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PRISMATIC POLITY: ASSESSING POLITICAL
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EMPIRICAL ANALYSIS OF THE ROLE OF THE
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INTRODUCTION

A 'favorite pastime of observers of international relations--scholars, practitioners, and laymen alike--has been to speculate about how much progress has been made toward "world order" and how much progress can be expected in the future. Such speculation about "problems and prospects" has often centered around the evolving role of international institutions, i.e., international law and organization, in conflict management and resolution in the international system. Scholarly, no less than non-scholarly, speculation on these matters has tended to be highly normative, impressionistic, and unstructured. A number of writers (Alger, 1970; Riggs, 1970) have pointed out the dearth of systematic, empirically-based studies in the international organization literature which deal specifically with the impact of organizations in conflict situations; the latter studies include Nye (1971), Holsti (1966), Haas (1968), Alker and Christensen (1971), Harf (1971), and Michalak (1972). Empirical studies have been even less prevalent in the international law field; among those who have attempted to adopt a behavioral approach and to gather empirical data are Coplin (1968), Hensley (1968), and Jarvad (1967). Moreover, what few empirically-based efforts that have come

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from international law and organization scholars have largely been non-comparative; that is, little attempt has been made either to compare the role of different institutions in a given time period or to compare the role of the same institution (or its counterpart) in different time periods.¹ Without such comparisons, it is difficult to even begin to draw proper conclusions about the development of international institutions and the amount of progress, if any, made toward "world order."

Of particular interest to this author are comparisons of "political" and "legal"² institutions operating at the global level in the international system--the United Nations and the International Court of Justice (ICJ) and their precursors, the League of Nations and the Permanent Court of International Justice (PCIJ). With one exception (Coplin and Rochester, 1972), there have been no attempts at an empirically-based comparative analysis of these institutions in a single study.³ The lack of empirical studies comparing "legal" international institutions with "political" ones may reflect the tendency for students of international relations to attribute a kind of structural differentiation to the institutions of the international system--viewing the Court as a specific instrument dealing with a specific class of disputes, and the League and UN as instruments dealing with a different class. This tendency may also partly account for the surprising lack of empirical studies comparing the League with the UN or comparing the PCIJ with the ICJ; the assumption here would seem to be that the PCIJ and ICJ have essentially operated identically as have the League and UN. If a comparison of "legal" and "political" institutions has been deemed impracticable, a comparison of the Postwar institutions and their

Interwar counterparts has apparently been felt foreclosed and deemed unnecessary. In short, the assumption of structural differentiation has blinded students of international relations to (1) possible differences between the League and UN and between the PCIJ and ICJ and (2) possible similarities between the PCIJ and League and the ICJ and UN.

At this point the more cynical reader might argue that the neglect of comparative analysis of the latter institutions and their role in international conflicts merely reflects the general skepticism surrounding the importance of these institutions as contributors to world order. It may indeed be more reasonable, in assessing the growth of world order, to look for less imposing trends in the international system than the development of a set of common, supranational, system (global)-wide political-legal institutions (such as is implied by a focus on the PCIJ, ICJ, League and UN). Certainly, less demanding criteria of progress can be chosen. For example, if one's "world-view" entertains the possibility of a "functionalist" network of cooperative intergovernmental organizations operating in specific issue-areas without necessarily the existence of any all-encompassing authoritative superstructure, then it would make sense to look at the growth of IGO's and shared membership patterns. Or if one envisions "world order" consisting in nothing more than increased interdependencies and increased intergovernmental collaboration through written agreements not entailing the creation of institutional machinery, then it would be appropriate to investigate the dynamics of transaction flows and treaty-signing. Or if one defines "world order" solely in terms of the curtailment of violence without necessarily the formation of

institutional linkages between states--along the lines of Deutsch's "pluralistic," as opposed to "amalgamated" security community (1957)--then one need only concern himself with examining the level of hostilities in the international system. Or, even still, if one sees "world order" in regional integration, then an examination of global institutions would be irrelevant.

However, this all misses the point. As has already been mentioned, the fact is that a large body of literature, and an even greater volume of conversation, has grown up around the "problems and prospects" theme and the changing fortunes of such institutions as the World Court and the United Nations. What the author is suggesting is not to discard this line of investigation but rather to bring greater clarity of thought to the subject. In particular, greater effort should be made to (1) identify clearly observable trends in the international system which relate to such considerations and (2) couch our speculations in the context of models that might help us interpret these trends. In other words, the plea the author is making is for more informed, more structured--more orderly, if you will--speculation than has characterized this area of inquiry in the past. The purpose of this paper is to offer a possible framework for pursuing a comparative analysis of international institutions and to present some findings, based on empirical data, which relate to the question of institutional development, or "world order."

THE INTERNATIONAL SYSTEM AS A PRISMATIC POLITY

A major premise of this paper is that the international system over the past fifty years might be considered a "developing" or, to use Fred Riggs' felicitous term, "prismatic" polity experiencing

problems not unlike those confronting the so-called "Third World" countries.⁴ Admittedly, the chronological boundaries of international systems are at best hazardous to demarcate. The benchmarks usually relied on are changes in structural features such as the configuration of power and flexibility of alignments, although these are established rather arbitrarily.⁵ There seems to be general agreement among observers of international relations that the 1920-1945 era represented an international system distinct from that which has existed in the post-World War II period (Rosecrance, 1963; Dinerstein, 1965; Spiro, 1966). However, depending on the criteria used, one could argue that the end of World War I marked the emergence of an international system--a prismatic polity--which survived a major violent upheaval and which persists today. After World War I there is the appearance of (1) an institutional framework at the supranational level, far more ambitious than the Concert of Europe or the Hague system in the nineteenth century, and (2) transnational activity, at a far greater pace than was previously allowed by communications and transportation technology.

Viewing the international system as a prismatic polity contrasts with the more common tendency to portray the international system in terms of the primitive society--classical nation-state dichotomy (Alger, 1963; Masters, 1964; Schwartz and Miller, 1964; and Barkun, 1968), leaving one with the unhappy choice of attributing too little or too much order to international relations and ignoring in the process the entire question of development.⁶ That one finds the term "political development" reserved for the study of nation-state political systems and not used in connection with the international system owes to the traditional inclination to treat intranational and international politics as

completely different phenomena (Kaplan and Katzenbach, 1961:4, Van Dyke, 1957:14; Schleicher, 1962:259; Waltz, 1959:11; and Morgenthau, 1960:502-507). The distinction is predicated on the assumption that the former system-type has, in various degrees, three dimensions of integration that are lacking in the latter: (1) some sense of identity of community and shared destiny among the individual members of the society; (2) institutions allowing for the "authoritative allocation of values" (entailing a "monopoly over the legitimate means of coercion"); and (3) popular consensus on the general rules of the political system. However, as a number of writers have noted (Deutsch, 1957; Alger, 1963; Riggs, 1961), this distinction may be one only of degree, it is partially based on the model of the stable western democracies, and many nation-states exhibit similar violent and disintegrative tendencies as the international system.⁷

In order to establish a basis for treating the international system as a developing or prismatic polity, there remains the need to describe briefly the prismatic model and to demonstrate the manner in which the international system conforms to the model. It should be noted here that the prismatic model constructed in this study is not meant to be a completely faithful adaptation of Riggs' "theory of prismatic society" (1964), nor does it bear any special relation to Riggs' early writing on "international relations as a prismatic system" (1961), although the author acknowledges a debt to Riggs for leading him to think of intranational and international politics in prismatic terms. The author has chosen to borrow Riggs' "prismatic" concept for the brilliantly suggestive imagery associated with it, but to refine it considerably in applying it to concerns which differ somewhat from those which preoccupied Riggs.

Guided by Riggs' thinking, the author would suggest that the following features taken together form a portrait of a prismatic polity which resembles the nascent international political system no less than developing nations:

(1) There are multiple and simultaneous crises of development (community building, institution-building, participation, and distribution) as a result of the "telescoped," induced nature of the development process.⁸

(2) There is an imbalance between "city" and "countryside" or the "modern" sector and the "traditional" sector, as there is only a small "modern" sector (transnational participants) oriented toward the symbols of the larger community. Institutions performing the socialization function are relatively undeveloped at the community level.

(3) A tension develops between competing elites--the community or supra elites (international civil servants) and the communal or parochial elites (national decision-makers and policy-influencers)--one trying to disengage old loyalties and symbolic orientations among the members of the society and the other seeking to preserve them.

(4) The primary competition occurs between the parochial (national) elites themselves. Functionally specific interest groups (NGO's) exist, but interest articulation and aggregation are performed primarily through communal, parochially-based associations (nation-states within or without IGO's).

(5) The main line of cleavage in the society is territorial-cultural rather than functional, i.e. intercommunal (international) conflict is more serious than intracommunal (intranational) conflict (although the latter occurs also).⁹

(6) The central institutions of the community (supranational institutions) generally do not penetrate below the communal level, so that only intercommunal conflict is handled by the central institutions and intracommunal conflict is handled at the communal level except when the latter threatens to produce intercommunal conflict.

(7) Coexisting with the central institutions are intermittent, ad hoc structures that may be used to perform functions nominally assigned to the former, so that even in intercommunal conflict the former tend to be used sporadically or irregularly--when the members of the system choose to refer problems to them.

(8) An impressive institutional framework does exist at the community level, but it does not operate as it is formally intended to--i.e. there is a wide disparity between formal rules and actual behavior--because of the collision between the traditional and modern cultures.

Let us elaborate further how the international polity, in the manner in which it was conceived and in the shape it has taken over the past 50 years, resembles a prismatic polity. It has been suggested (Riggs, 1964; Almond and Powell, 1966) that there are three potential sources of impetus for political development of a community: (1) non-elites in the society (as in the case of Western Europe), (2) elites in the society (as in the case of Japan and Turkey), and (3) external or foreign elites (as in the case of most developing countries of Asia and Africa). Riggs terms the first "endoprismatic" (organically evolving from the fabric of the society) and the third "exoprismatic" (artificially induced). The second has both endoprismatic and exoprismatic

elements insofar as the impetus for development comes from indigenous elites yet at the same time involves the imposing (or superimposing) of a set of institutions and a political culture on a society unprepared for them.

The type of impetus from which political development derives is a crucial variable since the latter two kinds of development are marked by problems of a considerably different nature and magnitude than those attending the first. As has been stated, the second and third types of development are characterized by elites imposing a set of political institutions and a political culture on a society prematurely, i.e. on a society whose members are largely oriented toward a completely different set of institutions and values. These "modernizing" elites may be parochial elites--powerful individuals based in traditional political units--who, guided by a variety of motives and often in competition with each other, see the need to pursue the development of a larger political community. They may view this larger community as a necessary response to some external threat or internal system challenge, in which case they are likely to perceive their destinies as tied to the new larger community. Or, alternatively, they may view the larger community simply as a means to enhance their own power (which is insecure under the present arrangement) and to more advantageously conduct their competition, in which case they are likely to remain tied to their parochial units while supporting the institutions and culture of the new community only insofar as the latter promote their parochial interests and needs.

The author would argue that the impetus for development of the international polity came from elites in the system, that it was "artificially induced" in a sense, and that this has had important consequences for the development process. Various elites in the system were responsible for imposing a set of supranational institutions and a supranational political culture on the members of the international system in 1920 and for later resurrecting the institutions and culture after they had collapsed amidst system-wide crisis. Who were these "modernizing" elites and what were their motives? They were generally elites (decision-makers and policy-influencers) within the nation-states which were victorious during each of the two world wars. Although they were not unified in their pursuit of a supranational community and, indeed, were not even wholly committed to the idea, these elites did share a common interest in establishing a political culture and institutional framework at the supranational level. These elites saw the need for the latter in order to preserve their own well-being and security (the status quo), to pursue peaceful competition, and to prevent system destruction which might occur as a result of revolutionary weapons technology. In other words, the elites originally responsible for committing energy and resources to the supranational enterprise generally did so in order to serve their own parochial interests and needs. They perceived their destinies as still tied to the parochial unit rather than to the larger community.

In order to insure their control over the direction of the community, the latter elites have sought to install their own agents in key supra elite positions (higher level international civil servants,

judges, etc.). Still, prompted by an urge to expand their functions and power and also influenced by supranational socialization experiences, a genuine corps of community-oriented officials has gradually emerged and competed with the national elites. However, because of the exoprismatic-like thrust of the development process, the supranational elites have found most members of the system oriented toward the traditional "institutions" (bilateral diplomacy, violence, etc.) and "culture" (based on the principle of sovereignty) and have consequently faced serious community-building and institution-building crises. The "modern" sector has grown slowly, consisting primarily of "transnational participants" who themselves are somewhat ambivalent in their orientation.¹⁰

Insofar as a common traditional political culture could be said to exist among the members of the international political system, its central value has been the primacy of the nation-state. The main line of cleavage persisting in the society has been communal. Although functionally specific interest groups (nongovernmental organizations) have proliferated and although intracommunal (intranational) strife has become commonplace, the communal association (the nation-state) remains the major interest articulator and aggregator in the system (performing the functions within and without intergovernmental organizations) and intercommunal (international) strife remains the major crux of conflict.¹¹ Intranational and international strife have become increasingly interdependent as the instability of parochial units has presented a threat to the stability of the system as a whole, and vice-versa.

Thus the competition between supranational elites and national elites has been secondary to the competition between the different national elites as well as that occurring between elites and would-be elites within parochial units. The supranational elites have attempted to assume a mediating role in both the latter kinds of conflict. Given their limited resources, these elites have been wary of attracting excessive opportunities whereby the supranational institutions might prove themselves, for fear of overburdening the institutions; rather, they have generally sought out strategic situations in which to insert their presence, situations calculated to produce institutional success and to gain institutional acceptance. This calculus has been disturbed, though, by the institutions sometimes being dragged into conflicts against the better judgment and will of the supranational elites and sometimes being denied a role in conflicts despite the latter's eagerness to intervene. The general guideline promulgated by the supranational elites has been that the members of the system should invoke the assistance of the supranational institutions to handle problems only after other, "local" remedies have been tried and have failed. Given this imprimatur to forego or bypass the central institutions, along with the predisposition of national actors toward traditional procedures, the supranational institutions have tended to be used sporadically in conflict situations (at the whim, really, of both the supranational elites and the national elites).

