1. Legal advisers in international organizations: Uncovering a little-known world

Jan Wouters and James Rischbieth

1. INTRODUCTION – SCOPE AND AIM OF THE BOOK

It is a truism to say that in recent years international organizations have had an ever-stronger impact on the law- and policymaking of their Member States and even on the legal position of individuals. A significant body of legal literature has focused on the challenges that this may pose in respect of democratic and rule of law principles and even human rights.¹ Some landmark cases have hit the headlines, for example the Kadi cases, which concerned the listing of individuals as terrorists by UN Security Council committees.²

However, we know precious little about how legal counsel in international organizations actually advise their institutions on a daily basis: to ensure the relevant organization respects the rule of law, general international law, human rights, the organization’s own constituent instrument(s), and other rules appli-


Legal advisers in international organizations

cable to the organization. To what extent do counsel adjust their advice to the specific institutional set-up and political context of their organization? How do they contribute to the further development of general international law and the law of international organizations? How does being a legal counsel of an international organization differ from, say, being a legal adviser of a government or a private organization?

Intriguingly, there is only scant literature on the practice of legal counsel within international organizations. Compared with the abundant contributions made by counsel from specific national foreign ministries, only a handful of

---

individual writings are available by, or concerning, counsel in international organizations. Moreover, of the collective volumes that have been published over the past few decades, none has specifically focused on the particular situation of legal advisers of international organizations: with the exception of the 1966 volume edited by Hebert C L Merillat. It is this gap which the present

---


5 The following books focus on legal advisers of both international organizations and governments in foreign affairs: United Nations (ed.), Collection of Essays by Legal Advisers of States, Legal Advisers of International Organizations and Practitioners in the Field of International Law (United Nations 1999) (also available in French: Recueil d’articles de conseillers juridiques d’Etats, d’organisations internationales et de praticiens du droit international); Chanaka Wickremasinghe (ed.), The International Lawyer as Practitioner (British Institute of International and Comparative Law 2000); Michael Wood, ‘Legal Advisers’, in Max Planck Encyclopedias of International Law (March 2017); Andraž Zidar and Jean-Pierre Gauci (eds), The Role of Legal Advisers in International Law (British Institute of International and Comparative Law, Brill Nijhoff 2016).

volume seeks to fill, by bringing together a number of former and current top legal counsel and senior legal experts of international organizations who share their insights and experiences.

Even when considering the available literature, one may wonder whether the profession of legal adviser in an international organization has been properly studied in its contemporary context. When Merillat published his 1966 volume, based on a Bellagio conference held in August 1965, the United Nations (UN) and the UN family of organizations were only two decades old, and regional organizations, like the European Economic Community (EEC, i.e., the predecessor of the current European Union (EU)), were still navigating their first decade.

By the early 2020s, more than half a century further down the road, the 75th birthday of the UN has been commemorated, the EU has celebrated the 60th anniversary of the Treaties of Rome,\(^7\) and most members of the UN family of organizations are septuagenarians. The global and regional multilateral system has evolved and expanded greatly, not just in terms of membership (think of the UN’s expansion from 51 Member States in 1945 to 193 today, or the EU’s successive enlargements, bringing it from its original six Member States to its current 27 Member States), but also in terms of the breadth and depth of the mandates and activities of international organizations. Their work, both normative and operational, touches ever more on the daily lives of hundreds of millions of citizens, from peacekeeping and financial assistance to the regulation of food safety, human rights, and economic transactions. Moreover, the technological context in which international organizations operate has changed in revolutionary ways: from the times of the typewriter and stencils to the era of fully digitalized sources, the internet, and – especially since the COVID-19 pandemic – Zoom meetings. The sheer number of international organizations has proliferated to somewhere between 500 and 700.\(^8\)

---

\(^6\) 1964, published for the American Society of International Law). For a substantial discussion of issues addressed in the former book, see Gerald Fitzmaurice, ‘Legal Advisers and International Organizations (Review Article)’ (1968) 62 AJIL 114. One should also point to the following volume, which contains interesting contributions on the evolution of the legal office within GATT and, later, the WTO: Gabrielle Marceau (ed.), *A History of Law and Lawyers in the GATT/WTO. The Development of the Rule of Law in the Multilateral Trading System* (Cambridge University Press 2015).

\(^7\) See, inter alia, Luisa Antoniolli, Luigi Bonatti and Carlo Ruzza (eds), *Highs and Lows of European Integration: Sixty Years after the Treaty of Rome* (Springer 2019); Julien Chaisse (ed.), *Sixty Years of European Integration and Global Power Shifts* (Edward Elgar Publishing 2020).

Regardless of these impressive developments, we know precious little about the work of legal advisers in international organizations. To paraphrase Daniel Bethlehem, what they are doing is part of “the secret life of international law.”\textsuperscript{9} Protected by confidentiality,\textsuperscript{10} their legal opinions\textsuperscript{11} rarely, if ever, reach the public domain,\textsuperscript{12} even though the UN has a laudable tradition of publishing “selected legal opinions of the Secretariats of the United Nations and related intergovernmental organizations” in its \textit{United Nations Juridical Yearbook}.\textsuperscript{13}

Long gone are the days of Joseph Gold and C Wilfred Jenks,\textsuperscript{14} general counsel of international organizations who were able, at the same time, to maintain careers as prolific writers: the job has simply become too demanding.

\textsuperscript{9} See (n 1).


\textsuperscript{11} Legal opinions of advisers in international organizations have been described as “assessments of points of law, calling for the appropriate intellectual examination to interpret the legal rules and general principles of law and apply them correctly”: Garzón Clariana (n 4) 241.

