after the experiences of World War II whether we may expect the setting up of a permanent court. However two events must be signalized which may direct the evolutionary process in this direction. The first is the fact that the procedure of the Nuremberg Tribunal gave satisfaction to the allied participants as measured by the various standards of their systems of jurisprudence. The other influence is the realization on the part of the United Nations of the necessity for the control by law of all methods of mass destruction. The recognition of this has been manifested by all as an essential of self preservation. If the violation of agreements not to use nuclear energy except for peaceful pursuits can be controlled by law through sanctions operating against individuals as well as against states, a road will have been opened for the establishment of international penal jurisdiction generally.

The International Court of Justice is not the proper forum to implement this control as its statute was not designed for penal jurisdiction. Sir Alexander Cadogan, in reply to a proposal to refer the British charge against Albania of having laid mines in Corfu Channel, is reported to have declared that the World Court was not a "police court."[6] The truth is that no such international penal jurisdiction is lodged anywhere. It must be created. The imperative need for protection against the new forces of mass destruction, atomic and others, may eventually lead the way.

ARTHUR K. KUHN

THE UNITED NATIONS AND INTERNATIONAL LEGISLATION

The phrase in the United Nations Charter which refers to "the progressive development of international law" suggests both an end and a procedure. The end includes the conscious development and extension of international law to meet new conditions and to serve new community needs. Theoretically, the most efficient procedure for achieving these ends might be the enactment of new rules of international law by an international legislative body, acting by majority vote. The United Nations General Assembly is empowered to act by majority vote, either by simple majority or by a special two-thirds majority on important questions; but the power to enact new rules of international law immediately binding on the Members of the United Nations was denied to the General Assembly by the drafters of the Charter. The powers of the General Assembly in this field are apparently limited to the initiation of studies and the making of recommendations, but the procedure followed with reference to the Convention on the Privileges and Immunities of the United Nations indicates that the General Assembly is capable of playing an influential role in the development of international law.

The Preparatory Commission of the United Nations transmitted to the

[6] *The New York Times*, February 22, 1947, p. 4.

General Assembly in January, 1946, a Draft Convention on Privileges and Immunities with the recommendation that the General Assembly should make recommendations with reference to the application of Article 105 of the Charter or propose a convention for this purpose.[1] A subcommittee of the Legal (Sixth) Committee of the General Assembly recommended on January 26, 1946, that the General Assembly should adopt and propose to the Members of the United Nations a general convention.

> The general convention on immunities and privileges of the United Nations (reported the sub-committee) is in a sense a convention between the United Nations as an Organization on the one part and each of its Members individually on the other part. The adoption of a convention by the Assembly would therefore at one and the same time fix the text of the convention and also import the acceptance by the United Nations as a body on their side of that text. On the other hand, each of the Members individually would only accept and become bound by the convention when it had deposited its formal instrument of accession or ratification, a step which the Member would only take after it had fulfilled such requirements as its constitution prescribed.[2]

After further elaboration and drafting by the Legal Sub-Committee, the General Assembly at its 31st plenary meeting on February 13, 1946, adopted a resolution reading as follows: "The General Assembly approves the annexed convention on the privileges and immunities of the United Nations and proposes it for accession by each Member of the United Nations." The statements that the General Assembly "approved" the Convention and "proposes it for accession" are repeated in the preamble of the Convention itself; and Sections 31, 32, 34, and 35 read as follows:

> Section 31. This convention is submitted to every Member of the United Nations for accession.
>
> Section 32. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations and the convention shall come into force as regards each Member on the date of deposit of each[3] instrument of accession.
>
> Section 34. It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this convention.
>
> Section 35. This convention shall continue in force as between the United Nations and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the United Nations. . . .[4]

[1] See *Report of the Preparatory Commission of the United Nations,* PC/20, December, 1945, pp. 60, 72 ff.

[2] United Nations document A/C. 6/17, 26 January 1946, par. 5.

[3] The French version reads: *à la date du dépôt par ce Membre de son instrument d'adhésion.*

[4] See United Nations document A/64, 1 July 1946, Resolutions Adopted by the General Assembly During the First Part of Its First Session . . . , pp. 25, 27.

The adoption and approval of this convention by the General Assembly constitutes a special case, since Article 105 of the Charter stipulates that the "General Assembly . . . may propose conventions to the Members of the United Nations for this purpose" and the particular convention runs between the United Nations on the one part and each of its Members which accede on the other part. However, Article 62 of the Charter provides that the Economic and Social Council "may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence" and that "it may call . . . international conferences" on such matters, presumably with a view to drafting other treaties or agreements between states. Even aside from the specific authorizations of Articles 105 and 62, there seems to be nothing in the Charter to prohibit the United Nations, its organs and committees, from initiating, drafting, approving, "adopting," and proposing for accession international instruments dealing with a wide variety of subjects.

Admittedly, these procedures fall short of the enactment of binding rules of international law by an international legislature. Nevertheless, they provide a procedure of deliberate law-making such as is described by Judge Manley O. Hudson when he writes: "The term international legislation would seem to describe quite usefully both the process and the product of the conscious effort to make additions to, or changes in, the law of nations. . . . An instrument which changes or adds to the law applicable to the relations of the states which are parties to it, may take any of numerous forms." [5]

International legislation which requires widespread acceptance in order effectually to achieve its purposes can best be formulated in a multipartite instrument by periodic or permanent conferences, or by the organs of the the United Nations. Although juridically it might be immaterial whether a plan for the international control of traffic in narcotics, for example, were formulated in a network of identical bilateral treaties rather than in a single multipartite convention, efficiency clearly points towards the latter procedure. The United Nations Charter appears to provide adequate procedures for the progressive development of international legislation.

HERBERT W. BRIGGS

THE TASK OF THE INTERNATIONAL LAWYER

It is here suggested that the world is not moving toward an international legal order, and that the international lawyer, and all lawyers, have a responsibility for educating the people as to the need of such an order, and for concentrated effort toward solution of the problems connected with its establishment.

[5] M. O. Hudson, *International Legislation*, Vol. I, pp. xiii, xv.