When the institutions of a prismatic polity such as the international system are used, they display strange behavior. The institutions are invariably marked by discrepancies and inconsistencies between the formal rules on which they are based and the actual behavior

they demonstrate, between the trappings in which they are clothed and their inner workings, between the functions which they are officially mandated to perform and those which they actually carry out. These disparities are partly due to the lack of established organizational routines but also to the collision of the traditional and the modern political cultures that occurs in the prismatic polity and that is probably its most essential feature. An impressive institutional framework sits precariously on an old crumbling foundation. Traditional norms permeate the new institutions, affecting elite recruitment patterns, patterns of access to the institutions, output patterns of the institutions, and other processes as well. Sometimes the traditional norms are purposely and consciously accommodated in order to make the development process less painful and to make the institutions conform more closely to the needs and realities of the system (in which case the traditional norms may prove functional in terms of the long-run stability and development of the community), sometimes unintentionally and uncontrollably allowed to filter through (in which case the traditional norms may be so incompatible with the proper operation of the institutions as to prove dysfunctional).¹²

In the case of the international political system, the national elites responsible for launching the new polity chose to retain many cultural relics, partly because these modernizing elites presumably thought them necessary to make the other members of the system less resistant to the new "changes" and partly because these elites themselves were ambivalent and had their feet in both worlds--on the one hand wanting to make the new system work (and thus committing themselves to at least certain selective elements of the new culture) and on the other

hand not wishing to surrender their prerogatives enjoyed under the old system. One such remnant of the traditional culture was the provision for regional "understandings" (Article 21 of the League of Nations Covenant) or "arrangements" (Article 52 of the United Nations Charter), which seemed functional in terms of both easing the demand load on the supranational institutions and assuring a not too drastic transition to global supranationalism. However, in sanctioning regional arrangements in the form of security systems or alliances, such provision threatened to be dysfunctional inasmuch as it tended to conflict with a fundamental element of the new culture--the "collective security" principle.

There were even more blatant inconsistencies and contradictions which were written into the charters of the supranational institutions. Perhaps the most conspicuous and clumsy attempt to reconcile the traditional and modern cultures was that involving the selection of criteria to be used in the elite recruitment process. The conflict between recruitment based on ascriptive qualities (parochial affiliation) and recruitment based on merit is pointed up in Article 101 (3) of the United Nations Charter:

The paramount consideration in the employment of the (Secretariat) staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Another clear instance of inconsistency is found in Articles 20 and 31 (2) of the Statutes of the Permanent Court of International Justice and the International Court of Justice. The provision in Article 31 (2) that "if the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person

to sit as judge" would appear to challenge the presumption in Article 20 that "every member of the Court shall. . .exercise his powers impartially and conscientiously."

One example of how the traditional culture and new culture seemed to merge more so than collide was the establishment of the unanimity principle in the voting procedures of the League of Nations. A two-fold explanation can be offered for the establishment of the unanimity rule. First, the modernizing elites saw it as functional in that it enshrined a traditional value--sovereignty--which was calculated to make the new institutions less alien and more acceptable to the members of the system. Secondly, it seemed functional also in that it represented a new value--participation--which might serve to gain the institutions a measure of legitimacy they might not otherwise enjoy. Even here, though, the tradition-based norm threatened to be dysfunctional since it blatantly accentuated the predominance of the parochial unit over the larger community, threatened to paralyze the new institutions by basing action on the lowest common denominator, and threatened to produce a participation crisis by providing at least the semblance of egalitarianism and thus possibly causing a "revolution of rising expectations" among the lesser members of the system.

One can argue that the supranational elites have, indeed, been confronted by multiple and simultaneous crises including participation and distribution crises. In the case of the League, these crises were fed by such things as the allocation of four Security Council seats to minor parochial elites (small powers), the allowance for equal participation (one member-one vote) in the Assembly, and the aforementioned grant of an indiscriminate veto power to all members. However, in the

Interwar Period, the participation and distribution crises were somewhat muted (and to some extent postponed until later) because (1) the major parochial elites in the League--the permanent members of the Security Council--managed to effectively control the institutions (the Assembly was set up to meet only periodically, and the Court and Secretariat were staffed primarily by Europeans) and (2) many potential participants were excluded by virtue of their colonial status under the major elites.

In the Postwar era, the participation and distribution crises have been more manifest than in the Interwar era as (1) participation has been facilitated by the expanded role of the Assembly in a wide range of issues as well as by broader representation on the Court and in the Secretariat and (2) there has been a tremendous increase in the number of parochial elites (representing the former colonial elites) gaining access to the institutions. The majority rule principle which was instituted in the United Nations and which superseded the unanimity principle represented a notable abandonment of the sacred traditional norm of sovereignty while nonetheless continuing to foster a participation crisis (although full-scale egalitarianism has remained illusory with the special veto privilege retained by the major powers on the Security Council).

As suggested above, modernizing elites attempting political innovation must choose between either retaining selective elements of the traditional culture and mixing them with the modern culture, or discarding the traditional culture altogether. Both strategies involve obvious risks and uncertainties, and in either case there is likely to

be a divergence between the design of the "founding fathers" and its implementation, between the formal institutional rules and actual institutional behavior. In the first instance, there is bound to be a disparity since the set of rules will tend to be so internally inconsistent and incompatible that adherence to one entails a violation of another, with the result that behavior cannot possibly conform altogether to the rules. In the second instance, there is likewise bound to be a disparity because the rules will tend to be unrealistic and unworkable given the environment in which the institutions are supposed to operate. These unhappy choices constitute what might be called the "prismatic dilemma" which confronts modernizing elites in nascent political systems, including the international political system.

ASSESSING POLITICAL DEVELOPMENT

It has just been suggested in what ways the international political system resembles a developing or prismatic polity. The prismatic model is a static one insofar as it sketches the contours of a particular type of political system without explicitly specifying how system transformation (development or retrogression) occurs. However, the special attraction of the prismatic model is that it points up the volatile nature of the development process. It produces a snapshot, it is true, but one that gives us a picture of a society in flux--perhaps developing, perhaps retrogressing, but constantly changing in an effort to maintain itself against inherent tensions. As Riggs (1973:40) notes, "the prismatic mode of analysis does offer some key variables around which a theory of social change can be built." Given this setting, we can proceed to the central concern of this essay--an assessment of political

development in the international system based on a comparative empirical analysis of the role of the World Court, League of Nations, and United Nations in international conflict.

In order to pursue this task, we need to identify key dimensions of the political development process and to search for indicators which can help us measure the degree of development (or nondevelopment or retrogression) occurring over a given period of time. In this regard, the author resorts primarily to a synthesis of developmental theories expounded by Parsons (1951), Almond (1966), Huntington (1968), and Riggs (1964). Perhaps the most basic characteristic of political development, as already intimated, is that it is neither linear nor inexorable; the process may be marked by a series of gains alternating with reverses, and may be positive or negative.¹³ S. N. Eisenstadt (1964:577) provides a listing of key features of political development which concisely summarizes those characteristics specified by Parsons, Almond, Huntington, and Riggs:

These are, first, the development of a highly differentiated political structure in terms of specific political roles and institutions, of centralization of the polity, and of specific political goals and orientations. Second, the development of modern political structures is marked by increased extension of the central administrative, legal and political institutions and their permeation into all spheres and regions of the society. Thirdly, it entails the continuous spread of political power to wider groups in the society...Fourth, it is characterized by the weakening of traditional elites and of traditional legitimization of the rulers and by the establishment of some form of ideological, and often also institutional, accountability of the rulers to the ruled...

To paraphrase Eisenstadt, political development involves structural differentiation, integration (or institutionalization), participation, and rationalization (or cultural secularization). Problems

arise in attempting to untangle these various threads of political development since they seem to be all interrelated aspects of the same process. For purposes of this investigation, we will focus on (1) structural differentiation, (2) cultural secularization, and (3) institutionalization as components of political development and will treat them as distinct dimensions.

Let us elaborate these concepts. Structural differentiation refers to the degree to which the institutions of a political system are functionally specific (as opposed to diffuse). Cultural secularization refers to the degree to which the political culture is achievement-oriented (as opposed to ascription-oriented) and universalistic (as opposed to particularistic). Institutionalization refers to the degree to which the institutions in a political system are perceived by the members of the society as the legitimate--routine and authoritative--means to process and dispose of societal demands or problems. Two aspects of institutionalization can be identified; the term implies the existence of institutions which are regular (as opposed to sporadic) in their usage and reliable (as opposed to indecisive) in their ability to dispose of problems.¹⁴

The prismatic polity is one in which structural differentiation, cultural secularization and institutionalization are more apparent than real. To what extent have they been evidenced in the international political system over the past fifty years? Has the international political system developed or retrogressed in that time, and what has been the role of different variables in the process? In order to address these questions, we now turn to an examination of the World

Court, League and UN and an analysis of the degree to which structural differentiation, cultural secularization and institutionalization have been manifested in the operation of these institutions in international conflicts.

DESCRIPTION OF DATA AND METHODOLOGY

The investigation will be conducted by examining the international system at two time intervals--the Interwar Period (1920-1939) and the Postwar Period (1945-1968). Regarding the focus on the two time periods, there is no desire here to engage in an argument over whether or not the collapse and absence of the PCIJ and League during World War II marked the termination of the political system and that the creation of the ICJ and UN marked the appearance of a new political system; though we are analytically treating the Interwar and Postwar international systems as two distinct political systems, the position taken here is that the international political system simply experienced a setback in the development process between 1939-1945 and that the resurrection of the Interwar institutions after World War II returned the system to some sort of "normalcy."

DESCRIPTION OF THE DATA

Comparisons of the PCIJ, ICJ, League, and UN will be based on a systematic analysis of all disputes which (1) occurred between 1920 and 1968; (2) were dyadic, i.e. in which exactly two parties were directly involved; and (3) were considered in at least one of the four institutions. The decision to confine the study to dyadic disputes was taken primarily to better facilitate a comparative analysis of the four institutions since the Court has not been involved in multilateral disputes nearly as much as the League and U.N. A total of 121 disputes

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have been identified as fulfilling the threefold criteria mentioned above. The 24 PCIJ cases, 31 ICJ cases, 35 League cases, and 31 UN cases are listed chronologically in Appendices A-D. All of the contentious cases handled by the PCIJ and ICJ between 1920 and 1968, as reported in Manley Hudson's World Court Reports and the I.C.J. Reports, are included in this study except for the five which involved multiple litigants (Wimbledon, River Oder Commission, Statute of Memel, Monetary Gold, and South West Africa).¹⁵ For the League of Nations, cases were drawn from Wright (1965); for the UN, from Wright and from Synopses of United Nations Cases in the Field of Peace and Security, 1946-1965 (1966).

The two basic units of analysis in this study are case-units¹⁶ and participants. Case data include characteristics of the disputes referred to the institutions (mode of introduction, issue-type, etc.)¹⁷ Participant data include attributes of users of the institutions (political system type, stage of economic development, etc.).

DESCRIPTION OF ANALYSIS FORMAT AND METHODOLOGY

Comparison of the PCIJ, ICJ, League and UN will be made by examining the frequency distributions on different variables for the four institutions. Consideration of problems of structural differentiation, cultural secularization and institutionalization focuses our attention on specific pairs of institutions. Statistical measures of association will be used simply to summarize the degree of difference on a given variable for the following pairs of institutions: PCIJ-ICJ, PCIJ-League, League-UN, and ICJ-UN.¹⁸ For example, by a PCIJ-League comparison and an ICJ-UN comparison on, say, the issue-type variable, one can derive an "index of functional specificity" (the Wilcoxon signed

ranks statistic in this instance) for the Interwar Period and for the Postwar Period which allows an assessment of the degree of development in each period in terms of this dimension; similar comparisons on other variables provide an "index of universalism" in each period. Or by a PCIJ-ICJ comparison and a League-UN comparison on the same issue-type variable, one can ascertain the extent to which the Postwar institutions have handled the same types of disputes as their Interwar counterparts.

The summarizing statistics for the four institutional comparisons on each variable will be presented in the following format, with the value in cell A representing the summary measure for the PCIJ-ICJ comparison, the value in cell B representing the summary measure for the PCIJ-League comparison, etc.:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | A | B |
| UN | C | D |

These summarizing statistics will appear as footnotes to the tables containing the frequency distributions (percentages) on each variable.

In addition to these statistics which summarize the four paired comparisons, another summarizing statistic--an "Historical/Structural Index"--appears in the same footnote beneath each table.¹⁹ The Historical/Structural Index was conceived in an effort to determine the overall relative significance of historical as opposed to structural factors in accounting for the frequency distribution pattern obtained

for the four institutions on each variable. The Historical/Structural Index was derived by combining the distributions of the four institutions in the following manner:

| Variable X (e.g., mode of introduction) | |
|---|---------------------------------------|
| | Joint Unilateral |
| PCIJ & League | |
| ICJ & UN | |

(Matrix A)

| Variable X (e.g., mode of introduction) | |
|---|---------------------------------------|
| | Joint Unilateral |
| PCIJ & ICJ | |
| League & UN | |

(Matrix B)

The PCIJ and League vs. ICJ and UN matrix was calculated to point up the impact of the historical period while the PCIJ and ICJ vs. League and UN matrix was calculated to reveal the impact of institutional structure. The index produced by the formula

$$\frac{\text{Measure of Association for Matrix A}}{\text{Measure of Association for Matrix B}}$$

indicates historical effects over structural effects such that a quotient greater than one would suggest that historical period is more responsible for the frequency distribution pattern, and a quotient less than one would suggest that the pattern is more attributable to structural effects.

COMPARATIVE ANALYSIS OF PCIJ, ICJ, LEAGUE AND UN STRUCTURAL DIFFERENTIATION

Structural differentiation refers to the emergence of institutions which perform specialized functions. It has been commonly noted that there are two broad types of problems or conflicts which

arise in a political system--conflicts over what the rules are to be and conflicts over whether or not a particular rule has been violated in a particular instance--and that these problems are the basis for the distinction between "rule-making" and "rule-adjudication," "political" and "legal," and "peaceful change" and "pacific settlement." In the developed polity there are relatively functionally specific institutions--courts and legislatures--which are each formally and actually responsible for handling a particular class of conflicts; both kinds of conflict are occasionally dealt with by bargaining, violently or non-violently, outside the institutions but the standard procedure is to act through the institutions. In the developed polity the distinction between justiciable and non-justiciable or legal and political is a meaningful one since there does exist a clearly identifiable, relatively unambiguous, generally accepted body of rules which can serve as a criterion as to whether or not a problem has a legal basis and is thus justiciable (i.e. is in the domain of the courts). In other words, courts have relatively precise guidelines as to whether they are competent to handle a conflict; and by the same token, potential users have similar guidelines dictating the institutions to take their problems to. If there is no legal basis on which to resolve a conflict (for example, whether to allocate more funds to education than to defense), then a court will ordinarily excuse itself from considering the case, if the disputants have not already themselves acknowledged the impropriety of court's participation in the matter.²⁰ The same criteria that allow courts to identify their proper domain also guide them in dispensing decisions; when discretionary judgments must be made, as happens frequently, courts can at least proceed on the basis

of "well-established assumptions shared by the community as a whole or by those who speak in its name."²¹

The rule adjudication function, to be performed in the manner which is customary in the developed polity, presupposes the existence of a set of explicit, generally accepted rules--a condition which is not found in the prismatic polity. Because of this deficiency in the prismatic polity, the distinction between justiciability and non-justiciability and between legal and political institutions becomes practically lost even though the formality may be maintained: justiciability is in the eyes of the beholder since, without authoritative rules, all conflicts in effect tend to be non-justiciable unless the involved parties wish it otherwise. It is not an issue's inherent justiciability but rather the salience that a particular party attaches to the issue--i.e. the extent to which the disposition of the issue is deemed to threaten or promote one's "core interests"--which may determine what arena the conflict is brought to.²² We might expect to find a tendency for the more salient disputes (as perceived by the disputants) to be referred to the designated political agencies rather than to the legal institutions (where the outcome is essentially entrusted to a third party), although even this sort of functional specificity is likely to be operative at only a low level in the prismatic polity.

