Brazil; Chile; Colombia; Costa Rica; Cuba (through 1958); Dominican Republic; Ecuador; El Salvador; Guatemala; Haiti; Honduras; Mexico; Nicaragua; Panama; Paraguay; Peru; Uruguay; and Venezuela.

The Communist Bloc included: Albania; Bulgaria; Byelorussian Soviet Socialist Republic; Cuba (from 1959 on); Czechoslovakia; Hungary; Mongolia; Poland; Romania; Union of Soviet Socialist Republics; Ukrainian Soviet Socialist Republic; and Yugoslavia. "Bloc" with respect to these States is used for brevity and does not necessarily connote any monolithic implications.

Near East and Northern Africa included: Algeria; Cyprus; Egypt (through 1957); Iran; Iraq; Jordan; Lebanon; Libya; Mauritania; Morocco; Saudi Arabia; Sudan; Syria (except 1958 through 1961); Tunisia; Turkey; United Arab Republic; and Yemen.

Southern Africa (except the Union of South Africa) included: Cameroon; Central Africa Republic; Chad; Congo (Brazzaville); Congo (Democratic Republic);
knowledge of ethnic groupings and a full scholarly reconsideration of this division might lead to some changes, especially in borderline areas. With the People's Republic of China outside the United Nations, the total population of each of the regions was fairly equal. The purpose of the regional division was to determine whether regional patterns differed from those of the United Nations as a whole. As it turned out, the data were insufficient to justify charting regional results for the last three regions. Further, the patterns in the first three regions, shown in Figures 2 and 3, were similar to those for the United Nations as a whole. However, there is a significant difference in the general levels of acceptance among the three regions charted. In particular, the Communist Bloc delegates expressed acceptance of human rights norms to a considerably greater degree than those of Western Europe and its dispersion, so the regional divisions did prove worthwhile.

After the membership lists were completed by regions, the attitude expressed in each statement was scaled by reference to the Human Rights Acceptance Scale in Table 1 and the result entered in the appropriate region for the appropriate General Assembly session. Most often there was only one delegate attitude scaled in a given session for a given member, so that the scaled attitude for that statement was also the "Average Attitude" of the member State for that session. Occasionally, however, two statements were made by a delegate in a particular session, and if their intensity differed, the two attitudes were averaged for that session. The average national attitudes were then totalled by regions, to give a "Region Algebraic Sum." When this was divided by the number of States expressing an attitude in the region, the result was the "Region Average Stated National Attitude." When the Region Algebraic Sum was divided by the total States in the region, the result was the "Region Average Attitude for All Members." As expected, the Region Average Attitude for All Members was closer to zero than the Region Average Stated National Attitude because the silent members were always scaled zero for that session. After the six Region Algebraic Sums were computed, they were combined for the United Nations as a whole, to give the "United Nations Algebraic Sum." This was

Dahomey; Ethiopia; Gabon; Ghana; Guinea; Ivory Coast; Liberia; Madagascar; Mali; Niger; Nigeria; Senegal; Sierra Leone; Somalia; Togo; and Upper Volta.

Far East included: Afghanistan; Burma; Cambodia; Ceylon; China (Taiwan); India; Indonesia; Japan; Laos; Malaysia; Nepal; Pakistan; Philippines; and Thailand.

divided by the total States expressing an attitude in that session, to give the "United Nations Average Stated National Attitude." Again, this was divided by the total United Nations membership to give the "United Nations Average Attitude for All Members."

Since no attempt was made to weigh attitudes by population, the results should be thought of in terms of numbers of States. Hence, the attitude of a small State is given equal weight with that of a large one. Also, it is important to notice that the final figures are independent of the number of statements made in a particular session. In this respect, the average attitude is like a percentage figure. The comparison is being made with other statements for that session, but the resulting averages may be compared from session to session. The next step, therefore, was to plot the average attitudes for all the sessions to enable this comparison. Figure 1 does this for the entire United Nations and Figures 2 and 3 do this for Western Europe and Dispersion, Latin America, and the Communist Bloc, respectively. In each figure, the solid line represents the average stated national attitude, while the dashed line represents the average attitude for all members.