\textsuperscript{12} A rare exception is the legal opinion by Hans Corell, UN Legal Counsel, upon request of the Security Council, on the legality of certain contracts signed by Morocco with foreign resources in Western Sahara: Letter dated 29 January 2002 by the UN Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council, S/2002/161, 12 February 2002, available at https://digitallibrary.un.org/record/458183. For a later address by Hans Corell on this legal opinion, see Hans Corell, ‘Address by Hans Corell on the UN 2002 legal opinion’ (\textit{Western Sahara Resource Watch}, 12 December 2008) https://www.wsrw.org/a128x982.


\textsuperscript{14} See the list of selected publications of Sir Joseph Gold on the IMF and monetary law in Werner F Ebke and Joseph J Norton (eds), \textit{Festschrift in Honor of Sir Joseph Gold} (Verlag Recht und Wirtschaft 1990) 459; and the bibliography of C Winfred Jenks in (1966) 117 \textit{Rec Cours} 1966-1, 102.
This volume aims to contribute to a better understanding of the work of legal advisers in international organizations. It comprises, apart from this introduction, 16 chapters, each examining a different international organization, written by one or more senior legal practitioners with significant experience in that body. To allow comparisons between the organizations, most of the chapters are structured along similar lines and discuss similar legal issues. Each chapter typically opens with a brief introduction of the organization in question: offering a short overview of its history and key facts relating to it. The next part generally provides an indication of the specific legal and institutional contexts within which the organization, its organs, and its staff operate. The third part typically gives an overview of the main legal and institutional questions confronting the legal adviser and/or legal service of the relevant organization. Finally, each chapter concludes with an assessment of the contributions that the legal adviser and/or the legal office at issue has/have made regarding respect for the rule of law, human rights, international law, and the law of international organizations.

The international organizations covered in this book have been selected to offer a broad coverage of the different types of existing institutions: from global to regional; intergovernmental to supranational; and from different policy fields, some more technical, others deeply political, from agriculture and fisheries to aviation, culture, development, economic cooperation, health, maritime issues, nuclear energy and non-proliferation, postal communications, space and scientific cooperation, and security.

The first part of the volume focuses on universal international organizations. It includes the UN and various UN specialized agencies and related agencies, including the IAEA. This allows a comparison to be made between the different UN bodies and provides insight into how the various UN system bodies relate to one another in practice.

The second part focuses on regional and cross-regional organizations: organizations active in international security (OSCE, NATO, SHAPE), in economics and development (OECD), space exploration and applications (ESA), and regional integration (EU).

By analyzing these different categories of international organization, the volume illustrates the vast array of legal issues faced by legal advisers as well as how their work is influenced by the specific institutional structure of their organization. By structuring each chapter in a similar format, the volume also seeks to illustrate the common issues that arise across these different international organizations.
2. COMMONALITIES AND DIFFERENCES BETWEEN THE ROLES OF GOVERNMENT LEGAL ADVISERS AND LEGAL ADVISERS OF INTERNATIONAL ORGANIZATIONS

The function of legal adviser in an international organization displays some commonalities with the function of legal adviser in foreign ministries but also noteworthy differences.15

To start with the commonalities, both international legal advisers in national (foreign) ministries and in international organizations divide their time between a variety of tasks, including (i) “corporate housekeeping,” i.e., “bread and butter” advice on a variety of daily practical matters, from staff cases to contracts and litigation with private parties; (ii) depending on the department, rendering specialized advice in particular areas of international law, from the laws of war to intellectual property rights protection; and (iii) contributing to the wider development of international law and the law of international organizations, through the drafting of treaties and other legal instruments and texts, participation in international negotiations, and international dispute resolution.16

Another unifying factor for legal advisers on international law in national ministries and international organizations is the fact that international law is typically in flux and is often not settled. This vexes both ministerial advisers and advisers from international organizations with the dual challenges of (i) accurately stating the law, as “in many situations the law may not be as clear as one would wish,”17 and (ii) balancing law and policy. On the latter issue, in

---

15 Or, for that matter, from the function of legal adviser at permanent missions of Member States to international organizations, who are also essentially advising their governments.

16 Compare the three tasks distinguished by C Winfred Jenks, ‘Craftsmanship in International Law’ (1956) 50 AJIL 32, 50–51. An interesting database can be found on the website of the Committee of Legal Advisers on Public International Law (CAHDI) of the Council of Europe regarding the organization and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs, Council of Europe, The Organisation and Functions of the Office of the Legal Adviser in the Ministry of Foreign Affairs (CAHDI, 2022) available at http://www.cahdidatabases.coe.int/Search/Index/2. At the time of writing, this database also contained information on the legal office of one international organization, namely NATO. See http://www.cahdidatabases.coe.int/Contribution/Details/1 (a number of other international organizations were also indicated, but their portals contained no information).

1956, Jenks had already observed that while “[advisers’] primary allegiance must be to the law […] the law is in a stage of development in which its relationships with policy are particularly close, and the direction in which the law itself should develop is largely a question of policy.”

Last but not least, both legal adviser categories bear responsibility for ensuring the respect of, and compliance with, international law by their superiors and, more broadly, preserving the integrity of the international legal system. On this point, Elisabeth Wilmshurst has observed that “the legal adviser should reflect a responsibility to the international legal system as a whole, if that system is to be sustainable.” Philip Allott has put it even more boldly, with the following quotes coming from two different publications:

International lawyers are not the servants of governments but of international society […] it is thus the duty of international lawyers, even lawyers employed by governments, to consider not merely what is in the interest of this or that state but what is in the long-term interest of international society. Like a sailor on dry land, the ideal international lawyer in government service will have in the mind’s eye a more distant horizon, the wonderful possibility of human social progress beyond the dreadful reality of human social evil.