As was suggested at the very beginning of this paper, the assumption of many scholars (as well as the League Covenant, Article 13 (2) and the UN Charter, Article 36 (3)) has been that the PCIJ and ICJ represent one kind of institution or structure serving a specific function, i.e. used for one class of conflicts under one set of

circumstances, whereas the League and UN represent a different structure serving a different function, i.e. used for a different class of conflicts under a different set of circumstances. This notion has traditionally been founded on the legal--political or justiciable--non-justiciable dichotomy rather than the salient--non-salient one. The "legal-political" thinking of the Charter's authors is plainly depicted by Norman Padelord (1968:223):

Throughout the preparatory work (at Dumbarton Oaks and San Francisco) a distinction was maintained between political and judicial settlement. It was understood that the Court (the ICJ) would deal only with disputes of a legal nature. There were some delegates at San Francisco. . . who wanted to blur the distinction and commit the Organization to establishing 'justice.' . . . Others advocated giving the Court authority to pronounce treaties invalid. Eventually this thought was dropped on the grounds that it could lead to serious dissension and that the proposed action on treaties was a political and not a judicial function. Accordingly, this was left to be dealt with in the same manner as other political questions, namely by the political organs.

As noted above, this assumption of functional specificity, insofar as it makes any sense at all, would seem more soundly grounded in terms of salience than justiciability. Using various measures of salience, it is possible to (1) compare the PCIJ with the League and the ICJ with the UN to determine to what extent functional specificity is not merely formally prescribed but actually manifested by the purposes for which and the manner in which the institutions were used in the Interwar Period as opposed to the Postwar Period, and (2) compare the PCIJ with the ICJ and the League with the UN to determine whether those pairs of institutions have performed the same functions. Our earlier observation that structural differentiation is more apparent

than real in a prismatic polity would lead us to entertain the following proposition:

PROPOSITION 1: The World Court (the PCIJ and ICJ) has tended to be used in both salient and non-salient disputes, as have the League and UN.

To determine the level of functional specificity in the Interwar and Postwar era, two measures of salience were decided upon. First, mode of introduction of the dispute to the institution (joint vs. unilateral);²³ the assumption here is that the more salient the dispute, the less likely the parties are to submit it jointly. A second measure of salience is the type of issue involved in the dispute. A fourfold issue typology was developed which was judged to have a salience dimension underlying it: (1) contractual obligations; (2) treatment of people, aliens, and minorities; (3) territory; and (4) threat or outbreak of hostilities.²⁴ The assumption here is based on the viewpoint that broader and more powerful segments of the domestic political environment become mobilized as one moves from categories 1 through 4, which in turn results in increased salience for the foreign policy maker and the national actor taken as a collectivity.²⁵

Using mode of introduction of the dispute to the institution as a measure of perceived salience by the parties--and, hence, as a measure of functional specificity--the following distribution is discovered (Table 1).

TABLE 1 ABOUT HERE

Although the Interwar institutions evidence slightly more functional specificity (.18) than the Postwar institutions (.13), in neither period is there the degree of functional specificity anticipated on the basis of the assumptions contained in the Covenant, the Charter, and the Statutes. That is, in neither period are the

TABLE 1: Mode of Introduction of Disputes in PCIJ,
ICJ, League and UN (Percentages)

| | Joint Submission | Non-Joint Submission |
|-----------------------------|------------------|----------------------|
| PCIJ N=24 | 42 | 58 |
| ICJ N=31 | 10 | 90 |
| League N=32 ^a | 25 | 75 |
| UN N=31 | 3 | 97 |

^aThree League cases were excluded since they were third party submissions.

Using the phi statistic, the matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .37 | .18 |
| UN | .13 | .31 |

$$(\text{Historical/Structural Index} = \frac{.25}{.10} = 2.5)$$

institutions differentiated very much by mode of submission. In the Interwar Period, while both institutions tended to receive primarily non-joint submissions (i.e. presumably relatively salient disputes), they both received several joint submissions as well; the PCIJ did receive more jointly introduced cases than the League as might be expected, but only slightly so. Even if one counts as joint submissions the four unilateral applications that were immediately accepted by the respondents in the PCIJ, the findings are essentially unchanged. Proposition 1 tends to be supported, then, in the case of the Interwar institutions.

As for the Postwar Period, the ICJ and UN have also been functionally diffuse, but not exactly in the same way as the Interwar institutions. Whereas the PCIJ and League were similar in that both tended to handle salient and non-salient disputes, the ICJ and UN have been similar in that they have both had, almost exclusively, salient disputes referred to them. Thus, a different kind of functional diffuseness than that suggested in Proposition 1 has characterized the Postwar institutions. The overview that one obtains is that historical period surprisingly accounts for the mode of introduction frequency distribution pattern more so than institutional structure (Historical/Structural Index = 2.5), even though intuitively one would assume otherwise. The institutions of the Postwar Period have not performed all the same functions as their Interwar counterparts.

How exactly should one interpret these findings? Admittedly, mode of introduction may not be an altogether sound measure of salience --and, consequently, of functional specificity--since the large majority of conflicts (in national courts and legislatures or in any political

domain) are not, after all, jointly submitted; the nature of conflict is such that joint submission is infrequent no matter the salience of the dispute, although clearly the likelihood of joint submission diminishes with increased salience. Thus, it is perhaps to be expected that in all four institutions the bulk of the disputes have been unilaterally introduced.

Even so, the mode of introduction variable does point up another aspect of how states have perceived the roles of the institutions in each period. The presence of joint submissions along with unilateral ones in both institutions in the Interwar Period suggests that states viewed both the PCIJ and the League as having at least some distributive (settlement) role as well as regulative role. An assumption here is that joint submission implies a willingness on the part of the parties to resolve the dispute and to entrust the final decision to the institution, while unilateral initiation implies an attempt on the part of one party to enlist the support of the institution against the other without necessarily any expectation of or even desire for settlement by the institution. The relative absence of joint submissions in the Postwar Period suggests that states have not considered either the ICJ or the UN to have much of a distributive function.

The data indicate that in neither the Interwar Period nor the Postwar Period has there been the kind of consensus on rules and procedures that manifests itself in functionally specific institutions. However, as was noted, the mode of introduction variable may produce a somewhat distorted picture of salience and functional specificity. Does the latter conclusion hold when we employ "issue-type" as an indicator?

TABLE 2: Type of Issue in Disputes in PCIJ, ICJ, League and UN (Percentages)

| | Contract | Treatment of Persons | Territory | Threat or Outbreak of Hostilities |
|-------------------------|----------|-------------------------|-----------|--------------------------------------|
| PCIJ N=24 | 42 | 50 | 8 | 0 |
| ICJ N=31 | 26 | 16 | 32 | 26 |
| League N=35 | 14 | 12 | 34 | 40 |
| UN N=29 ^a | 3 | 7 | 17 | 73 |

^aThere were two UN cases in which the issue did not fit any of the four categories, and it was decided to omit them from consideration.

The issue-type variable was deemed to represent an ordinal scale, so that Wilcoxon signed-ranks test was employed. The matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .46 | .67 |
| UN | .52 | .34 |

$$(\text{Historical/Structural Index} = \frac{.31}{.54} = .57)$$

Table 2 displays more nearly the pattern one would expect to find on the basis of the assumption of functional specificity. Some degree of functional specificity is evident in each period, with the Interwar institutions (.67) demonstrating a somewhat higher level than the Postwar institutions (.52). Still, functional diffuseness is discernible here, also. In particular, while the PCIJ and UN have generally conformed to the expectations of their charters--the Court handling primarily non-salient disputes and the UN salient ones--the ICJ and League have not. The finding that the League has handled several non-salient disputes (contract and treatment of persons) and the ICJ has handled several salient disputes (threat or outbreak of hostilities) is compatible with the previous findings on mode of introduction.

As the Historical/Structural Index (.57) points up, structure is the dominant factor in accounting for the distribution pattern in Table 2. However, some historical impact is revealed, too, as the Postwar institutions in general have tended to receive more salient disputes than the Interwar institutions, i.e. the ICJ has handled more salient disputes than the PCIJ, and the UN more than the League. In other words, perhaps the most striking pattern found in the issue-type data--as in the mode of introduction data--is the number of non-salient disputes referred to both Interwar institutions and the number of salient disputes referred to both Postwar institutions.

CULTURAL SECULARIZATION

Whereas structural differentiation focuses on the differentiation of the institutions of the political system from each other, cultural secularization might be said to relate to the differentiation of the

institutions of the political system from social institutions or groupings, i.e. the differentiation of the political system from the social system. Almond and Powell (1966:59-60) note a relationship between structural differentiation and cultural secularization, suggesting that

a political culture must become increasingly secularized if the new, differentiated structures are to operate effectively.

It is very difficult for a specialized bureaucracy, for example, to operate effectively in a traditional society. In such a society the conduct of politics is governed by custom. Individuals are treated according to ascribed statuses, not according to . . . merits and needs relevant to a special political domain. If the rules of a bureaucracy are imposed on such a culture [as in a prismatic polity] they will soon be undermined by the persisting traditional rules. Universalistic treatment of individuals according to the specifically political rules will eventually be distorted by the considerations arising from diffuse societal relationships such as tribe, caste, or family ties. The bureaucracy will also find it difficult to penetrate and overcome the traditional rules of the society, no matter how rational new regulations may seem.

This observation leads us to a consideration of universalism--particularism as a dimension of political development.²⁶ The concern here is with the question of whether or not institutions and rules operate in a non-discriminatory manner, without attracting or favoring one particular social group over another. Of special interest in this regard is the phenomenon of "balkanization" or "feudalism"--the attachment of different groups to different institutions. Two different dimensions are relevant: the degree of equal access to the institutions by the members of the society and the degree of equal impact of the institutions on the members of the society. An institution operating according to universalistic criteria does not serve a particular constituency; it does not give preferential treatment in terms

of access or impact. The developed polity generally adheres to universalistic criteria; the prismatic polity only professes to; the traditional polity makes no pretense.²⁷

The prismatic polity is characterized by a "fragmented" political culture consisting of various subcultures which have their own individual and mutually exclusive visions of what the nature of the political order should be. This cultural fragmentation may be mirrored by institutional fragmentation or balkanization as different subcultures capture different institutions, either directly through the recruitment process or through some other means, in order to promote their own parochial interests or "world-view." Samuel Huntington (1968:24) describes this condition in the prismatic polity when he asserts that "politics is a Hobbesian world of unrelenting competition among social forces--between man and man, family and family, clan and clan, region and region, class and class--a competition unmediated by more comprehensive organizations." By "comprehensive" Huntington presumably means universalistic, the implication being that universalistic institutions serve to depolarize conflict and to provide a framework in which bargaining and accommodative behavior can occur. "The existence of political institutions. . . capable of giving substance to public interests distinguishes politically developed societies from undeveloped ones" (Huntington, 1968:28) precisely because it signifies the displacement of predominantly parochial orientations by a broader sense of community.

In our examination of the international system, let us first consider the question of access and then impact. The degree of access may

be reflected in the types of groups that use the institutions. Does a particular group tend to pursue its goals through one institution while ignoring others, or are all institutions used equally by all groups? In our comparison of the institutions in the Interwar Period with those in the Postwar Period, we will want to identify the users of the institutions in each period to determine whether or not the PCIJ attracted a particular clientele different from the League, whether or not the ICJ has done likewise in relation to the UN, and, hence, whether or not the set of institutions in one period are more particularistic than those in the other period (in terms of access).

The PCIJ and ICJ Statutes (Article 35) as well as the UN Charter (Articles 4 and 35) and League Covenant (Articles 1, 11, 14, and 17) decree the universalistic character of the institutions with regard to the constituencies they profess to serve and to provide access for. Article 35 of the ICJ Statute states that "the Court shall be open to the states parties to the present Statute" and provides that should states not parties to the Statute wish to use the Court, "in no case shall. . . the parties (be placed) in a position of inequality before the Court." Article 35 of the UN Charter urges that "any Member of the United Nations may bring any dispute. . . to the attention of the Security Council or of the General Assembly" and contains a similar provision for non-members as the ICJ Statute. Article 11 of the League Covenant declares it "the friendly right of each Member of the League (as well as non-members provided for in another section) to bring to the attention of the Assembly or of the Council any circumstances whatever affecting international relations which threatens to disturb international peace. . ."

However, despite this presumption of universality of access, there is reason to suspect some particularistic tendencies operating.²⁸ According to one commonly held viewpoint, the western, democratic, and economically developed states have traditionally tended to emphasize the role of the World Court (both the PCIJ and ICJ) in conflict resolution since they have generally identified with and have been favored by the procedures of the Court; the less frequently stated corollary is that non-western, non-democratic, and economically underdeveloped states have tended to gravitate toward the League or UN. In other words, the former group of states more so than the latter group has presumably found the Court to approach the standards of legitimacy both on the symbolic level and on the level of responsiveness to demands.²⁹ If the contention that the PCIJ and ICJ have shared a particular clientele distinct from the League and UN is correct, we would expect that there would be little or no change (from the Interwar Period to the Postwar Period) in the propensity of western, democratic, and economically developed states to use the World Court and of the non-western, non-democratic, and economically underdeveloped states to seek help elsewhere.

Among the specific arguments adduced to explain these different propensities are the following. First, notwithstanding the variety of legal traditions and perspectives that have been represented on the Court, especially on the ICJ, the Court is the peculiar product of the western democratic tradition, so that western, democratic states are more familiar with its procedures and are more trustful and accepting of the "rule of law" concept associated with the Court. A

number of scholars have discussed the importance of culture and geography in understanding the growth of international institutions and international law and have pointed up the tension resulting from competing concepts or systems of law (Bozeman, 1960 and 1971; Northrop, 1952; and McDougal and Lasswell, 1959).

Secondly, the Court has attracted one clientele and repulsed another not only because its procedures and norms reflect a particular form of legal system but also because its interpretation of the content of the law has consistently favored one group over another (Jenks, 1958; Roling, 1960; Friedheim, 1965; and Kaplan and Katzenbach, 1961). Economically developed states in the West enjoy a special position in relation to the Court because they enjoy a special position in relation to the body of international law which they largely manufactured and which was handed the Court as a set of decision-making guidelines; the Court has attempted to maintain a functionally specific role for itself which has meant that it has generally accepted the latter rules (at least the established interpretation of them) as "given" and not subject to reinterpretation or revision except through the "political" process. Thirdly, even if the latter situation did not exist, the prohibitive costs of using the Court would suffice to deter less economically developed states from referring cases to it (Kaplan and Katzenbach, 1961).