As it turned out, the final graphs showed a remarkable pattern. Allowing for the roughness of the data, relatively level acceptance prevailed during the first five General Assembly sessions but during sessions VI, VII, and VIII there is a noticeable decline. After this, however, acceptance rises again to approximately its former level and stays there to session XIII. The three regional charts show more individual variation as would be expected from the smaller samples involved. Such pattern as there is, however, agrees with that of the United Nations as a whole, so that sessions VI, VII, and VIII show a serious interference with the generally stable acceptance level. Frequency of expressions in absolute terms and in percentages were computed and charted but failed to explain the patterns in the acceptance graphs. Moreover, frequency figures seemed to show little pattern at all, except for a decline in the sessions after XII. The difference between session dates and even spaces of time likewise appears irrelevant for all practical purposes. It will be remembered that the graphs were constructed by General Assembly sessions, and not by years. Sessions occurred approximately once a year, but not exactly, and of course the human rights question was not debated at the same time in each session. It appears that revising the graphs with time as the abscissa, rather than sessions, would change the results only
slightly. The major movement in sessions VI through VIII would still require explanation.

Many possible explanations might be proposed, based on correlation with other events taking place during this period. However, one possible explanation occurred as a result of the preparation for this study. The original plan was to extend the analysis to all discussions in General Assembly human rights "cases" to date. In preparation for this, a preliminary list of such cases was made, which is included as Table 2, omitting those concerning the Union of South Africa. The case of discrimination in Central Europe was so briefly considered that it can just barely be called a "case." Also, it is very risky to generalize from only seven instances. However, the timing of the cases in Table 2 shows that session VI was a remarkable year for United Nations human rights cases. It is equally remarkable that none have occurred since, with the exception of those involving South Africa. The data suggest a connection between Table 2 and Figure 1. It appears that human rights acceptance was initially rather high, but by session VI it became obvious that these norms could interfere with national sovereignty. They were starting to be used against specific governments on matters of fairly general application, and delegates may have become somewhat uncomfortable. They apparently became more cautious about making admissions that could be used against their States. This seems to have persisted through about session VIII, but by then the approach to implementing human rights had apparently changed. There were no more cases based on the existing Charter and resolutions except for South Africa, a special, exceptional case. Apparently the new approach was to seek further specific international agreement and it then became safe publicly to accept international human rights norms again. Stated bluntly, human rights norms were acceptable until it appeared that they would be used, but then they conflicted too much with State interests. Those directing the program apparently sensed this, and hence turned to slightly different tactics.

133 An interesting comparison may be made with the graph Disappointment and Hopes in the Relations Between East and West in The Observer (London), Aug. 4, 1963, reprinted in P. HEVESY, THE UNIFICATION OF THE WORLD 346 (1966). This was an attempt at a rough representation of international events from 1948 through 1963. There does not seem to be much correlation between the events represented and those studied here.

134 The word "case" is used here in the same sense as in L. SOHN, CASES AND OTHER MATERIALS ON WORLD LAW (1950), and L. SOHN, CASES ON UNITED NATIONS LAW (2d ed. 1967). Consideration of a reasonably unified problem with reasonably significant international legal aspects by United Nations organs is regarded as a "case." A reasonably definite outcome is regarded as a "decision."
If this tentative explanation is valid and can bear further analysis, it tends to validate the method used to reach it, just as the method tends to validate the explanation. These conclusions may already be known to an “insider” who has followed the human rights program over the years, so that for him this study would merely explicate the obvious. Their significance then would be that they were reached by an “outsider” working from published records without the benefit of inside information from those who have lived through these developments. If the correlation suggested here is valid, it appears also that the measuring method is sensitive enough to show it. This is likewise significant, for it induces confidence in results that are not so obvious but, rather, deduced from other uses of similar methods. The conclusions here may be compared with those of a normal non-quantitative study, such as the following:

Nearly all governments were at that time [1947] convinced of the need to provide for the international protection of fundamental human rights . . . . Since then, however, the situation has changed and in 1963 most of our governments are less willing to submit to international control.\textsuperscript{185}

If the few statements for the later sessions are representative, the graph in Figure 1 also bears out this observation, as far as it goes. But what of possible variations between 1946 and 1963? Is the method of expert opinion, unaided by scientific measurement, likely to be precise enough to uncover this? And how convincing is such a conclusion, when often one expert’s pronouncement seems to be balanced by another’s? More precise methods offer a little more chance of agreement among experts.