Reflecting on Allott’s statements, Sir Michael Wood has observed more soberly:

Whether or not there is such a “duty”, a public international law adviser may well regard, and be expected by the client to regard, support for the international legal system as an important part of his or her functions.

There are, however, differences between the two types of legal advisers. As Merillat noted, a first difference concerns “the client.” Foreign ministry legal advisers advise their government or minister, but the situation is more complex for legal advisers in international organizations: they “are consulted by a broad range of officials and organs” and, in that sense, they “need perhaps even more of the skill of the diplomat than is required of their nation-based colleagues.”

18 Jenks (n 17) 51.
22 Wood (n 5) para 18.
23 Merillat, “Preface” (n 6) viii.
A second difference lies in the fact that international organizations remain a relatively novel phenomenon in international law. As Merillat put it, this “has called for the inventive and creative side of the lawyer’s competence to an unusual degree.”\textsuperscript{24} While one might imagine that this has become less of a challenge more than 50 years later, and, indeed, plenty of international organizations have construed their own internal system of precedents in the interim, the fact remains that every new international organization poses a similar challenge, especially given its particular context and structure. There exists not only a need for creativity but also for developing legal practice that is sustainable, given the institutional framework at hand.

As Jenks noted about “the legal adviser in international organizations” in 1956:

As legal adviser he has an important contribution to make towards developing the constitutional practice of international organizations, on lines which will enable them to discharge growing responsibilities in a manner which will promote the widest possible measure of agreement among their members.\textsuperscript{25}

In short, the multiplicity of actors and their possibly conflicting demands, the complexity and often underexplored nature of the legal issues, and the specificities of the multilateral context at hand (which may vary from a limited membership in a sub-regional organization to near-universal membership of the international community of States in a global organization), often lead to widely divergent visions on the role of the organization in question and make the legal adviser function within an international organization extraordinarily challenging.

However, through all of this, the moral compass of the adviser should remain firmly in line with the principle laid down in Article 100(1) of the Charter of the United Nations (UN Charter): the adviser “shall refrain from any action which might reflect on their position as (an) international official responsible only to the Organization.” An adviser’s responsibilities have an “exclusively international character,” which Member States of the organization have to respect.\textsuperscript{26} This principle has been repeated, albeit with variations,
in many founding instruments of international organizations.\textsuperscript{27} Moreover, to paraphrase Article 101(3) of the UN Charter, legal advisers are expected to act according to the “highest standards of efficiency, competence, and integrity.”\textsuperscript{28}

3. AN ENORMOUSLY DIVERSE UNIVERSE

The great diversity of international organizations as well as the positions of legal officers within them is made apparent throughout the book’s 17 chapters. It is clear that this diversity is closely linked to the history and evolution of each organization, its specific mandate(s) and institutional set-up; indeed, Michael Wood has observed that “[t]he position of legal advisers within inter-

---


\textsuperscript{28} Article 101(3) UN Charter. See also, e.g., \textit{ibid}, Charter of the Association of East Asian Nations, Art 11.8.a.
national organizations varies greatly depending on the powers and functions, and practices, of the particular organization."29

One might also add the advisers’ place in the organogram, the organization’s budget, its size, and its type. For instance, in very small or modestly resourced international organizations there may only be one legal adviser, or only very few, without many support staff. On the other hand, in an institution like the European Commission, the Legal Service is a powerhouse, which is under the direct authority of the President of the Commission.30 Its advice is a mandatory part of each Commission initiative or action, and only the Legal Service represents the Commission in (national, European, and international) Court proceedings.

4. MANDATE AND INSTITUTIONAL POSITION OF THE LEGAL ADVISER/OFFICE/SERVICE

The actual mandate of a legal office or service will differ depending on the organization. Interestingly, for the UN and the UN system, the function of legal adviser and some of its essential features, in particular its independence, have been summarized in a 2003 Interoffice Memorandum on “Certain aspects regarding the Legal Adviser/Legal Office”:

[T]he central role of the legal adviser in the United Nations and the 16 specialized agencies of the United Nations system is to provide legal advice to the secretariat and the governing bodies and thereby to contribute to the rule of law by independently interpreting the legal framework of the organization. Legal advice is provided directly to those who ask for it and not through other officials, who could in that case dilute the integrity of legal advice and assume the role of legal advisers themselves. The independence of the legal adviser is an essential element in the discharge of his/her functions. This is true regardless of the actual location of the legal office in the structure of each organization.31

Based on a comparison of the organizational charts of the UN and a number of UN specialized agencies, which all “show the existence of a legal office,” the Memorandum affirms that “the principle of independence of the legal adviser is common to the entire United Nations system.”32 Moreover, the Memorandum makes a direct link between the independence of the legal

29 Wood (n 3), para 33.
32 ibid, para 4.
adviser in UN organizations and the place of the adviser or the legal office within each of these organizations: based on a comparison between the UN and specialized agencies, the Memorandum indicates that “the established practice in the United Nations and the specialized and related agencies point to the legal office being entirely on its own” and that “the Legal Adviser reports directly to the Director-General, i.e., that he is not under the instruction of another official who has not been appointed as legal adviser.”

In the same vein, according to UN practice, there can only be one legal service per organization:

The practice in the United Nations and the specialized agencies has been unfailingly to have an independent unified legal service headed by one legal adviser and not several legal advisers dispersed in different offices of the organization. The reason is that an international organization needs to be consistent in its legal practices and relations and in the interpretation of its rules. Otherwise, it will be open to legal challenge and criticism from contractors, staff members, governments and other entities. The necessary consistency in the legal area is ensured by the legal adviser who reviews the drafts prepared by his office.