The first and third points above provide a theoretical basis for the proposition that western, democratic, and economically developed states tend to use the World Court more than non-western, non-democratic, and economically underdeveloped countries; the second point suggests something more, that the former states would tend to use the World Court more than the League or UN.

PROPOSITION 2: Western, democratic, and economically developed states have tended to use the World Court (the PCIJ and ICJ) more than the League or UN, whereas non-western, non-democratic, and economically underdeveloped states have tended to use the League or UN more than the World Court.

Let us examine the findings relating to access.³⁰ Table 3 provides a glimpse at political system characteristics³¹ of states using the institutions.

TABLE 3 ABOUT HERE

One does find some degree of particularism in the form of "balkanization" in each period. In each period, the open states have dominated as users of the Court--accentuated if one focuses on weighted frequency distributions--while closed states (i.e. closed and semi-closed) have dominated as users of the League and UN. Particularism does appear much greater in the Postwar Period than in the Interwar Period, however. The weighted matrix shows the clientele distinctions in the Postwar Period (between the ICJ and UN) to be .42 in magnitude, whereas clientele distinctions in the Interwar Period (between the PCIJ and League) were only .11. Looking at the weighted frequency distributions, 56% of the PCIJ clientele were open states while 44% were closed; 46% of the League clientele were open and 54% closed. This distribution represents fairly balanced usage of the Interwar institutions. In contrast, again focusing on weighted distributions, 75% of the ICJ clientele have been open states while 68% of the UN clientele have been closed.

The Historical/Structural Index (.11) reflects the impact of institutional structure. We might have expected some historical impact as well; i.e. we might have expected the portion of the ICJ clientele

TABLE 3: Political System-Type of Participants in PCIJ, ICJ, League and UN (Percentages)

| | Closed | Semi-closed | Open |
|-----------------------------|--------|-------------|------|
| PCIJ | | | |
| Raw N=48 | 29 | 21 | 50 |
| Weighted N=96 ^a | 23 | 21 | 56 |
| ICJ | | | |
| Raw N=62 | 26 | 14 | 60 |
| Weighted N=116 ^a | 13 | 12 | 75 |
| League | | | |
| Raw N=70 | 31 | 23 | 46 |
| Weighted N=132 ^a | 30 | 24 | 46 |
| UN | | | |
| Raw N=62 | 37 | 29 | 34 |
| Weighted N=120 ^a | 38 | 30 | 32 |

^aWeighted N takes into account initiator and respondent roles of participants.

The "Closed" and "Semi-closed" categories were collapsed into a single category, thus forming a dichotomous variable. Using phi, the non-weighted matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .09 | .04 |
| UN | .26 | .12 |

$$(\text{Historical/Structural Index} = \frac{.01}{.15} = .07)$$

The weighted matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .19 | .11 |
| UN | .42 | .13 |

$$(\text{Historical/Structural Index} = \frac{.03}{.27} = .11)$$

constituted by closed states to be greater than the portion of the PCIJ clientele constituted by closed states, and the portion of the UN clientele constituted by closed states to be greater than the portion of the League clientele constituted by closed states (because of (1) the influx of closed states into the Postwar system as potential participants and (2) increased representation of the latter states both on the Court and in the Secretariat).³² This turns out to be true only for the UN, as the influx of closed states and increased representation has been reflected in UN usage but not in usage of the ICJ, where participation by closed states has dropped substantially from the PCIJ level.

That representation seems to matter little as a determinant of usage is borne out by the findings with respect to Proposition 2. On the basis of representation, one would not be led to anticipate any special institutional preferences on the part of closed states in either period. However, adopting a somewhat different analytical perspective than above, one finds that in both periods closed states have tended to prefer the political institutions to the Court: out of a total of 62 closed states that participated in disputes before the institutions in the Interwar Period, 24 (39%) used the PCIJ while 38 (61%) employed the League; similarly, of the 66 closed states using the institutions in the Postwar Period, 25 (38%) used the ICJ and 41 (62%) the UN. The weighted distributions reinforce these tendencies, although the contrast in preferences of closed states is less in the Interwar Period (38% using the PCIJ, 62% the League) than in the Postwar Period (26% using the ICJ, 74% the UN).

The latter figures at least partially support Proposition 2, i.e. closed states have tended to use the League and UN more than the World Court. What about the preferences of open states? While it was noted that open states have comprised over 50% of the Court's clientele--that they have, in other words, used the Court more than have closed states --it does not necessarily follow that they have employed the Court more than the League or UN. It happens that out of a total of 58 open states employing the Postwar institutions, only 36% used the UN while 64% used the ICJ; the weighted distributions are 31% and 69% respectively. However, out of 56 open states using the Interwar institutions, 57% did employ the League compared to 43% using the PCIJ; the weighted distributions do reduce this preponderance of League usage but still fail to point up any preference for the PCIJ (51% usage of the League and 49% usage of the PCIJ). In other words, open states in the Interwar Period demonstrated almost equal preference for the PCIJ and League as a conflict referral arena. They dominated as users of the PCIJ by virtue of the closed states' proclivity to use the League, and not because of any decided preference on their own part for the Court.

The overall picture that emerges, with regard to the political system-type variable, is that there has been some degree of particularism or balkanization in each period, although much less so in the Interwar Period. This particularism might be construed largely in terms of the greater symbolic identification with the rules and procedures of the Court felt by open than closed states.

Table 4 shows the effect of economic development level³³ on usage of the institutions. Table 4 reveals a similar pattern as Table 3,

although the economic development variable points up balkanization more sharply than the political system variable. Economically developed states have dominated as users of the PCIJ and ICJ, while economically underdeveloped states (i.e. underdeveloped and intermediately developed states) have dominated as users of the League and UN. These tendencies are somewhat more pronounced when the weighted distributions are taken into consideration. In the Interwar Period, 66% of the PCIJ clientele were drawn from economically developed states and only 34% from underdeveloped states; the developed states constituted only 34% of the League clientele, and the underdeveloped states 66%. The distributions are even wider in range in the Postwar Period. Again, the weighted matrix indicates a higher level of particularism or balkanization in the Postwar Period (.45) than in the Interwar Period (.31). Again, too, UN usage by underdeveloped states (relative to developed states) has risen slightly over usage of the League while usage of the Court has declined in the Postwar Period.

Looking at the data another way, out of a total of 62 underdeveloped states employing the Interwar institutions, 29% used the PCIJ and 71% the League; the weighted distributions yield the same percentages. Of 57 underdeveloped states participating in disputes before the Postwar institutions, 29% and 71% used the ICJ and UN respectively, with the weighted distributions accentuating the distinctions still further (26% as opposed to 74%). Thus, as posited in Proposition 2, underdeveloped states have employed the League and UN much more than the Court. As regards developed states, one finds an equally distinct propensity for the Court, at least in the Postwar Period. Sixty-seven percent of the developed states using the Postwar institutions have

referred disputes to the ICJ, while only one-third have sent disputes into the UN; the weighted distributions yield 71% using the ICJ and 29% using the UN. However, a much smaller percentage, 54% (58% weighted), preferred the Court to the League in the Interwar Period.

TABLE 4 ABOUT HERE

The conclusion that seems called for is that underdeveloped states have viewed the League and UN as conferring certain advantages over the Court, while developed states--particularly in the Postwar Period--have envisioned special advantages in employing the Court. For the underdeveloped states, these advantages may consist not only of the prohibitive cost factor in the Court but perhaps, also, the greater responsiveness of the political institutions to their needs. Moreover, the fact that level of economic development seems to differentiate users of the institutions more than political system-type suggests that the responsive capability of institutions may be more crucial than their symbolic capability.

Table 5 presents a breakdown of the institutions by geo-cultural region.³⁴ The pattern here corresponds roughly to those found in the previous two tables, although more closely resembling the findings on the economic development variable. The western states have dominated as patrons of the Court, comprising over 65% of the clientele in each period (based on the weighted distributions). At the same time, the non-western states have been conspicuous in their usage of the League and UN, comprising over 60% of the clientele of those institutions. Again, though, one must note that the Postwar institutions evidence a considerably higher level of particularism (.52) than the Interwar institutions (.29).

TABLE 4: Economic Development Level of Participants
in PCIJ, ICJ, League and UN (Percentages)

| | Underdeveloped | Intermediate | Developed |
|-----------------------------|----------------|--------------|-----------|
| PCIJ | | | |
| Raw N=48 | 6 | 31 | 63 |
| Weighted N=96 ^a | 5 | 29 | 66 |
| ICJ | | | |
| Raw N=62 | 8 | 19 | 73 |
| Weighted N=116 ^a | 7 | 18 | 75 |
| League | | | |
| Raw N=70 | 16 | 47 | 73 |
| Weighted N=132 ^a | 17 | 49 | 34 |
| UN | | | |
| Raw N=62 | 29 | 35 | 36 |
| Weighted N=120 ^a | 37 | 33 | 30 |

^aWeighted N takes into account initiator and respondent roles of participants.

The "Underdeveloped" and "Intermediate" categories were collapsed into a single category, creating a dichotomous variable. Using phi, the non-weighted matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .11 | .25 |
| UN | .37 | .02 |

$$(\text{Historical/Structural Index} = \frac{.07}{.32} = .22)$$

The weighted matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .10 | .31 |
| UN | .45 | .04 |

$$(\text{Historical/Structural Index} = \frac{.05}{.38} = .13)$$

TABLE 5 ABOUT HERE

Regarding the effect of increased membership and representation of non-western countries in the Postwar institutions, the latter is reflected in non-western states constituting a larger percentage of the UN clientele than League clientele, but not expressing any greater interest in the Court (as was the case, also, with closed and underdeveloped states). However, one must be careful in interpreting these findings since the decline in non-western usage of the Court seems attributable to a decline in East European usage, in particular, rather than to a decline in usage by Latin American or Afro-Asian states. Still, the increase in UN usage by Afro-Asian states (relative to their usage of the League) has been much more dramatic than the increase in their usage of the Court, so that the conclusion stands that greater representation on the Court has not registered any significant impact on institutional usage.

Exactly how distinct have the institutional preferences of the non-western and western states been in each period? Sixty-nine percent of the non-western states employing the Interwar institutions used the League and 31% the PCIJ; the weighted distributions show 72% and 28%. For the Postwar institutions, the weighted preferences of non-western states are 76% using the UN and 24% the ICJ. As for the propensities of western states, their preference for the Court is considerably more muted in the Interwar Period than Postwar Period. Whereas 51% of the western states employing the Interwar institutions used the PCIJ (56% weighted) and 49% the League (44% weighted), 68% employing the Postwar institutions sent disputes to the ICJ (76% weighted) and 32% to the UN (24% weighted).

TABLE 5: Geo-Cultural Region of Participants in PCIJ, ICJ, League and UN (Percentages)

| | Western Community | Latin America | Eastern Europe | Other |
|-----------------------------|----------------------|------------------|-------------------|-------|
| PCIJ | | | | |
| Raw N=48 | 61 | 4 | 29 | 6 |
| Weighted N=96 ^a | 68 | 4 | 23 | 5 |
| ICJ | | | | |
| Raw N=62 | 58 | 13 | 16 | 13 |
| Weighted N=116 ^a | 75 | 11 | 4 | 10 |
| League | | | | |
| Raw N=70 | 40 | 11 | 33 | 16 |
| Weighted N=132 ^a | 39 | 12 | 30 | 19 |
| UN | | | | |
| Raw N=62 | 27 | 13 | 10 | 50 |
| Weighted N=120 ^a | 23 | 13 | 8 | 56 |

^aWeighted N takes into account the initiator and respondent roles of participants.

The "Latin America," "East Europe," and "Other" categories were collapsed into a single "Nonwestern" category, creating a dichotomous variable. Using phi, the nonweighted matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .02 | .20 |
| UN | .31 | .13 |

$$(\text{Historical/Structural Index} = \frac{.06}{.25} = .24)$$

The weighted matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .08 | .29 |
| UN | .52 | .17 |

$$(\text{Historical/Structural Index} = \frac{.03}{.40} = .08)$$

Summarizing the findings relating to institutional access, or usage, the most visible pattern is that western, open and economically developed states have been the preponderant users of the PCIJ and ICJ, while non-western, closed and economically underdeveloped states have been the preponderant users of the League and UN. The balkanization effect has been much more severe, however, in the Postwar Period than in the Interwar Period. Generally, the western, open and developed states equivocated in their preference for the PCIJ over the League, and have had a much more decided preference for the ICJ over the UN. The non-western, closed and underdeveloped states demonstrated aversion to the Court in each period, although less so in the Interwar Period. Moreover, increased membership (and, thus, potential participation) and representation of non-western, closed and underdeveloped states in Postwar institutions has been reflected in greater UN usage more so than greater usage of the Court; insofar as the latter group of states has entered the Postwar system, it has been through a particular institution rather than embracing the system as a whole.

Having discussed the matter of access, we will now turn to the question of impact. An institution may be particularistic in terms of access (that is, in terms of whom it attracts) without necessarily being particularistic in terms of impact (that is, in terms of whom its decisions favor). Access or usage may reflect perceived particularism while impact reflects actual particularism. Just as preferential treatment with regard to access is formally proscribed in the institutional charters, so also is unequal impact proscribed, as exemplified by the injunction in Article 20 of the PCIJ and ICJ Statutes

that "every member of the Court shall. . . make a solemn declaration . . . that he will exercise his powers impartially and conscientiously."³⁵

However, one would assume--especially in the prismatic polity-- that parties would not be attracted to a particular institution if they did not receive favorable outcomes there, if in other words their perceptions were not confirmed by reality.³⁶ Hence, one would expect to find conformity between usage patterns and outcome patterns. The comparisons here will point up whether or not the PCIJ favored a particular clientele different from the League, whether or not the ICJ has done likewise in relation to the UN, and, hence, whether or not the institutions in one period are more particularistic than those in the other period (in terms of impact).

Table 6 indicates the institutional impact on, or outcomes of, disputes between open and closed states in the two periods. Granted the relatively low number of cases from which to generalize, there are certain patterns that nonetheless emerge and that can be cautiously cited. There is some measure of particularism discernible in each period. The data suggest that, in terms of impact, the Interwar institutions were somewhat more particularistic (.22) than the Postwar institutions (.20)--attributable largely to the conspicuous favoritism of the PCIJ.