Finally, these findings help to identify the type of process by which human rights laws tend to integrate. If human rights laws were self-fulfilling prophecies, general acceptance should have risen gradually as the campaign mounted against the Union of South Africa. This did not happen and instead the pattern looks more like what would occur if human rights laws struck some fundamental chord of justice and gained immediate acceptance, at least for the period following World War II.\textsuperscript{186} The deviation from this pattern appears to represent the counter-force of national self-interest coming into play when it appeared that human rights laws were actually starting to be applied broadly.

\textsuperscript{185} Golsong, \textit{supra} note 99, at 140.

\textsuperscript{186} It may be that a study over a longer time span would show the type of acceptance pattern expected of a self-fulfilling prophecy. See the historical treatment by E. Schwelb, \textit{supra} note 98.
V. CONCLUSIONS

The foregoing should give the international juridical scientist cause for guarded optimism. Obviously many more factors than international laws must be investigated before the processes for building an integrated international community are fully understood. Hence even the limited conclusions reached here must be regarded as tentative. Nevertheless theory-building may produce propositions capable of empirical testing even in this difficult field. Theoretical inquiry into how international laws may operate directly helps to isolate the effects of international laws which follow fundamental rules already generally accepted as fair, weaving them into municipal rules to achieve the greatest spillover effect on municipal government officials, and their operation as self-fulfilling prophecies. In addition, indirect effects of international laws, such as those establishing international institutions, may be separated in theory for analysis. Once these mechanisms are isolated by theoretical inquiry, empirical research may be brought to bear on each. Some conclusions may be drawn from the studies of International Court of Justice national judges and United Nations delegates speaking on the human rights issue in South Africa concerning the effects of international laws considered fundamentally fair from their inception. It was possible to study the spillover effect with respect to several decisions and international crises. Increasing personal contacts under the aegis of an international institution was observed. As empirical testing increases in this field the results should be more conclusive and of more general significance. Furthermore, those undertaken at least illustrate some types of work that can be done.

Those promoting international laws as steps toward a fully developed international legal system may also gain some hope from the works reviewed here. To some extent the national judges on the International Court of Justice do seem to be adopting an international viewpoint in response to international laws, occasionally even against the interests of their own States. Similarly United Nations delegates through most of the debates on the status of Indians in the Union of South Africa were often willing to admit that international human rights standards applied to their own States, despite the controversy concerning the status of international human rights standards as international laws. In at least one significant decision, one set of municipal government officials felt significantly obligated to follow international laws, and in several international crises it was concluded that international law works. Finally at least one inter-
national institution established by international laws increased personal contacts and aided international integration in this way.

With further theory-building and empirical testing, perhaps the role of international laws in building an integrated international legal system may be more fully understood. In time perhaps this knowledge may be utilized to strengthen the international legal system and advance toward a more integrated world community.