The example of the EU shows that this central tenet does not necessarily hold across all international organizations; several EU institutions and bodies have their own Legal Service (e.g., the Commission, Council, European Central Bank, European Parliament), Legal Directorate (e.g., the European Investment Bank) or Legal Department (e.g., the European External Action Service).

The UN Interoffice Memorandum provides a few other interesting points regarding the tasks and organization of the legal service/office. As for its tasks,

33 ibid, para 14. “For example, in the United Nations, the Legal Office is a separate office, in IAEA it is now again a separate office reporting to the Director-General after having been an office in the Department of Management. In WHO, the Legal Office is a separate office, reporting to the Director-General. In FAO, the Office of the Director-General is surrounded by a cluster of independent offices fulfilling a variety of functions, among them the Legal Office, the Office of the Inspector-General, the Special Advisers to the Director-General, the Office of Programme Budget and Evaluation. Likewise, in ICAO and IFAD the Legal Offices are separate offices, with direct reporting lines to the Secretary General and the President, respectively.” (ibid)

34 ibid, para 3.

35 ibid, para 4 (emphasis in the Memorandum itself).


37 For a (partial) historical account, see Jean Paul Jacqué, ‘The Role of Legal Services in the Elaboration of European Legislation’ in Antoine Vauchez and Bruno de Witte (eds), Lawyering Europe: European Law as a Transnational Social Field (Hart Publishing 2013) 43. See also infra.
the Memorandum emphasizes that they are essentially *advisory* and they do not incorporate the administration or management of programs:

> It should also be clearly understood that the role of the legal service in any organization is to independently assist the secretariat and its divisions, branches and sections in the day-to-day administration of their mandates and programmes through the provision of legal services. In accordance with its terms of reference, the role of any legal service is advisory. It does not administer. In other words, in accordance with their terms of reference, the day-to-day administration of the work pursuant to the applicable rules is the job of the respective branches and units. For example, the financial services administer the financial regulations and rules, the human resources management branch the staff regulations and rules, and procurement section the financial rules concerning procurement. The administration of these rules is therefore the professional responsibility of the respective staff under the supervision and guidance, as required, of their directors who are responsible for the proper functioning of their services. The legal service comes in when there is a question with legal implications that cannot be solved by the institutional knowledge of the service involved.\(^{38}\)

In terms of the actual organization of the legal service/office, reference is made to internal documentation systems:

> It should be noted that apart from the professional experience and thorough knowledge of international and administrative law and the working of the Organization shared among the legal adviser and the lawyers working with him or her and on which all legal advice is necessarily based, the Legal Office is also the depository of the centrally collected relevant legal documentation that is indispensable for researching precedents in given cases. Presently, the Legal Library comprises approximately 1,000 chronological and subject files as well as an extended collection of other legal documents and literature.\(^{39}\)

The Memorandum concludes that:

> [i]n all organizations of the United Nations system, the legal adviser provides independent legal advice directly to those who request it and who, in the exercise of his/her mandate, does not receive instructions from another official. As a rule, the legal office is a separate and independent office reporting directly to the head of the organization.\(^{40}\)

Looking at individual organizations, the mandate or mission statement of the legal adviser/office/service is sometimes explicitly laid down in an organiza-
tional document, sometimes it is not. For instance, in the case of the FAO, the organization’s Administrative Manual provides that:

[the Office of the Legal Counsel ensures that the Organization’s activities are carried out in accordance with its Constitution and the other Basic Texts of the Organization, in a manner consistent with its status as an inter-governmental organization of the United Nations system, and that its relationships with governments, organizations and individuals are on a sound legal basis.]

In the case of UNESCO, one finds the mandate of its Office of International Standards and Legal Affairs (LA) described in a budgetary document, established for one of UNESCO’s recent General Conference meetings, held in 2019:

The Office of International Standards and Legal Affairs (LA) is a corporate service reporting directly to the Director-General. The responsibilities of the Office are:

(i) to provide legal advice to the General Conference, the Executive Board and various meetings convened by UNESCO and to all the intergovernmental bodies established by the General Conference and the Executive Board and those established for the implementation of the conventions;

(ii) to provide legal advice on questions arising for the Organization, from its Constitution, statutory texts and regulations, and its privileges and immunities; to provide advice on the conclusion and application of agreements with Member States or other organizations and on contracts to which the Organization is a party;

(iii) to represent the Organization before the Administrative Tribunal of the International Labour Organization and other international tribunals or dispute resolution boards;

(iv) to assist in the drawing up and application of international standard-setting instruments and to exercise depository functions on behalf of the Director-General in relation to international treaties; and

(v) to serve as the secretariat of the Committee on Conventions and Recommendations of the Executive Board and of the Credentials Committee and the Legal Committee of the General Conference.

Special mention should be made here of the EU. This volume contains a contribution on the role of the Council Legal Adviser to the Council of the EU. However, as indicated above, several EU institutions have a sizeable Legal Service. This applies, in particular, to the Commission, the European

---

41 FAO, Administrative Manual, para 107.3.11, quoted in Chapter 5 of this volume by Annick Vanhoutte and Donata Rugarabamu.
Parliament,\textsuperscript{44} and the European Central Bank. It would have gone beyond the scope of this book – but would certainly have been interesting – to study and compare these different legal services as well as those of other bodies, including the European Investment Bank, the European External Action Service, and/or other particular EU agencies. While Jean-Louis Dewost observed that the legal services of the Council and the Commission constitute the same job and noted that they serve the same ambition – namely to defend the general interest, incorporated in EU law, vis-à-vis particular interests\textsuperscript{45} – it is clear that the business cultures and approaches to EU law exhibited by the various EU legal services display differences. These relate, \textit{inter alia}, to the specific roles of each institution or body within the overall EU institutional framework.