In the Interwar Period, the outcomes generally seemed to conform to expectations or perceptions (as evidenced by usage patterns): closed states fared much better in the League than in the PCIJ--justifying but not wholly explaining their relatively modest preference for the League--and open states did better in the PCIJ than in the League; that open states did manage to win more than they lost in

both institutions may explain the fact that those states did not demonstrate a distinct preference for one or the other institution. If one treats access patterns as reflecting perceived particularism and impact patterns as reflecting actual particularism, then it might be noted that actual particularism (.22) exceeded perceived particularism (.11) in the Interwar Period; the meaning and implication of this relationship will be discussed below.

TABLE 6 ABOUT HERE

What about the Postwar Period? Here, too, the institutional verdicts seem to follow actor expectations, although not nearly to the extent one would assume given the extreme usage patterns: closed states have done better in the UN than in the ICJ--justifying somewhat their preference for the UN over the ICJ (although not by the large margin anticipated)--while open states have done better in the ICJ than in the UN--explaining their preference for the Court (although, again, not by as large a margin as one would think). In the Postwar Period, in contrast to the Interwar Period, perceived particularism (.42) has exceeded actual particularism (.20); institutional outcomes just have not been that distinct as to account for the highly divergent preference patterns discovered in the Postwar Period.

Table 7 presents the findings on the economic development variable. The economic development variable points up a greater overall level of institutional balkanization than the political system variable, with the Postwar institutions in this instance reflecting a somewhat greater degree (.34) than the Interwar institutions (.30). As in Table 6, one finds institutional preferences of the actors tending to be justified by institutional outcomes but not quite that strongly as to explain

TABLE 6: Win/Loss Record in Disputes Between Open and Closed States in PCIJ, ICJ, League and UN (Percentages)

| | Cases Won by Open State | Cases Won by Closed State |
|----------------------------|-------------------------|---------------------------|
| PCIJ N=10 ^a | 80 | 20 |
| ICJ N=7 ^a | 57 | 43 |
| League N=5 ^a | 60 | 40 |
| UN N=8 ^a | 37 | 63 |

^aN=total number of cases in the institution in which a closed state contested an open state and in which a winner could be identified.

Despite the relatively small number of cases, an attempt was made nonetheless to assess the difference between the institutions on the variable. Using phi, the matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .25 | .22 |
| UN | .20 | .24 |

$$(\text{Historical/Structural Index} = \frac{.27}{.25} = 1.1)$$

fully those preferences. In the Interwar Period, underdeveloped states did better in the League than in the Court, and the developed states vice-versa; there was a negligible gap between perceived particularism (.31) and actual particularism (.30). In the Postwar Period, the gap between perceived particularism (.45) and actual particularism (.34) has been larger. Although the underdeveloped states have fared better in the UN, and the developed states in the Court, success and failure have not been so overwhelming--the institutions have not in fact been so particularistic--as to confirm the apparent perceptions of actors that each institution is responsive to a different clientele.

TABLE 7 ABOUT HERE

Let us examine, finally, the record of western and non-western states in the institutions. The particularism that one discovers in Table 8 is concentrated in specific institutions in each period, the PCIJ in the Interwar Period and the UN in the Postwar Period. Overall, particularism is higher in the Interwar Period (.43) than in the Postwar Period (.24). Here, too, institutional verdicts tend to be compatible with the preference patterns. In the Interwar Period, non-western states received substantially better treatment in the League than in the Court, which heavily favored western states. Still, considering this disparity in institutional impact, the disparity in institutional preferences was not so great; actual particularism in the Interwar Period (.43) far exceeded perceived particularism (.29). In the Postwar Period, the decided preference of non-western states for the UN is somewhat understandable given their sizeable success there, although they have not fared any worse than the western states in the

TABLE 7: Win/Loss Record in Disputes Between Economically Developed and Economically Underdeveloped States in PCIJ, ICJ, League and UN (Percentages)

| | Cases Won by Developed State | Cases Won by Underdeveloped State |
|----------------------------|---------------------------------|--------------------------------------|
| PCIJ N=9 ^a | 78 | 22 |
| ICJ N=6 ^a | 67 | 33 |
| League N=6 ^a | 50 | 50 |
| UN N=9 ^a | 33 | 67 |

^aN=total number of cases in the institution in which an underdeveloped state contested a developed state and in which a winner could be identified.

Despite the relatively small number of cases, phi was computed. The matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .13 | .30 |
| UN | .34 | .27 |

$$(\text{Historical/Structural Index} = \frac{.20}{.33} = .61)$$

ICJ, where the latter's expectations have seemingly failed to materialize; actual particularism (.24) has not nearly approached perceived particularism (.52) in the Postwar era.

TABLE 8 ABOUT HERE

Summarizing the findings relating to institutional impact, one is confronted with a number of complicated patterns. If one looks at the total number of conflicts handled by the institutions, one finds no more than half in each institution that involved open vs. closed, developed vs. underdeveloped, and western vs. non-western states--and even fewer that produced clear-cut decisions for either party in such cases. In other words, the institutions have simply not been used primarily as battlegrounds on which competing subcultures have contested each other.

In terms of the decisions that were taken by the institutions in such cases, there was, on the whole, greater actual particularism demonstrated in the Interwar Period than in the Postwar Period. But how does one explain the fact that in neither period was actual particularism commensurate with perceived particularism? That is, in the Interwar Period the institutional preferences of the two groups of states (the western, open and developed states and the non-western, closed and underdeveloped states) were less distinguishable than might be expected given the mediocre record experienced by the latter group and the non-comitantly outstanding record experienced by the former group in the PCIJ; in the Postwar Period the institutional preferences of the two groups of states have been much more divergent than would seem warranted given the at least modest success (or non-failure) enjoyed by both groups in both the ICJ and UN. One explanation that can be offered here is that states in

TABLE 8: Win/Loss Record in Disputes Between Western and Nonwestern States in PCIJ, ICJ, League and UN (Percentages)

| | Cases Won by Western State | Cases Won by Nonwestern State |
|----------------------------|-------------------------------|----------------------------------|
| PCIJ N=8 ^a | 88 | 12 |
| ICJ N=6 ^a | 50 | 50 |
| League N=6 ^a | 50 | 50 |
| UN N=7 ^a | 29 | 71 |

^aN=total number of cases in the institution in which a western state contested a nonwestern state and in which a winner could be identified.

Despite the relatively low number of cases, phi was computed. The matrix values are;

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .43 | .43 |
| UN | .24 | .24 |

(Historical/Structural Index = 1.0)

the Postwar Period have been guided by relatively fixed images of the institutions--so that one institution has attracted one group and another institution a different group despite no overwhelming benefits conferred, or penalties assessed, by either institution on either group. In the Interwar Period, one might infer from the discrepancy between usage patterns and outcome patterns--i.e. the tendency for relatively balanced usage of the PCIJ and League among both groups of states despite the consistent failure of the second group in the Court--that neither images of the institutions nor lack of success in the institutions impaired the actors' recognition of the role of both institutions as conflict arenas.

INSTITUTIONALIZATION

Regularity--Sporadicity

Regularity is a property of an institution which refers to the extent to which the institution can be expected to have a problem (conflict) referred to it. In the developed polity the formal institutions (legislatures and courts) are recognized as the normal, routine means of handling societal problems whereas in the prismatic polity the formal institutions tend to be used sporadically, at the whim of the members of the system. Political systems (such as the Interwar system compared to the Postwar system) can be considered more (or less) institutionalized (in terms of regularity) depending on the percentage of problems in which the formal institutions (in this study the PCIJ and League and the ICJ and UN) as opposed to intermittent structures (bilateral negotiation, ad hoc arbitration panels, violence, etc.)

are relied on. Both the League Covenant (Article 21) and, even more so, the UN Charter (Articles 33(1), 51, and 52) encourage sporadic institutional usage, and the supra elite caretakers of the institutions have in practice generally played a restrained catalytic role.

PROPOSITION 3: In both the Interwar Period and Postwar Period, states have tended to use intermittent structures in conflict situations rather than the formal institutions.

If international institutions are used as sporadically as skeptics claim, and as the prismatic model would suggest, then one would suspect that when states do decide to use the institutions it is only as a "court of last resort." Another aspect of regularity, then, is the time lag between the start of a conflict and its referral to an institution.

PROPOSITION 4: In both the Interwar Period and the Postwar Period, states have tended to use the formal institutions in the latter stages of conflict.

The following observation by Inis Claude (1964:218) alludes specifically to the United Nations, although it would seem to be addressed to the other institutions as well.

It is probable that there are two periods of golden opportunity for composing an international dispute: the period of incipency, before the formulation of positions which it would be embarrassing to abandon. . .; and the period of maturity, after the conflict has become boring rather than adventurous. . . and (after) awareness of the inconveniences and dangers of perpetual discord has set in. The capacity of the United Nations to display sophistication in the matter of mediatorial timing is limited by the fact that it is unlikely to receive disputes until the former period has already passed. The Charter's emphasis upon the criterion of the dangerousness of disputes and the desirability of exhausting alternative means of solution before resorting to the United Nations contribute to the probability that the organization will lose the chance to nip controversies in the bud. In these circumstances, the nursing of disputes to the stage of maturity may well become a specialty of the United Nations as a pacific settlement agency.

A determination of regularity of usage of the institutions presents serious operationalization problems. Ideally, one would operationalize regularity as the percentage of conflicts occurring in the system which are referred to the institutions. The problem, of course, is that a complete inventory of "conflicts" from which to compute a percentage is infeasible to obtain, at least if one defines "conflict" in the generic sense. Recognizing this, scholars have tended to focus only on crisis-type conflicts since the unit of analysis here is more discrete and an inventory more readily compilable (although even criteria for identifying crises are ambiguous).³⁷ This limitation is unfortunate in a study such as this--a comparative study of the World Court as well as the League and UN--because many conflicts that come to the institutions, especially to the Court, are simply not of a crisis character and, indeed, would not ordinarily turn up in one's inventory of conflicts. Also, how does one distinguish between regularity of usage of one institution as opposed to another institution in the same system?

Despite these problems, it was felt that regularity was too important a variable to be ignored and that the concept could be partially tapped in a couple of ways. First, reference is made to Ernst Haas' findings on the frequency of usage of the UN as opposed to the League in those disputes "which could trigger the collective security machinery." Second, in order to tap the "court of last resort" dimension of regularity, the number of months elapsed between the start of a dispute and its referral to an institution has been employed as a measure which allows us to observe regularity in each of the four

institutions and not just the League and UN; date of submission of a dispute to an institution was identified as the date of formal application (to the World Court) or communication (to League or UN organ).

TABLE 9 ABOUT HERE

Table 9 presents Ernst Haas' findings on the frequency of referral of disputes to international institutions in the two periods. Haas' data have some drawbacks. One is the exclusively "crisis" criteria utilized to identify the population of conflicts; also, the 145 disputes include multilateral cases. A related drawback is his failure to consider the PCIJ and ICJ; by "institutions," Haas means the League in the Interwar Period and the UN (as well as regional organizations) in the Postwar Period. Still, the conclusion clearly called for on the basis of the data is that the Postwar Period has been characterized by substantially greater regularity of institutional usage--at least in crisis-type conflict situations--than the Interwar Period. It should be noted that the 75% referral figure in the Postwar Period includes referral to regional organizations. While it is true that this may inflate the Postwar referral record in comparison with that of the Interwar Period (since the latter might well have been more impressive had a greater number of regional referral alternatives existed), one cannot assume that the conflicts submitted to regional organizations in the Postwar Period would not have been submitted to the UN had regional organizations been unavailable. In any case, even confining the analysis to UN referral and ignoring regional organizations, Haas finds that the Postwar record (51%) is superior to the Interwar record.

TABLE 9: Frequency of Referral of Conflicts to International Institutions in the Interwar Period and Postwar Period (Percentages)

| | Conflicts Referred to International Institutions | Conflicts Not Referred to International Institutions |
|--------------------------------------|--|--|
| Interwar Period N=37 ^a | 38 | 62 |
| Postwar Period N=108 ^a | 75 | 25 |

^aN=total number of conflicts identified in each period. SOURCE: Haas (1968:38).

In terms of Proposition 3, the Haas data tend to confirm the assumptions about sporadic usage of international institutions in the Interwar Period, but much less so in the Postwar Period. Remembering that the data focus on crisis-type conflicts, one is struck by the relatively high degree of regularity of institutional usage in such situations in the Postwar Period. This is consistent with the earlier finding, in the examination of functional specificity, that the Postwar institutions have handled more salient disputes than the Interwar institutions. It is difficult to say whether the greater regularity of usage of Postwar institutions owes to a greater sense of institutional legitimacy felt by the actors, a greater sense of urgency and fear of escalation, a larger catalytic role played by the supranational elites, or simply increased opportunistic exploitation of the institutions in pursuit of national goals. Perhaps, some combination of these factors may be responsible for the almost routine invoking of international institutions in the Postwar era. An examination of what it is states have used the institutions for (i.e. what role states have allowed the institutions)--to be considered below under "reliability"--should shed some light on this matter.

While the Haas data indicate that conflicts have been referred with greater frequency to Postwar institutions than to Interwar institutions, a further concern is at what point disputants decide to use the institutions. Returning to the data set of 121 dyadic disputes, Table 10 permits an analysis of the four institutions and the extent to which they have been employed as "court of last resort" agencies.

TABLE 10 ABOUT HERE

TABLE 10: Number of Months Between Start of Dispute and Submission of Dispute to PCIJ, ICJ, League and UN (Percentages)

| | Less than 1 | 2-12 | 13-30 | 31-120 | Over 120 |
|-----------------------------|-------------|------|-------|--------|----------|
| PCIJ N=24 | 13 | 8 | 21 | 50 | 8 |
| ICJ N=26 ^a | 0 | 12 | 38 | 31 | 19 |
| League N=33 ^a | 37 | 18 | 9 | 24 | 12 |
| UN N=27 ^a | 26 | 19 | 3 | 37 | 15 |

^aIn the ICJ, League and UN, there were a few cases in which the date of the start of the dispute could not be determined, and those cases were omitted.

Since the referral timing variable is ordinal, Wilcoxin's signed-ranks test was used. The matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .02 | .31 |
| UN | .22 | .14 |

$$(\text{Historical/Structural Index} = \frac{.12}{.29} = .41)$$

Proposition 4 is supported by the data, as states have tended to use the institutions in the latter stages of conflict in both periods. Only in the League were more than half of the conflicts referred within a year of their inception. Indeed, in all institutions but the League, at least 50% of the cases were referred after two and one-half years, and many much later. The Historical/Structural Index (.41) indicates that institutional structure contributes the dominant impact. Fifty-five percent of the League cases and 45% of the UN cases were referred within one year, while only 21% of the PCIJ disputes and 12% of the ICJ disputes were introduced in that time. The impact of structure on referral timing may reflect both the nature of the disputes submitted to the political as opposed to legal institutions and the greater complications involved in making applications to the Court than in invoking the League or UN. Some historical impact is evident also, though, as the PCIJ tended to be more "regular" than the ICJ and the League more "regular" than the UN (in terms of elapsed time)--despite (1) the greater facility of communications in the Postwar Period and (2) the finding that Postwar institutions have handled more salient, and presumably more urgent, disputes than the Interwar institutions.