\footnote{The writer expects to carry this inquiry forward in a sequel which will set forth a theory of international economic community law and measure the use of international economic laws to build a world economic community in which developed States accept an obligation to aid lesser-developed ones.}
<table>
<thead>
<tr>
<th>SCALE NUMBER</th>
<th>GENERAL NAME</th>
<th>SPECIFICITY</th>
<th>STATEMENT FORM</th>
<th>SCOPE OF RIGHTS ACCEPTED</th>
<th>STRENGTH OF GENERAL RULE STATEMENT</th>
<th>STATEMENT RELATION TO SPEAKER'S STATE</th>
<th>IDENTIFYING NORM SOURCE</th>
<th>UN GENERAL ASSEMBLY POWERS</th>
<th>COMMON LAW EVIDENCE ANALOGY</th>
</tr>
</thead>
<tbody>
<tr>
<td>+3</td>
<td>High acceptance</td>
<td>Specific</td>
<td>It international</td>
<td>Broad</td>
<td>Strong acceptance</td>
<td>Statement related to speaker's state</td>
<td>Specific</td>
<td>Recommend &amp; take action</td>
<td>Strong admission against interest</td>
</tr>
<tr>
<td>+2</td>
<td>Med. acceptance</td>
<td>Medium</td>
<td>It international</td>
<td>Narrower</td>
<td>Average acceptance</td>
<td>Statement not related to speaker's state</td>
<td>Less specific</td>
<td>Recommend only</td>
<td>Medium admission against interest</td>
</tr>
<tr>
<td>+1</td>
<td>Low acceptance</td>
<td>General</td>
<td>It not domestic</td>
<td>Those like Indians in South Africa</td>
<td>Weak acceptance</td>
<td>Statement not related to speaker's state</td>
<td>None</td>
<td>Only discuss or decide jurisdiction</td>
<td>Weak admission against interest</td>
</tr>
<tr>
<td>0</td>
<td>Neutral</td>
<td>XXX</td>
<td>Jurisdiction from threat to peace or other treaty</td>
<td>Not indicated</td>
<td>True doubt or no statement</td>
<td>Statement limited to Indians in South Africa</td>
<td>None</td>
<td>Not stated</td>
<td>No useful evidence</td>
</tr>
<tr>
<td>-1</td>
<td>Low rejection</td>
<td>General</td>
<td>It not international</td>
<td>None</td>
<td>Doubt or &quot;intervention,&quot; implying rejection</td>
<td>Statement not related to speaker's state</td>
<td>None</td>
<td>Cannot recommend or act</td>
<td>Weak self-serving declaration</td>
</tr>
<tr>
<td>-2</td>
<td>Medium rejection</td>
<td>Medium</td>
<td>It domestic</td>
<td>None</td>
<td>Average rejection</td>
<td>Statement not related to speaker's state</td>
<td>None</td>
<td>Cannot recommend or act</td>
<td>Medium self-serving declaration</td>
</tr>
<tr>
<td>-3</td>
<td>High rejection</td>
<td>Specific</td>
<td>It domestic</td>
<td>None</td>
<td>Strong rejection</td>
<td>Statement related to speaker's state</td>
<td>None</td>
<td>Cannot recommend or act</td>
<td>Strong self-serving declaration</td>
</tr>
</tbody>
</table>

1 Only acceptance or rejection of human rights norms in the United Nations Charter, the Declaration of Human Rights or United Nations General Assembly Resolution 44(1) is being scaled.
### TABLE 2
**UNITED NATIONS HUMAN RIGHTS "CASES"**  

<table>
<thead>
<tr>
<th>CASE&quot; PULAR NAME</th>
<th>&quot;CASE&quot; FULL NAME</th>
<th>GENERAL ASSEMBLY SESSION</th>
<th>DISCUSSION APPROXIMATELY FROM:</th>
<th>TO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Europe</td>
<td>Proposed resolution on ending racial and religious persecution</td>
<td>I</td>
<td>11/19/46</td>
<td></td>
</tr>
<tr>
<td>Discrimination</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soviet Wives</td>
<td>Violation by the Soviet Union of fundamental human rights in preventing the Russian wives of foreign nationals from leaving the Union of Soviet Socialist Republics either in company with their husbands or in order to rejoin them and violation by the Soviet Union of fundamental human rights, traditional diplomatic practices and other principles of the Charter in refusing to allow a member of the family of the ex-Ambassador of Chile to the USSR to leave that country</td>
<td>III, IV, V</td>
<td>3/16/49</td>
<td>11/5/51</td>
</tr>
<tr>
<td>Once in Morocco</td>
<td>Violation by France in Morocco of the Principles of the Charter and of the Declaration of Human Rights</td>
<td>VI</td>
<td>11/6/51</td>
<td>2/5/52</td>
</tr>
<tr>
<td>Servance in General</td>
<td></td>
<td>VI</td>
<td>11/6/51</td>
<td>2/5/52</td>
</tr>
<tr>
<td>Once in Spain</td>
<td></td>
<td>VI</td>
<td>11/6/51</td>
<td>2/5/52</td>
</tr>
<tr>
<td>Soviet Union</td>
<td></td>
<td>VI</td>
<td>10/15/52 &amp; 2/24/53</td>
<td>12/21/52 &amp; 4/23/53</td>
</tr>
</tbody>
</table>

1 "Cases" concerning the Union of South Africa and Southwest Africa are omitted.
2 Originally the full name of this "case" referred to Central Europe.
Figure 1. United Nations average stated national attitude and average attitude, all members

Figure 2. Western Europe & Dispersion, and Latin America average stated national attitudes and average attitudes, all members

Figure 3. Communist Bloc average stated national attitude and average attitude, all members