5. \textbf{CONTRIBUTION TO RULE OF LAW, HUMAN RIGHTS, INTERNATIONAL LAW, AND LAW OF INTERNATIONAL ORGANIZATIONS}

The contributors to this volume were asked to provide assessments of the contribution that their relevant legal adviser and legal office have made to respect for the rule of law, human rights, international law, and the law of international organizations.

The first loyalty of a legal adviser in an international organization is clearly held towards the constituent instrument of the organization. As the constituent instrument is, typically, a multilateral treaty ratified by each of the organization’s Member States (e.g., the Constitution of the UPU), it is obviously binding upon them. However, as explained by Lisa Tabassi and Stephen Walsh, the OSCE offers an interesting example of an international organization which does not have a treaty-based constituent instrument.\textsuperscript{46}

The constituent instrument of an international organization – aptly called the “Constitution” in various organizations, including the FAO, UNESCO, and


\textsuperscript{45} Dewost (n 43) 148: “\textit{un même métier, au service d’une même ambition}”; “\textit{Il s’agissait toujours de défendre l’intérêt général, incarné dans le droit communautaire, face aux divers intérêts particuliers}.”

\textsuperscript{46} This continues to have an impact on the legal status and operation of the OSCE: see \textit{inter alia} the contributions to Mateja Steinbrück Platise, Carolyn Moser and Anne Peters (eds), \textit{The Legal Framework of the OSCE} (Cambridge University Press, 2019).
UPU – typically lays down the mandate, tasks, and powers of the organization; the accession, suspension, expulsion, and/or withdrawal of Member States; the types of membership (e.g., the FAO has three categories: Member Nations, Associate Members, and Member Organizations. The latter stands for regional economic integration organizations (REIOs), for the time being only the EU); the powers of and relations between the institution’s organs; the procedure for establishing subsidiary bodies; the decision-making processes; and the types of normative instruments the organization can adopt.

Several international organizations also have “essential” documents, which are binding upon all Member States. For example, next to its Constitution, the UPU also has its General Regulations and its Universal Postal Convention and Regulations, to which all UPU countries are bound. An organization will also, typically, enter into an agreement with its host State(s) and will have an agreement or protocol on privileges and immunities.

Further down the line, the legal service will typically advise on other internal instruments: from staff regulations and rules to financial rules and regulations and regulations on the organization’s pension fund.

Interestingly, various international organizations have updated their mandates through instruments that are separate from the constituent instrument: for example, the FAO’s core functions were revisited in its Reviewed Strategic Framework, endorsed by the FAO Conference in 2017. For NATO this process has been more fluid and pragmatic, as testified to by Steven Hill.

Certain international organizations manage an impressive variety of legal instruments. For example, UNESCO has seen 30 Conventions, adopted either by the General Conference or under its auspices by international conferences of States; 34 Recommendations; and 14 Declarations. The FAO also manages numerous diverse legal instruments, including multilateral treaties approved under Article XIV of the FAO Constitution; multilateral treaties developed outside the FAO framework, in relation to which the FAO Director-General has been asked to discharge depositary functions; and a variety of voluntary instruments. The FAO Legal Office (in cooperation with the technical departments) offers guidance on all these documents. The ultimate champion in this respect, however, is probably the ILO, which has seen the elaboration of no

---

47 See at https://www.fao.org/legal-services/membership-of-fao/en/. The two Associate Members are the Faroe Islands and Tokelau.
less than 190 conventions with social standards and 206 recommendations over the course of its 100-year existence.\textsuperscript{50}

6. CHALLENGES AND OPPORTUNITIES FOR LEGAL ADVISERS IN INTERNATIONAL ORGANIZATIONS

Due to their rather distinct role, legal advisers in international organizations face unique challenges but also novel opportunities.

6.1 Challenges

Work overload is a significant challenge for many legal advisers, especially those working in small legal offices, with limited legal teams and support staff. As indicated above and demonstrated throughout this volume, legal advisers in international organizations have extensive mandates. The typical role of an adviser in an international organization involves a broad advisory function; negotiation responsibilities; external representation tasks; as well as support, drafting, compliance, and integrity and standard-setting roles and functions. Furthermore, the typical adviser has diffuse dispute resolution responsibilities: they typically act in various roles from mediator to litigator, including representation of their organization before internal and external legal mechanisms defending the interests of the organization, especially in the context of staff disputes.

In some organizations the legal adviser also plays a role in management: either advising the organization’s executive organs on the legal aspects of strategy, policy, and procedure or playing a more direct role “as management,” i.e., directly developing, shaping, and implementing policy. In other organizations the legal office will be tasked with performing an administrative role, beyond their legal tasks.

Such broad mandates raise the potential for overload. However, the role of the legal adviser in an international organization extends further, transcending a traditional “in-house” advisory role. Like in-house counsel, legal advisers in international organizations are responsible to the governing bodies and senior management of their organization. But as the contributions within this book demonstrate, these bodies are often complex, come with intricate mandates,

\textsuperscript{50} A truly impressive, edited volume was published and made available online upon the celebration of the centenary of the ILO. See George P Politakis, Tomi Kohiyama and Thomas Lieby (eds), \textit{ILO 100. Law for Social Justice} (International Labour Office 2019) available at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---jur/documents/publication/wcms_732217.pdf.
and operate according to complicated rules and regulations. To compound this increased responsibility, the legal adviser also frequently has the task of advising Member States on issues relevant to the organization, including the interpretation of institutional texts, rules, regulations, and procedures. Furthermore, legal advisers in international organizations must contemplate and navigate the political issues inherent to the life of an international organization. The line between the political and the legal is often fine and sometimes unclear. The adviser must always proceed with care, weighing up political sensitivities and reputational risks both for the organization and their own person.