Thus, the high frequency of referral of disputes in the Postwar Period does not necessarily mean that states have accepted the institutions as routine problem-solving mechanisms. On the contrary, the data in Table 10 suggest that the institutions in the Postwar Period as well as in the Interwar Period have been invoked only after other means have been tried and have failed. When disputes were referred

to the Interwar institutions, they were done so with greater routinization than in the case of the Postwar institutions.

Reliability--Indecisiveness

Reliability is a property of an institution which refers to the extent to which the institution can be expected to act expeditiously, take actions that have consequences, and to successfully dispose of problems (conflicts) once they are referred to it. Political systems (such as the Interwar and Postwar systems) can be compared to determine the degree to which their institutions possess these qualities. In the developed polity the institutions can be expected to act energetically on problems and are relied on to resolve them, while in the prismatic polity the institutions tend to act indecisively and are relied on more so to manage or regulate them. An assumption here is that a political system whose institutions are entrusted with and capable of resolving conflicts--reaching distributive decisions--is more developed than one whose institutions only regulate conflicts.³⁸ Despite an emphasis in both the Covenant and Charter on conflict settlement or resolution, a more realistic index of institutional reliability in a prismatic policy would seem to be conflict regulation or management capability, or in Claude's words "pacific non-settlement" (1964:216).

PROPOSITION 5: In both the Interwar Period and the Postwar Period, the regulative capability of the formal institutions has been greater than their distributive capability.

Many of the findings already noted cast doubt on the ability of the institutions to produce decisive, or distributive, outcomes often. At the same time, the sizeable number of joint submissions in the

Interwar institutions and the generally less serious nature of conflicts referred to those institutions compared to the Postwar institutions represent greater distributive opportunities for the former, so that one would expect the PCIJ and League to demonstrate greater distributive capability than their Postwar counterparts. Table 11 confirms this expectation.

TABLE 11 ABOUT HERE

The Interwar institutions proved much more reliable in terms of distributive or settlement capability³⁹ than have the Postwar institutions. Although some structural impact manifests itself (the PCIJ settling more disputes than the League and the ICJ more than the UN), the dominant impact is historical (H/S Index = 2.4) as both the PCIJ and League compiled better settlement records than either the ICJ or UN. In fact, the success of the PCIJ in two-thirds of its cases and the League in almost half of its cases indicates a surprisingly high level of distributive capability in the Interwar system. This finding is consistent with those of Haas and Holsti that, notwithstanding the greater frequency of usage of the institutions in the Postwar Period, the Interwar institutions were more successful in the conflicts referred to them.

If the Postwar institutions have not been very reliable in terms of distributive capability, have they at least performed the regulative function satisfactorily? Also, what has been the regulative role of the Interwar institutions? A common argument made by conflict theorists is that, although the capacity to resolve conflicts may represent a higher-level function than the capacity to manage them, the latter function may ultimately be just as vital; that is, if one acknowledges

TABLE 11: Settlement Record of PCIJ, ICJ, League and UN (Percentages)

| | Settled by or With Help of the Institution | Unsettled or Settled Outside the Institution |
|----------------|---|---|
| PCIJ N=24 | 67 | 33 |
| ICJ N=31 | 32 | 68 |
| League N=35 | 49 | 51 |
| UN N=31 | 19 | 81 |

Using phi, the matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .34 | .06 |
| UN | .15 | .32 |

$$(\text{Historical/Structural Index} = \frac{.31}{.13} = 2.4)$$

that the prevention of physical violence is the key objective in a political system's attempt to deal with conflict, then institutions which can perform a regulative function (either indirectly by substituting verbal for physical hostility, or by controlling violence directly through truce supervision and other means) are as valuable as those which resolve conflicts through distributive decisions (Claude, 1971; Young, 1967).

In order to investigate the "substitution" or "sublimation" thesis that international institutions have served as surrogates for violence (by providing an alternative medium other than the use of force whereby actors can propagandize, communicate intentions, and vent hostilities), let us examine those conflicts involving violence or threat of violence between the start of the dispute and its submission to an institution; the aim here is to determine in how many cases hostilities were absent between submission of the dispute to an institution and disposal⁴⁰ of the dispute by the institution, i.e. hostilities were either (1) suspended while the dispute was in the institution (in instances where hostilities existed prior to submission) or (2) prevented (in instances where the threat of hostilities existed prior to submission). Table 12 shows the results.

TABLE 12 ABOUT HERE

One can see that the "sublimation" thesis has some merit, although clearly states have often continued to engage in violence at the same time that they have had an opportunity to vent hostilities verbally in international institutions. The data indicate that the League and UN have been moderately reliable in regulating conflicts, while the ICJ has been very successful. The ICJ and UN, in particular, have been

TABLE 12: Hostilities Occurring Between Submission and Disposal of Disputes in PCIJ, ICJ, League and UN (Percentages)

| | No Hostilities Between Submission and Disposal | Hostilities Between Submission and Disposal |
|-----------------------------|--|---|
| PCIJ N=0 ^a | | |
| ICJ N=10 ^a | 89 | 11 |
| League N=17 ^a | 53 | 47 |
| UN N=21 ^a | 43 | 57 |

^aN=total number of cases involving violence of any kind or threat of violence between start of dispute and its submission to the institution. Matrix values were not calculated for this table.

much more successful in regulating conflicts than in settling them. The League, too, was more successful in regulating than resolving conflicts, although the two capabilities were almost comparable. As for the PCIJ, no regulative record is discernible in the table due to the absence of violence-laden cases in the Interwar Court; however, one could impute a substantial "regulative" role--based on the contention that the continued absence of hostilities in PCIJ cases was itself evidence of a strong conflict management function. Thus, the supposition stated in Proposition 5, that distributive capability tends to lag behind regulative capability in a nascent political system, is supported by the data for both periods, although it is not nearly as tenable in the Interwar Period as in the Postwar Period. If the fact that in none of the total of 121 cases did hostilities originate while the dispute was in the institution is taken as evidence of the regulative role of the four institutions, then the predominance of the regulative function of the institutions is pointed up even more.

The regulative function, of course, includes not only the prevention or suspension of hostilities aspect but also the termination of hostilities. In how many instances were (1) hostilities which were dormant between submission and disposal continued dormant after disposal or (2) hostilities which occurred even between submission and disposal ultimately terminated with the help of the institution? It turns out that hostilities which were dormant between submission and disposal tended not to be resumed after disposal of the case by the institution, suggesting a positive carry-over effect after the dispute was removed from the institution. As for hostilities which persisted

even while the institutions were considering the dispute, these conflicts were much less manageable. Out of eight League cases of this type, the League could be credited with stopping hostilities in only two; out of twelve such cases in the UN, the latter similarly could be credited with stopping only two.⁴¹

To sum up the regulative and distributive roles of the institutions, both the Interwar and Postwar institutions have demonstrated greater regulative capability than distributive capability, although the former have displayed greater balance. Particularly the Postwar institutions have been much more successful at "pacific nonsettlement" than "pacific settlement;" this may reflect what seems to be a generic condition in the Postwar Period that finds conflict unresolved but frozen. The regulative capability of both the Interwar and Postwar institutions has primarily consisted in their serving as substitute mechanisms whereby conflicts can be waged nonviolently. Regulative capabilities have been more severely tested and ultimately found more wanting in those instances when hostilities have persisted during debate in the institutions and when direct institutional action (truce supervision, etc.) has been necessitated to terminate hostilities.

The latter comments lead us to a consideration of an additional dimension of institutional reliability. It was observed that, in performing the regulative function, institutions have not necessarily had to exert any "energy," that they merely have had to play an essentially passive role of providing an alternative conflict medium or forum. Another significant aspect of institutional reliability, however, is the extent to which institutions can be counted on to act energetically, i.e. to take actions that have consequences (irrespective of the ultimate

success or failure of the institutions in regulating or settling conflicts). Table 13 points up comparative institutional energies, with "consequential action" by the Court defined as merit (as opposed to procedural or no) judgments, and "consequential action" by the League and UN defined as something more than a simple appeal to the parties to resolve the problem.⁴²

TABLE 13 ABOUT HERE

The Historical/Structural Index (1.1) suggests only a slight significance of historical impact over structural impact. The PCIJ was more capable of acting than the ICJ, and the League more than the UN, although the difference between the League and UN (.10) is not nearly as great as that between the two Courts (.28). Although the League and UN have evidenced an admirable and almost comparable capacity to act, the findings concerning distributive and regulative capabilities indicate that the League's energies ultimately realized greater payoffs.

The most significant finding uncovered is the decline in the Postwar Period of the Court's capacity to render judgments of any kind --procedural much less merit (substantive). Even if one defines "consequential action" to include at least the dispensing of a procedural judgment, the PCIJ evidenced substantially greater reliability than the ICJ, the former issuing some type of judgment in 75% of its cases while the latter issuing a judgment in only 55%. Not only has the ICJ had more cases than the PCIJ involving preliminary objections to its jurisdiction (11 out of 31 in ICJ compared to 7 of 24 in PCIJ), but unlike the PCIJ it has had many cases in which the respondent refused to participate whatsoever--even to the extent of failing to test a preliminary objection. In those cases involving preliminary objections,

TABLE 13: Actions With Consequences Taken by PCIJ,
ICJ, League and UN (Percentages)

| | Action with Consequences | Inconsequential Action |
|----------------|--------------------------|------------------------|
| PCIJ N=24 | 67 | 33 |
| ICJ N=31 | 39 | 61 |
| League N=35 | 74 | 26 |
| UN N=31 | 64 | 36 |

Using phi, the matrix values are:

| | ICJ | League |
|------|-----|--------|
| PCIJ | .28 | .08 |
| UN | .26 | .10 |

$$(\text{Historical/Structural Index} = \frac{.20}{.19} = 1.1)$$

the PCIJ was more willing to grant itself jurisdiction; in only one case did it waive jurisdiction outright (either assuming jurisdiction or at least joining the objection to the merits in 6 out of 7 cases), and in only 2 cases altogether did it end up denying itself jurisdiction. Out of the 11 cases in the ICJ involving preliminary objections, the Court dismissed its jurisdiction outright in 5 and ultimately denied itself jurisdiction in 6 cases altogether. This "self-denial" practiced by the ICJ would appear partly the result of a perhaps excessive reluctance on the part of the members of the Court in some instances to carve out new jurisdictions or maintain precedented ones and partly the result of a well-founded recognition on their part of the futility of hearing certain disputes--such as the several aerial incident cases--which offer little prospect of the Court reaching an enforceable decision.

One further aspect of institutional reliability that is related to energy is the ability of institutions to process disputes in an expeditious fashion.⁴³

TABLE 14 ABOUT HERE

In Table 14, historical impact is somewhat greater than structural impact (H/S Index = 1.9) despite the fact that one would expect the latter to prevail given the notorious protraction of the judicial process. Moreover, both Interwar institutions demonstrated greater dispatch than either Postwar institution despite a less advanced communications system. Structural effects are partially evident, though, as the League was more expeditious than the PCIJ and the UN more expeditious than the ICJ. The more expeditious quality of decision-making processes in the PCIJ and League would seem to derive from a

TABLE 14: Number of Months Between Submission of Dispute and Disposal of Dispute by PCIJ, ICJ, League and UN (Percentages)

| | 1-12 Months | Over 12 Months |
|-----------------------------|-------------|----------------|
| PCIJ N=16 ^a | 50 | 50 |
| ICJ N=10 ^a | 10 | 90 |
| League N=17 ^a | 65 | 35 |
| UN N=6 ^a | 33 | 67 |

^aN=total number of cases settled by or with help of the institution. Using phi, the matrix values are:

| | | |
|------|-----|--------|
| | ICJ | League |
| PCIJ | .41 | .15 |
| UN | .30 | .28 |

$$(\text{Historical/Structural Index} = \frac{.37}{.20} = 1.9)$$

greater degree of cooperation on the part of states toward the Interwar institutions than from any less cumbersome procedures followed by those institutions; at least as regards the Court, the woefully slow pace of the ICJ compared to the PCIJ can be clearly traced to the greater tendency for preliminary objections in the former.

Given the superior reliability of the Interwar institutions--in terms of distributive and regulative capabilities, energy, and expedition--the greater regularity of usage that has characterized the Postwar institutions is somewhat curious. That the Postwar institutions have exhibited erratic reliability and yet have continued to be employed by states may mean that the institutions have been able to draw on a reservoir of legitimacy built on symbolic resources, so that they continue to command attention and patronage despite only modest ability to meet the needs of the actors. However, the surprisingly frequent usage of the Postwar institutions more likely means something else, that actors in the Postwar Period have not necessarily been motivated to use the institutions for distributive or even regulative purposes--that actors have not necessarily had any expectation or intention that the institutions would play a dominant role in conflicts--but rather that the institutions have been employed for other purposes and have fulfilled other needs unrelated to concerns of reliability. Such purposes and needs could be construed as pure opportunism, with the primary motivation being to enlist the institutions as pawns in propaganda and other contests.

CONCLUSION

As this study has shown, the assumption of structural differentiation and other assumptions embodied in institutional covenants and

accepted by many readers of those covenants are not entirely warranted. Both the Interwar system and the Postwar system were found to conform to the prismatic model, i.e. one discovers a disparity between the formal rules on which the institutions are based and the actual behavior they demonstrate. It is true, however, that this disparity was less outstanding in the Interwar Period than in the Postwar Period. The Interwar institutions more closely approached the "developed" model of structural differentiation, cultural secularization and institutionalization which was wistfully written into the charters in both periods. The Interwar system on the whole was more developed than the Postwar system in terms of functional specificity, universalism, and institutional reliability; it should be added that retrogression of institutional capabilities has been more conspicuous in the case of the ICJ (relative to the PCIJ) than the UN (relative to the League).

Only as regards regularity of institutional usage has the Postwar system been superior, although this record is far from conclusive. As a number of persons have pointed out, and as the data in this study suggest, actors use international institutions for a variety of reasons, many of which may have nothing to do with any expectation of or desire for settlement or regulation or even display of energy by the institutions. In these circumstances, regularity of usage is a somewhat suspect indicator of development. The high regularity of usage of Postwar institutions relative to their reliability suggests that the institutions have been found useful for purposes other than those they were ostensibly intended for. One cannot help noting, though, that the ICJ (between 1961 and the present)⁴⁴ and the UN (if we look more recently

beyond 1968) have been used sparingly of late for whatever purposes. The current boycott of the institutions may reflect not only disillusionment with their reliability record (with respect to settlement, regulation, and energy), but disenchantment also with their suitability to perform other functions which they once served.

