

Table of Contents

Abstract	13
Introduction	15
I. Facts and Rules of Evidence in the Sphere of International Adjudication	17
1. What Are Facts?	17
2. Particularities of the International Sphere	20
a. Fragmentation	20
b. International Law and Domestic Law	22
c. Multi-Perspectivity and Agenda-Setting	25
3. Defining Fact-Assessment	28
4. Goals of International Fact-Assessment	31
a. Ascertaining ‘the Truth’?	31
b. Other (Potentially Competing) Goals	33
c. Truth Founded on Evidence	34
5. Rules of Evidence in International Adjudication	37
a. The Powers of International Courts and Tribunals Regarding Evidence	38
i. Power to Order Parties to Produce Evidence	38
ii. Power to Conduct Own Investigations	42
iii. Power to Engage Experts	44
b. Basic Concepts	49
i. Admissibility of Evidence	49
ii. The Burden of Proof	51
iii. Standard of Proof	53
(1) Prima Facie Evidence	55
(2) Preponderance of Evidence	57
(3) Beyond Reasonable Doubt	59
6. The ECtHR’s Institutional Variations	62
a. Applications Before the ECtHR	62
b. Final Assessment of the Facts	64
c. Rules on Fact-Assessment and Evidence Before the ECtHR	66

d. Subsidiarity and Fact-Assessment	67
7. Conclusion	73
II. Facts, Law and Interdisciplinarity	75
1. Interdisciplinarity and International Legal Theory	75
2. Pragmatist Optimism towards Interdisciplinarity	77
a. Pragmatism	77
b. The First Step to Interdisciplinarity: Pragmatist Wariness of Dichotomies	80
c. The Second Step to Interdisciplinarity: the Importance of Context to Inquiry	83
3. Positivism's Arguments against Interdisciplinarity	86
4. The Blurred Line between the Factual and the Normative	91
a. The Chicken or the Egg? – or the Wandering Gaze	91
b. Adjudicative Facts and Legislative Facts	95
c. The Intrinsic Link between Facts and Law before the ECtHR	100
5. Conclusion	108
III. Principles of Scientific Method and Case Analysis	109
1. Principles of Scientific Method	109
2. Analysis of the ECtHR's Case-Law Using Principles of Scientific Method	111
a. Simplicity	113
i. The Principle	113
ii. Case Analysis	115
iii. Summary and Comment	127
b. Explanatory Power and External Validity	129
i. The Principles	129
ii. Case Analysis	130
iii. Summary and Comment	145
c. Falsifiability	147
i. The Principle	147
ii. Case Analysis	150
iii. Summary and Comment	166
3. Implications of these New Categories	168
a. Focusing on the Quality of the Fact-Assessment Procedure	168

b. How Do These Categories Change the Critique of Jurisprudence?	171
Conclusion	177
List of Cases	181
ECtHR Cases	181
ICJ Cases	183
WTO Cases	184
Cases from Other Jurisdictions	185
List of Legislation	187
Bibliography	189
List of Abbreviations	199