Finally, the legal adviser in an international organization will play the essential role of contributing to the development of international law, defending the international rule of law, and promoting and protecting human rights. Given this labyrinth of tasks and responsibilities, work overload is a very real and significant potential issue for advisers and their legal teams.

Adding to the political issues that advisers must personally navigate, some contributors to this volume note the increasing politicization of their organizations as well as the rising trend and threat of political anti-multilateralism. This issue is an institutional challenge in and of itself. UNESCO provides a case in point (Chapter 6). As Milburn and Claxton-Proust discuss, in 2011, after several requests for admission, UNESCO accepted Palestine’s bid for membership. In response, both the United States of America and Israel made decisions to withhold financial contributions to the organization, and both States subsequently withdrew from UNESCO in 2017 – with their withdrawals taking effect from 31 December 2018. This turn of events caused a financial crisis at UNESCO, with politics being prioritized over the organization’s mandate.

On a similar note, due (in part) to the global COVID-19 pandemic, the World Health Organization (WHO) now operates in a tense political context, where multilateralism is essential, but distrust and unilateral approaches threaten cooperation (Chapter 8). The International Atomic Energy Agency (IAEA) also faces significant politicization, especially in the context of dealing with Iran’s Nuclear program, nuclear safeguards, and the IAEA Low Enriched Uranium Bank (Chapter 11). With the war in Ukraine raging and tensions in Asia, Africa, and the Middle East either heightening or rumbling on, the political spotlight also shines ever more brightly on the work of NATO and SHAPE (Chapters 14 and 15).

Another challenge facing international organizations concerns their institutional memory. The great paradox of the digitalized era is that much of the work performed by legal advisers is contained in e-mail messages that risk being lost. It is important that each international organization sets up and maintains a proper system for archiving this “less formal” legal practice, so it
can be kept available and accessible for future generations. This is an increasingly important issue given the growing propensity for cyber hackers and those practicing cyber warfare to target institutional servers and repositories.

6.2 Opportunities

Many issues that concern legal advisers of international organizations cannot be handled in isolation. This means that effective collaboration and coordination with colleagues, who are focused on multiple areas of the law and who hold varied legal expertise and experiences, is beyond valuable; indeed, the maintenance of a collegial network is essential for legal advisers in international organizations.

The need for advisers to liaise with each other and share useful information, ideas, practices, expertise, and experiences, both within and across institutions, has been addressed through the formation of various professional networks. While some are informal, others are more institutionalized and ingrained within a particular international organization, such as the three legal advisers’ networks of the UN system, the Committee of Legal Advisers on Public International Law (CAHDI) in the Council of Europe, and the Working Party on Public International Law (COJUR) at the Council of the EU.

In his contribution (Chapter 2), current UN Legal Counsel Miguel de Serpa Soares discusses the three UN legal advisers’ networks: the network of the Legal Advisers of the specialized agencies and related and other organizations of the United Nations System; the network of the Legal Advisers and Legal Liaison Officers of the United Nations Offices, Funds, and Programmes; and the network of Field Legal Advisers and Field Legal Officers of UN peace operations. All three are facilitated by the Office of Legal Affairs of the United Nations Secretariat (UN OLA).

Serpa Soares identifies these bodies, which typically meet once per year under the chairpersonship of the Legal Counsel of the United Nations, as crucial venues that provide legal advisers with the opportunity to discuss legal

---

51 Interestingly, since 2014, e-mail legal advice has been included, from time to time, in the UN Judicial Yearbook (this echoes the previous intermittent inclusion of legal advice made via facsimile). Despite such developments, publication is very unevenly spread across the various UN organizations: e.g., in the 2015 issue, e-mail advice was only made available by UNIDO. See United Nations, United Nations Judicial Yearbook 2015 (United Nations 2020) 354–380.


issues of common interest and concern. They also foster cross-office cooperation, allow for the effective sharing of important information, and, in the words of Nannini and Burci (Chapter 8), “provide a unique opportunity for participants to share updates, facilitate discussion, and exchange experiences on the variety of legal challenges that affect the United Nations and its agencies.”

Both Serpa Soares and his predecessor Hans Corell (Chapter 3) note that the networks have the effect of improving coordination and communication and promoting system-wide legal coherence at the UN. In a recent interview, Serpa Soares emphasized their value:

I myself chair three different informal networks of legal advisers … There’s a network of legal advisers with all the specialized agencies that meets once a year; (there is) also an annual meeting of the legal advisers of the UN Offices, Funds and Programmes; and an annual meeting of the Field Legal Advisers in the peacekeeping and special political missions. We usually have two days of meetings with a set agenda but very informal discussion, focusing on the specific problems that we think are common to the different institutions. I’m a big supporter of these informal forums. People can speak freely, there’s no outcome(,) no formal document to adopt, it’s really a peer conversation and I find it very helpful. What these things are, mostly, is an exchange of knowledge.54

The value, significance, and importance of the UN networks are not lost on Corell either; indeed, when reflecting on his experience chairing network meetings, he describes them as:

A fascinating experience. In our meetings, we discussed questions of common interest; we were all lawyers, speaking on the same wavelength; however, behind every colleague in the room was the specialist knowledge of the particular organization that colleague represented. Collaboration among legal advisers in the field of international law is extremely important, whether they serve in ministries of foreign affairs or in international organizations.

The networks have the advantage of being less bureaucratic, less formalistic, and more flexible than formal communications between separate agencies and organizations. This facilitates a free exchange of ideas and information. Trebilcock has noted the value that informality brings, describing the networks as “an extremely valuable safe space in which to have an exchange, a frank

exchange, around a lot of operational issues, occasionally a hot-button political issue."\textsuperscript{55}

It is not only formal networks that benefit legal advisers; indeed, several contributors strongly emphasize the importance of informal networking. Corell notes the long-standing and robust traditions of close cooperation between dedicated organizations and the Legal Office of the UN,\textsuperscript{56} which has contributed greatly to legal developments in international law and the law and practice of international organizations.