Are there any implications we can draw from this analysis which might relate to the current plight of the institutions? Notwithstanding the observed superiority of the Interwar system in a number of notable respects, one is confronted with the fact that the latter system did, after all, collapse after twenty years. This only points out that political development is not a linear and inexorable process but is spasmodic and fragile. Institutional reliability and regularity are not necessarily cumulative, and what passes for development at one point in time may be illusory. Thus, predictions about future development based on successes of the moment can be highly precarious. In the case of the Interwar system, success was significant but shortlived, as institution-building and community-building had simply not progressed enough for the system to withstand the mounting pressures confronting it. In the end, the demise of the system could be laid plainly to a basic incompatibility of goals among the major actors.

Meanwhile, the Postwar system survives, albeit precariously, almost into its third decade. Despite a wide gap between promise and performance, the institutions have managed to command at least a modicum of attention and resources, enough to subsist on. However, the present boycott and financial crisis experienced by the institutions signal the possibility that their record may finally be catching

up with them, that disillusionment has set in as a result of the disparity between principles and practice. Prescriptive remedies for this malaise must be offered only with the greatest discretion.

On the basis of the experience of the Interwar system, and the Postwar system thus far, one very general and seemingly sensible prescription comes to mind. That is to reformulate the institutional charters so as to bring them closer in line with realities. By reformulation is not meant a redrafting of the charters so much as a reinterpretation in light of what the institutions can and cannot be expected to do. It is the supranational elites charged with the care and feeding of the institutions who must assume the initiative of developing new "organizational ideologies." Perpetuating the myth of structural differentiation, cultural secularization, institutionalization as well as participation--all the "prestige" trappings of a modern polity--can only damage credibility and does nothing to make the members of the system take the institutions more seriously.

In calling for a reformulation of institutional charters, the author is not attaching any special importance to formal-legal rules. If this study has shown nothing else, it has shown that behavior does not necessarily conform to rules. With practically the same body of rules, the Interwar institutions differed markedly in practice from their Postwar counterparts. Hence, to rely on mere changes in formal institutional machinery and covenants would seem futile--unless such changes were based on a truly realistic assessment of opportunities and conditions existing in the environment in which the institutions must operate. Although, perhaps as one writer states (Michalak, 1971:387),

"it has become banal to assert that the successes or failures of international organizations stem not so much from their formal-legal covenants as from changing configurations and distributions of power, systemic issues and forces, and the attitudes and resources of member-states," there are nonetheless a surprising number of proposals for reform that concentrate on modifying machinery and procedures rather than overhauling fundamental precepts that no longer--maybe never did--square with the exigencies of the situation.

If the institutions are not to remain the objects of derision and abuse, what is required at the very least is for the institutions to be less pretentious and more modest in the image they impart to the world. This means, for example, that judges on the Court should not attempt to fulfill the functionally specific role mandated for the Court by the organizational charter, i.e. they should not act as if a consensus-based, authoritative body of international law exists when the contrary is the case. Similarly, the Secretary-General and his staff should plainly de-emphasize the pacific settlement role of the institution and stress the equally important--and much more viable--role of pacific nonsettlement. Granted that in specific situations, in the face of intractable differences among disputants, the institutions may be denied any role, supranational elites nevertheless may be able to create a general climate of respectability around the institutions that may enhance the prospect of their serious usage in the future. If new, less grandiose criteria of success are articulated by the supranational elites and internalized by the members of the system, then the institutions may be judged less harshly and their potential

value recognized more clearly. This return to "sobriety" may entail, also, some retrenchment in participation, as the semblance of egalitarianism in the institutions has served only to spawn a revolution of rising yet unfulfilled expectations among the lesser members, and anxieties and antipathy toward the institutions on the part of those members counted on to carry the "integration load."

The statement was made earlier that modernizing elites attempting political innovation are confronted with the "prismatic dilemma" of having to choose between two alternative strategies both of which involve great uncertainties: either retaining selective elements of the traditional culture and mixing them with the modern culture, or discarding the traditional culture altogether. The second choice really is not open to modernizing elites in the international political system, at least not at this time. The first route has been tried and has failed, largely because there has not been enough of a "mix," and what "mix" has occurred has been one of collision more than merger. The modern elements written into the institutional covenants have not been properly balanced by traditional elements, and have consequently been resisted as traditional norms have permeated the institutions anyway and perverted their operation. What is needed at present, as suggested above, is to give less obeisance to the new culture--to such artifacts as functional specificity, achievement-orientation, and participation--and more play to traditional norms in a way that does not prostitute or emasculate the former but allows it to grow.

The author himself may be accused of a certain pretentiousness and lack of sobriety regarding some assumptions surrounding the study.

As acknowledged at the outset of this paper, the author might have chosen other, less imposing trends relating to "world order" than the trends which were focused on. However, given the premise of the study that the international system could be treated as a nascent political system like the "developing countries"--with problems of a similar nature if not magnitude--it followed that it made sense to adopt a framework in which political development in the international system ("world order") stood for the same kinds of community-building and institution-building processes that have occupied the attention of observers of those other polities.

The question becomes, then, whether the premise is a reasonable one. The author took great pains initially to demonstrate the resemblance of the international political system to a prismatic polity, and the reader must judge for himself whether the analogy is tenable or tenuous, whether the beginnings of a new political community are visible on the horizon or whether there are only some slinking shadows. Before such a community can see the light of day, it may have to retreat into darkness first.

Appendix A

List of Two-Party Cases in the Permanent Court of International Justice

| <u>Name of Case</u> | <u>Participants</u> |
|---|---------------------------------|
| 1 Mavrommatis Palestine Concessions | Greece/Great Britain |
| 2 Interpretation of Article 179, Annex, Paragraph 4, of the Treaty of Neuilly | Greece/Bulgaria |
| 3 German Interests in Polish Upper Silesia and the Factory at Chorzow | Germany/Poland |
| 4 Denunciation of the Treaty of November 2, 1865, Between China and Belgium | Belgium/China |
| 5 The Lotus Case | France/Turkey |
| 6 Rights of Minorities in Upper Silesia (Minority Schools) | Germany/Poland |
| 7 Payment of Various Serbian Loans Issued in France | France/Serb-Croat-Slovene State |
| 8 Payment of Brazilian Federal Loans | France/Brazil |
| 9 Free Zones of Upper Savoy and the District of Gex | France/Switzerland |
| 10 Delimitation of the Territorial Waters between Castellorizo and Anatolia | Turkey/Italy |
| 11 Legal Status of Eastern Greenland (Includes SE Greenland case) | Denmark/Norway |
| 12 Administration of the Prince of Pless | Germany/Poland |
| 13 Appeal from Judgement of Czechoslovak-Hungarian Mixed Arbitral Tribunal (Peter Pazmany University v. Czechoslovakia) | Czechoslovakia/Hungary |
| 14 Polish Agrarian Reform and the German Minority | Germany/Poland |
| 15 The Lighthouse Case | France/Greece |
| 16 Oscar Chinn Case | United Kingdom/Belgium |
| 17 Pajzs, Csaky and Eterhazy | Hungary/Yugoslavia |
| 18 Losinger & Co. | Switzerland/Yugoslavia |
| 19 Diversion of Water from the River Meuse | Netherlands/Belgium |

Appendix A--Continued

| | <u>Name of Case</u> | <u>Participants</u> |
|----|--|---------------------|
| 20 | The Borchgrave Case | Belgium/Spain |
| 21 | Phospates in Morocco | Italy/France |
| 22 | Panevezys-Saldutiskis Railway | Estonia/Lithuania |
| 23 | Electricity Co. of Sofia and Bulgaria | Belgium/Bulgaria |
| 24 | Societe Commerciale De Belgique | Belgium/Greece |

Appendix B

List of Two-Party Cases in the International Court of Justice

| <u>Name of Case</u> | <u>Participants</u> |
|---|--------------------------|
| 1 Corfu Channel Case | United Kingdom/Albania |
| 2 Fisheries Case | United Kingdom/Norway |
| 3 Asylum Case | Columbia/Peru |
| 4 Case Concerning the Protection of French Nationals and Protected Persons in Egypt | France/Egypt |
| 5 Ambatielos | Greece/United Kingdom |
| 6 Anglo-Iranian Oil Co. | United Kingdom/Iran |
| 7 Rights of Nationals of the U.S. in Morocco | |
| 8 The Minquiers and Ecrehos Case | France/United Kingdom |
| 9 "Electricite de Beyrouth" Company Case | France/Lebanon |
| 10 Nottebohm | Liechtenstein/Guatemala |
| 11 Treatment in Hungary of Aircraft and Crew of USA | USA/Hungary |
| 12 Treatment in Hungary of Aircraft and Crew of USA (USSR) | USA/USSR |
| 13 Aerial Incident of March 10, 1953 | USA/Czechoslovakia |
| 14 Antarctica Case | United Kingdom/Argentina |
| 15 Antarctica Case | United Kingdom/Chile |
| 16 Aerial Incident of October 7, 1952 | USA/USSR |
| 17 Case of Certain Norwegian Loans | France/Norway |
| 18 Case Concerning Right of Passage over Indian Territory | Portugal/India |
| 19 Case Concerning the Application of the Conv. of 1902 Governing the Guardianship of Infants | Netherlands/Sweden |
| 20 Interhandel Case | Switzerland/U.S. |
| 21 Case Concerning Sovereignty over Certain Frontier Land | Belgium/Netherlands |
| 22 Aerial Incident of July 27, 1955 | USA/Bulgaria |
| 23 Aerial Incident of July 27, 1955 | United Kingdom/Bulgaria |

Appendix B--Continued

| | <u>Name of Case</u> | <u>Participants</u> |
|----|--|-------------------------|
| 24 | Aerial Incident of September 4, 1954 | USA/USSR |
| 25 | Case Concerning Aerial Incident of July 27, 1955 | Israel/Bulgaria |
| 26 | Case Concerning Arbitral Award Made by King of Spain on December 23, 1906 | Honduras/Nicaragua |
| 27 | Case Concerning the Barcelona Traction, Light and Power Co. | Belgium/Spain |
| 28 | Case Concerning the Compagnie du Port, des Quais et des Entrepots de Beyrouth and the Society Radio-Orient | France/Lebanon |
| 29 | Aerial Incident of November 7, 1954 | USA/USSR |
| 30 | Case Concerning the Temple of Preah Vihear | Cambodia/Thailand |
| 31 | Case Concerning the Northern Cameroons | Cameroon/United Kingdom |

Appendix C

List of Two-Party Cases in the League of Nations

| <u>Name of Case</u> | <u>Participants</u> |
|-----------------------------|------------------------|
| 1 Enzeli | Iran/U.S.S.R. |
| 2 Aaland Islands | Sweden/Finland |
| 3 Vilna | Poland/Lithuania |
| 4 Coto | Panama/Costa Rica |
| 5 Upper Silesia | Poland/Germany |
| 6 Eastern Carelia | Finland/U.S.S.R. |
| 7 Tunis Nationality Decrees | United Kingdom/France |
| 8 Hungarian Frontier | Hungary/Yugoslavia |
| 9 Burgenland | Austria/Hungary |
| 10 Salgo Tarsan | Hungary/Czechoslovakia |
| 11 Hungarian Optants | Hungary/Romania |
| 12 Jaworzina | Poland/Czechoslovakia |
| 13 Corfu | Greece/Italy |
| 14 Ecumenical Patriarch | Greece/Turkey |
| 15 Dmir Kapu | Bulgaria/Greece |
| 16 Albanian Minorities | Albania/Greece |
| 17 Mosul Territory in Iraq | Turkey/United Kingdom |
| 18 Cruiser "Salamis" | Greece/Germany |
| 19 Bahrein Islands | Iran/United Kingdom |
| 20 Gran Chaco I | Bolivia/Paraguay |
| 21 Gran Chaco II | Bolivia/Paraguay |
| 22 Rhodope Forest | Greece/Bulgaria |
| 23 Manchuria | China/Japan |
| 24 Bulgarian-Greek Debt | Bulgaria/Greece |
| 25 Finnish Vessels | Finland/United Kingdom |
| 26 Iraq-Syrian Frontier | France/United Kingdom |
| 27 Letica | Peru/Columbia |
| 28 Anglo-Persian Oil Co. | United Kingdom/Iran |
| 29 Iraq Frontier | Iran/Iraq |
| 30 Hungarian Frontier | Hungary/Yugoslavia |
| 31 Marseilles Crimes | Hungary/Yugoslavia |
| 32 Syria (Sanjak) | Turkey/France |
| 33 Ethiopia | Ethiopia/Italy |
| 34 China | China/Japan |
| 35 Russo-Finnish War | Finland/U.S.S.R. |

Appendix D

List of Two-Party Cases in the United Nations

| <u>Name of Case</u> | <u>Participants</u> |
|-----------------------------|--------------------------|
| 1 Forcés in Iran | Iran/U.S.S.R. |
| 2 Thai Border | Thailand/France |
| 3 Treatment of Indians | India/S. Africa |
| 4 Corfu Channel | United Kingdom/Albania |
| 5 Kashmir | India/Pakistan |
| 6 Intervention in China | China/U.S.S.R. |
| 7 Threats to Yugoslavia | Yugoslavia/U.S.S.R. |
| 8 Anglo-Iranian Oil Co. | United Kingdom/Iran |
| 9 Morocco | Egypt/France |
| 10 Forces in Burma | Burma/Nat. China |
| 11 West Irian | Indonesia/Netherlands |
| 12 Syria-Turkish Crisis | Syria/Turkey |
| 13 Cambodian Border | Cambodia/Thailand |
| 14 Sudanese Border | Sudan/Egypt |
| 15 Tunisian Border | Tunisia/France |
| 16 Laos Intervention | Laos/N. Vietnam |
| 17 Eichman Kidnapping | Argentina/Israel |
| 18 South Tyrol | Austria/Italy |
| 19 Cuban Complaint | Cuba/United States |
| 20 U-2 Incident | United States/U.S.S.R. |
| 21 Mauritania | Morocco/France |
| 22 Cyprus | Greece/Turkey |
| 23 Goa Invasion | Portugal/India |
| 24 Venezuelan Boundary | Venezuela/United Kingdom |
| 25 Senegal Border | Senegal/Portugal |
| 26 Ethiopian Border | Ethiopia/Somalia |
| 27 Panama | Panama/United States |
| 28 Haiti/Dominican Republic | Haiti/Dominican Republic |
| 29 Cambodian Border | Cambodia/South Vietnam |
| 30 Gibraltar | United Kingdom/Spain |
| 31 Mercenaries in Angola | Rep. of Congo/Portugal |

NOTES

1. "Pleas" for comparative research on international organizations seem to be increasing (Michalak, 1971).
2. The problematical distinction between "political" and "legal" issues and institutions will be discussed during the course of the study.
3. This study draws on the data presented in the Coplin-Rochester article but makes use of a different analytical framework. Holsti's study (1966) should be noted as a seminal effort at comparison of the Interwar and Postwar institutions, although it was relatively limited in scope.
4. The word "prismatic" was introduced by Riggs to describe societies undergoing substantial political and economic change and experiencing tensions between the old ("fused") and the new ("diffracted") elements in the process. It should be pointed out that while the "developing nation" and "prismatic polity" models will be used interchangeably in this paper, Riggs himself claims that the developing nations of Africa and Asia are not necessarily the sole empirical referents of his prismatic model. Riggs rightly points out in his original work (1964), and to an even greater extent in a more recent writing (1973), that all societies in the real world are forever "developing" and "prismatic" since the development process never really ceases and all societies have some traditional elements coexisting with more modern ones; in other words, developed, undeveloped, and prismatic polities are all ideal-types. At the same time, one can speak of "more" or "less" developed polities since the ideal-types constitute a continuum. It is in the prismatic polity that the collision of traditional and modern elements is most pronounced.