On this point, Serpa Soares points out that the Legal Counsel of the United Nations has regular contacts, meetings, and exchanges with counterparts in other international or regional organizations, including the African Union (AU), the EU, the Organization of American States (OAS), the League of Arab States (LAS), the Asian-African Legal Consultative Organization (AALCO), and CAHDI.

Serpa Soares also emphasizes the importance of legal advisers coalescing informally around more formal meetings. For him, the importance of informal networking cannot be overstated, as it provides lawyers with an opportunity to mix, exchange views, and form the types of bonds and relations that allow them to become a valuable resource for one another.

The Council of Europe and the EU both ensure that networking between legal advisers of international organizations occurs in Europe, through CAHDI and COJUR respectively. Both are, predominantly, forums for Member State discussions on international legal matters; however, both provide the opportunity for legal advisers of international organizations to come together. For example, CAHDI meets twice a year, bringing together the legal advisers of the Council of Europe’s (now) 46 Member States and representatives from observer States; however, it also invites legal advisers from observer inter-

\textsuperscript{55} Anne Trebilcock, quoted in George P Politakis, Tomi Kohiyama and Thomas Lieby (eds), \textit{ILO 100. Law for Social Justice} (International Labour Office 2019) 709 available at https://www.ilo.org/wcmsp5/groups/public/-/-dgreports/-/-jur/documents/publication/wcms_732217.pdf. The UN Legal Counsel, Miguel de Serpa Soares, confirmed that these meetings are very useful: “our agendas tend to be very focused. So, we do not need to discuss the future of the world and other metaphysical questions. We tend to focus on what is troubling us. High on the next agenda are, for instance, issues of data protection, how to react to the entering into force of the new European Union data protection regulation,” \textit{ibid}, 697.

\textsuperscript{56} See e.g., the case of the Asian-African Legal Consultative Organization (AALCO). The UN OLA has had long-standing and close cooperation with AALCO. When it is possible the UN Legal Counsel or Assistant Secretary-General for Legal Affairs assists in AALCO’s annual session: see, e.g., UN OLA, ‘Activities of the Legal Counsel of the United Nations’ (UNOLA, 8–11 October 2018) available at https://legal.un.org/ola/lc-AALCO-Tokyo-10-2018.aspx.
national organizations. One such organization is the OSCE, and, in Chapter 16, Lisa Tabassi and Stephen Walsh note how CAHDI, much like the UN networks, provides the opportunity for OSCE legal advisers to discuss matters of common interest with the legal advisers of other international organizations. Other formal and informal networks exist on the European continent, for example the network of Legal Advisers of Co-ordinated Organisations (COLA), which brings together a number of international organizations based in Europe. The OSCE also operates its own network, organizing the annual "OSCE Legal Roundtable" in Vienna, which gathers the principal legal practitioners of the OSCE structures for a discussion about common legal issues and developments. The OSCE’s Office of Legal Affairs also meets on a regular and informal basis with counterparts from the legal departments of other Vienna-based international organizations.

6.3 Legal Advice at and Across International Organizations: A Unique Profession?

The growth and proliferation of professional networks and the fact that they are so valued by practitioners makes clear that the offering of legal advice within an international organization is a career pathway in and of itself, with its own unique aspects, pitfalls, and best practices. While some contributors to this book are true specialists, others have worked as legal advisers at different international organizations, with several having held positions at organizations with very different mandates. This indicates that one can make a career as an "international organizations lawyer."

On this note, Serpa Soares emphasizes his efforts to “foster and support … the exchange of legal personnel amongst and between the entities of the UN-system … to the maximum possible and practicable extent.” This is a clear recognition that the skills used by lawyers in international organizations are transferable, applicable, and useful across organizations. Legal advisers of international organizations operate in the spaces where legal advice, interna-

---

57 ‘Co-ordinated Organisations’ refers to several international organizations that have a common system of remuneration and pensions, and who are members of the Co-ordination System. Included are the Council of Europe, the European Centre for Medium-Range Weather Forecasts (ECMWF), ESA, the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT), NATO and the OECD. See https://en.wikipedia.org/wiki/Co-ordinated_Organisation. Exchanges between the legal advisers pertain inter alia to staff issues (e.g., salaries and pensions), the case-law of international administrative tribunals, the practice of headquarter agreements, issues related to immunities.
tional civil service, and politics converge, and one could argue that this role is unique enough to be considered its own distinct profession.

7. STRUCTURE OF THE BOOK

As indicated above, the present volume navigates a path along which the reader can, chapter by chapter and organization by organization, gain an understanding of the activities of legal advisers across a variety of prominent international organizations. Along this journey one can distinguish global organizations from regional and cross-regional organizations. It is worth keeping in mind, as the reader proceeds, the influence(s) that a near-universal global membership of States may have on an organization, e.g., at the UN, UNESCO, or IMO, compared with the influence(s) a more homogenous group of States may have on an organization, e.g., at the EU, NATO, or ESA.

In practice, all the international organizations considered demonstrate a number of similarities, especially when it comes to the so-called “in-house” tasks of legal advisers and their offices. Although shaped by institutional differences and differences in organizational legal frameworks, these tasks might be called the “standard tasks of lawyers in an international organization.” They typically include: advice on legal, institutional, and organizational questions of significance; external representation of the organization, including litigation before internal and external justice mechanisms; policy, management, and administrative support; the drafting of legal documents and draft legislation; compliance work; and standard-setting roles and functions, relating both to formal international treaties and non-binding, soft law standards, as well as all legal documents in between. These tasks, although they manifest in different ways from organization to organization, are raised and are familiar within each chapter.