5. A fundamental problem one finds in the international relations literature is the lack of any established criteria for identifying system change. The problem reveals itself in the comments of one observer (Dinerstein, 1965:589) who notes that "the pattern of international relations has always been in flux," and another (Davis, 1961: 130) who believes that "a pertinent observation is not how much the system has changed, but how little." If considerations of whether or not system change has occurred are so clouded, it is understandable that the matter of assessing the direction of change (development or retrogression) is even more shrouded in ambiguity.

6. The fact is that most international relations system theorists since Morton Kaplan have been preoccupied with the question of system transformation and have not concerned themselves with the question of the direction of transformation or change, i.e. development or retrogression. While transformation may be a much less value-laden subject than development, and while the question of development or retrogression might even have been somewhat irrelevant or perhaps premature with respect to the international political system before the twentieth century, the author would argue that a systematic investigation of the latter question is possible and relevant at this point.

7. For a systematic study of intranational violence and instability, see Feierabend and Feierabend (1966). Even so ardent a "realist" spokesman as Stanley Hoffmann (1970) acknowledges that "we are living in what might be called the world political system, an international system which differs from past ones. . . It is marked. . . by increasing

interpenetration between domestic politics and international politics. The conceptualization of the latter as a 'state of war,' in contrast with the ideal type of the former as a community with central power, remains valid at the level of ideal types. . . . There are, however, . . . new and important qualifications. (On the one hand) there is a rap-prochement in practice between the two kinds of politics. In many nations (new and old) there is little consensus, central power is more a stake than a force, and there is a potential and even endemic state of war. At the same time international politics has become more moderate."

8. The notion of "developmental crises" is discussed in Almond and Powell (1966:314), Pye (1966:62-67), and Rustow and Ward (1964:458-466).

9. Several scholars (Lipset and Rokkan, 1967) have noted that political systems tend to experience a certain progression of cleavage patterns, with traditional-type cleavages (regional, religious, etc.) gradually being superseded by functional cleavages (class).

10. The phenomenon of "transnational participation" is treated systematically by Angell (1969).

11. For figures on NGO and IGO growth, see Kegley and Rochester (1971). Both NGO and IGO growth have been more pronounced on a regional ("nation state-writ large") scale than on a global scale. The difficulty experienced by NGO's in establishing a role for themselves in IGO's typically reflects the collision of the traditional and modern cultures that occurs in the prismatic polity.

12. For example, Rustow and Ward (1964) point out that the emperor was retained by the modernizing elites in Japan as a familiar symbol

easing the transition, while modernizing elites in Turkey chose not to exploit the traditional culture but to disregard it since it appeared dysfunctional.

13. One of the better discussions of this aspect of the political development process is found in Huntington (1965). One of Riggs' contributions in selecting the term "prismatic" to refer to societies in flux was to allow us to avoid the term "transitional," a commonly applied label for such societies, which implies inevitable progress.

14. The meaning which the author attaches to "institutionalization" is essentially the same one assigned by Huntington (1968), except the author has introduced the terms "regularity" and "reliability" to point up two distinct dimensions. Reference should be made to Keohane (1969), who takes a somewhat different approach to the study of institutionalization in the international system than that taken in this paper, focusing on a particular institution or structure--the UN General Assembly--rather than a set of institutions or the international political system as a whole. He defines institutionalization in an international organization as "the process by which the international organization becomes differentiated, durable and autonomous." (He uses the concept of differentiation, also, in a somewhat different fashion than the manner in which it is utilized in this paper.)

15. Although advisory opinions were not included, those contentious dyadic disputes that were brought to the Court but which the Court never rendered a decision on have nevertheless been included (with the exception of the Gerliczy case which was introduced on the eve of World War II and which the Court had little opportunity to deal with).

16. The term "case-unit" is employed because separate cases (at least as far as the calendars and agendas of the institutions are concerned) have been grouped together if they involved the same issues within a relatively short span of time. For example, although the Asylum case and Haya de la Torre case are listed separately in the official records of the ICJ, they are listed as one case-unit in this study.

17. Data on case characteristics were gathered from accounts in Manley Hudson's World Court Reports, the I.C.J. Reports and Yearbook (1947-1968), the United Nations Bulletin (1946-1954), U.N. Review (1954-1964) and U.N. Monthly Chronicle (1965-1968). Additional sources of information on case variables were Hudson (1938), Myers (1935), Walter (1952), Shotwell and Salvin (1949), and Synopses of United Nations Cases in the Field of Peace and Security 1946-1965 (1966).

18. The variables on which data have been gathered are either nominal or ordinal. The statistic selected for dichotomous nominal variables was phi. (Although phi ranges between +1 and -1, only the absolute value was taken into account since the primary concern was the degree of difference between the institutions on the given variable.) Wilcoxon's signed-ranks test was employed for ordinal variables. See Freeman (1965) for explanation of these statistics.

19. For a few variables, only the frequency distributions are listed and no attempt was made to supply summarizing statistics.

20. Many observers have noted that courts and legislatures in developed polities do not necessarily carry out the functions generally attributed to them, that the rule-making function has gradually been taken over by the courts and, even more so, by the executive agencies. Still,

notwithstanding the tendency for legal institutions, notably the U.S. Supreme Court, to become involved in "political" issues requiring their exercise of discretion and entailing their creation of rules, the boundary between "justiciability" and "non-justiciability" is a meaningful one which is largely honored in developed polities. (Even the Justices of the Supreme Court would argue that what appears to be rule-making on their part is no more than interpretation of already existing rules--the Constitution--and is thus rule-adjudication.)

21. Carr (1946:206).

22. The relevance of this point for the international system is indicated in Report of a Study Group on the Peaceful Settlement of International Disputes (1965:4-6).

22. Although the procedure for submitting disputes to the Court differs substantially from that used in the League and UN, all submissions can be reduced essentially to the joint/unilateral dichotomy. The original coding categories for the PCIJ and ICJ were (1) mutual submission, (2) compulsory jurisdiction accepted by respondent, (3) compulsory jurisdiction challenged by respondent but overruled by Court, (4) compulsory jurisdiction challenged by respondent and upheld by Court, (5) application accepted by respondent, and (6) application refused by respondent. For the League and UN, the categories were (1) mutual submission, (2) unilateral submission by one of the disputants, (3) unilateral submission by a third party, (4) multilateral submission by third parties without disputants, (5) multilateral submission by a third party with one of the disputants, and (6) multilateral submission by a third party with both disputants. The sixfold categories were collapsed into dichotomies by including the first category for the Court and

League/UN as well as the sixth for the League/UN in the "joint" category, and excluding categories three, four, and five for the League/UN. All the rest were classified as "unilateral" submissions.

24. The contractual category generally applied to disputes involving commercial agreements either between individuals or between governments; cases concerning treaty interpretation were coded according to the content of the treaty provisions in question (e.g. the right of safe passage guaranteed in a treaty would be coded in the second category and not the first). Where hostilities had developed over a territorial dispute or any other type of dispute, the issue was coded in the fourth category; "hostilities" were defined as any violent act committed by one government against another.

25. For a discussion of the relationship between domestic political pressure and issue-area, see Coplin and O'Leary (1971) and Coplin (1971).

26. Another dimension of political development which is suggested by the Almond and Powell observation--achievement orientation-ascription orientation--will not be considered in this paper. For data on the elite recruitment process and composition of the League Secretariat, see Ranshofen-Wertheimer (1945) and Langrod (1963). For data on the UN, see Reymond (1967) and Bailey (1964). Composition of the Court is discussed by Hudson (1943) and Padelford (1968).

27. It is appropriate to repeat that the "developed" polity is an ideal-type, that "both secular and nonsecular elements are present in all (real world) political cultures. Accommodation and behavior in accordance with specific and universalistic rules may be found in traditional societies, and diffuse, ascriptive favoritism and rigidified

interaction patterns may be found in modern political systems. But the general process of secularization involves a shift from one predominant pattern to another." (Almond and Powell, 1966:60)

28. Clark, O'Leary and Wittkopf (1971) have done a systematic study of "national attributes associated with dimensions of support for the United Nations," defining "support" not in terms of usage in conflict situations but in terms of such variables as percentage of votes missed, support level for supranational issues, percentage of total diplomatic corps sent to UN, and financial support. Among the national attributes examined are length of independence, population, gross domestic product, and military alignment with the West.

29. The comparative politics literature suggests that there are two possible means whereby a political system acquires and maintains legitimacy: through (1) symbol manipulation or (2) effectiveness in meeting the needs of the members of the system. Almond and Powell (1966:199-203) speak of "symbolic capability" and "responsive capability" of the political system. Seymour Lipset's discussion (1963:64-70) of the relationship between "legitimacy" and "effectiveness" points out the importance of effectiveness as a source of legitimacy but fails to note the role of symbolic capability (which he treats more as a component of legitimacy than as a potential source).

30. Two variables have been employed to measure institutional usage or participation (access) by the various political, economic and cultural groupings of states. The first is merely the raw frequency of use by each state, while the second is weighted frequency. States were assigned a "3" for each unilaterally initiated participation,

a "2" for each participation in which they submitted a dispute jointly, a "1" for each participation in which they responded to a unilateral initiation by another party, and a "0" when they completely ignored a unilateral submission directed at them (refusing to respond to a party's application in the World Court).

31. Using Fred von der Mehden's classification scheme for political systems, states employing the institutions were originally classed as competitive, semi-competitive, or non-competitive according to the degree of party competition evident at the time of the submission of the dispute. Judgments as to degree of competition were made on the basis of descriptions in the Statesman's Yearbook. The latter labels were then dropped in favor of open, semi-closed and closed; ultimately the decision was made--given the nature of the propositions to be investigated--to collapse the second and third categories into a single "closed" category in order to construct a dichotomous variable (without doing too much violence to the original coding scheme). See von der Mehden (1964:53-64).

32. The assumption here is that increased representation may promote increased actor perception of the institutions as universalistic and, hence, increased usage of the institutions. For data on composition of the Court and the Secretariat in each period, see the sources cited in footnote 26.

33. Rostow's concept of the stages of economic growth (1960) was borrowed at first to classify states as underdeveloped (traditional-pre-takeoff), intermediate (takeoff) and developed (maturity and mass consumption). Post World War II data (per capita GNP) were obtained from

Russett et al. (1964:294-298). Pre-World War II status was based on the post World War II standings in addition to economic reports in the Statesman's Yearbook. A dichotomous variable was created by collapsing the "intermediate" and "underdeveloped" categories into a single "underdeveloped" category, since the propositions concerning universalism suggested the twofold distinction to be the crucial one.

34. Russett's delineation of geo-cultural regions (1967) provided the basis for geo-cultural classification of users of the institutions. Whereas Russett establishes six categories (Afro-Asia, Western Community, Latin America, Semi-Developed Latins, Eastern Europe, and Unclassifiable), only four are considered in this study; the Semi-Developed Latins have been grouped under Latin America, and the "unclassifiables" have been placed with the "Afro-Asians" in a category recast as "other." Here, too, though, categories were ultimately collapsed to further produce a dichotomy, in this instance western (Western Community category) vs. non-western (the remaining categories).

35. Somewhat inconsistent findings have been revealed in studies on the role of "national bias" on the Court. See Hensley (1968), Padelford (1968), Hudson (1943), and Grieves (1969).

36. Institutions in a prismatic polity derive their patronage not from "habits of compliance" (Deutsch, 1963) among the members of the society (as in a developed polity) but from their ability to please their customers, so that parties which receive unfavorable verdicts in a particular institution are unlikely to continue using that institution.

37. For example, see Haas (1968) and Holsti (1966) inventories of Interwar and Postwar conflict, which they define primarily as crisis

situations (i.e. involving the threat or outbreak of hostilities). The disparity in Haas and Holsti inventories points up the problem; using what seem to be practically the same criteria for selecting conflicts, Holsti finds 38 in the Interwar Period and 39 in the Post-war Period, while Haas identifies 37 and 108 in the two periods.

38. Almond and Powell (1966:195-212), among others, suggest that regulative and distributive capabilities of a political system are part of a task hierarchy and developmental sequence, with extractive and regulative capabilities underlying all others and presupposing less legitimacy than the others. Schwarz and Miller (1964) in their study of primitive societies which they try to relate to international politics, put forward a somewhat similar theoretical scheme wherein mediation, police, and counsel represent "legal evolution."

39. It was not always clear in the reading of the cases whether or not a dispute could be considered "settled." Obviously, all conflicts are eventually "settled" in the sense that they are resolved, if not by mutual agreement, then by one side imposing its will on the other. It was decided to code a dispute as "unsettled" if the parties continued to argue the point after the institutions disposed of the dispute, if the dispute ended in a fait accompli, or if the dispute later was resumed very shortly after an initial (ostensible) agreement. Subjective judgments naturally had to be made in coding the settlement variable as well as in determining the extent of the institution's contribution in those disputes which were found to be settled.

40. Date of "disposal" of a dispute by an institution refers to the final action (including a decision not to act) taken in the case and has nothing to do with settlement.

41. A major qualification is in order here, however, as a number of the UN's grander successes are omitted from consideration since they were multilateral disputes.

42. For the League and UN, "consequential" action can be defined as action in at least one of the following forms, all of which involve more than simple appeal to resolve the problem: inquiry, mediation, formation of a committee of experts, cease-fire, truce supervision, enforcement through boycott, police action, insertion of the Secretary-General's or his deputies' presence, or the provision of material support. These categories have been adapted from those supplied by Haas (1968).

43. Here the author was interested in only those disputes which an institution settled or helped settled, since expedition is meaningless in other circumstances, where disputes may be "disposed of" immediately by virtue of one party refusing to participate in the deliberations.

44. As a postscript, it should be noted that the Court has dispensed two "merit" judgments in cases after 1968, although these judgments were quite dubious and not of the "settlement" type. In the Barcelona case, the Court finally decided, joining the merits to Spain's preliminary objections, that Belgium had no cause in the case and that the objections should be upheld. In the North Sea Continental Shelf case (West Germany vs. Denmark and the Netherlands), the Court was asked to give judgment as to which set of principles defining delimitation procedures was valid; the Court in the end said that no particular set of rules was valid, and simply urged the parties to negotiate equitably among themselves.

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