Along with similarities, however, come tasks, practices, and issues that are distinct and particular to certain organizations. Sometimes, these distinguishing factors merely stem from the distinct mandates, institutional structures, and activities of the individual organizations; however, at other times, they are utterly sui generis.

7.1 A Tale of Similarity and Difference

For example, in Chapter 2, Serpa Soares notes that, beyond its core legal advisory, litigation, and services roles, the Office of Legal Affairs of the UN Secretariat (OLA) plays a crucial role promoting and facilitating cooperation across the dynamic and highly varied legal offices and services of the UN system. In this respect, Serpa Soares and, in the subsequent chapter, Corell both provide a brief history of UN legal cooperation, including a focus on the
UN’s three legal advisers’ networks. Beyond this unique aspect of the UN system and the adviser/OLA’s roles, both the adviser and their office ensure the legal coordination of UN peace missions, which is a task analogous only to the work of lawyers at the EU, NATO, and SHAPE (see Chapters 12, 14, and 15).

On a similar note, in Chapter 4, Ricardo Guilherme Filho and Melony Morgan sketch out several unique aspects relating to the role of the Universal Postal Union’s Legal Affairs Directorate (UPU LAD). LAD acts as the guardian of the UPU’s conventions, including its unique non-permanent legal acts, which are frequently amended at UPU congresses. Filho and Morgan describe how LAD’s work is both rather typical for a legal office of an international organization but also rather unique, for example it also provides legal advice, mediation, technical advice, and liaison work outside of the organization itself: to the UPU’s broad range of stakeholders, including Member Countries, designated operators, and other postal sector entities. Filho and Morgan also highlight a potential future UPU contribution to the international legal landscape: namely a proposal for the creation of (i) a dispute settlement mechanism for postal disputes; and (ii) an informal communication mechanism for customer complaints against designated postal operators. As the reader will continually observe, providing new contributions to international law is a basic task for most, if not all, legal advisers at international organizations.

Annick Vanhoutte and Donata Rugarabamu (Chapter 5, FAO), Maria Vicien Milburn and Chantal Claxton-Proust (Chapter 6, UNESCO), and Ludwig Weber and Artur Eberg (Chapter 7, ICAO) contemplate, respectively, the functions of the FAO Legal Office, the diverse and varied responsibilities of the UNESCO Legal Adviser, and the work of the International Civil Aviation Organization’s (ICAO) Legal Affairs and External Relations Bureau and its Director. Although each of these legal offices performs standard in-house counsel services to their respective organizations, all also perform more unique roles in their daily practice.

The FAO’s Development Law Branch, for example, fulfills the novel role of providing advice and technical assistance to a range of actors on technical legal aspects relating to food and agriculture; the UNESCO Legal Office plays a significant role as the Secretariat of the Committee on Conventions and Recommendations, which examines the communications of individuals whose individual human rights have been violated in UNESCO’s fields of competence; while ICAO’s Legal Affairs and External Relations Bureau is centrally involved in hard law creation, oversees mandatory and universal audit programs for aviation safety and security, acts as a focal point for ICAO’s relations with external entities, and plays a crucial role in the settlement of disputes.
Similarly, Claudia Nannini and Gian Luca Burci (Chapter 8) note that although many of the legal services provided by the WHO’s Legal Office continue to fall within the typical functions of a large institution’s legal office, the demands placed on the Office by the WHO’s governing bodies and senior management transcend this traditional in-house role and have required the Office to innovate, increasing its impact on the development of international law. This inclination towards innovation has become all the more apparent as the WHO’s role has become increasingly politicized.

In Chapter 9, Frederick J. Kenney and Simone Egerton outline unique aspects of the International Maritime Organization (IMO) and its Legal Office’s crucial role in the regulation of shipping safety and security as well as the protection of the marine environment from the consequences of shipping. They detail the IMO’s expanding mandate, which has evolved as new treaties have responded to developments in shipping. In this respect, the IMO is conspicuous by its sheer weight of activity: it is responsible for over 50 treaties, and its Legal Office plays a significant role in treaty-making and international regulatory processes. This role is all the more unique, given the Office is tasked with overseeing the specifics of the IMO’s tacit acceptance procedure, which is applied in the context of amendments to most IMO treaties.

Chapter 10 also contemplates a very particular issue, which is dealt with by the legal counsels and lawyers of the various organizations that make up the World Bank Group (WBG). Recognizing the detrimental effects of fraud and corruption that have plagued multilateral development bank (MDB) projects and development efforts, the WBG implemented a sui generis formal sanctions system, which suspends and debars actors found to have engaged in misconduct on WBG-financed projects. Pascale Hélène Dubois, Frank Fariello, Collin Swan, Corinne Champilou, Sheherezade Malik, and Naicheng Deng have all been intimately involved in the WBG’s suspension and debarment system, and they come together in this volume to describe the objectives and historical development of the system; detail the context in which it operates; delve into its structure and current operating norms; analyze the critical role of the World Bank Legal Vice Presidency; and provide an overview of the system’s major contributions vis-à-vis the development of legal norms in suspension and debarment. The innovative nature of the system has had a major influence on international law-making and maintenance of the international rule of law: it has contributed to the development of legal norms; spread to multiple international financial institutions; influenced national legal systems and other international organizations; and fostered innovative harmonization efforts and effective cross-debarment agreements with other MDBs. In this way, the WBG’s Sanctions System is a story of difference; however, it is also a story of innovative international law-making and successful efforts to bolster the rules-based international order.
Staying on the topic of significant contributions to the international rules-based legal order, Peri Lynne Johnson’s contribution (Chapter 11) offers an overview of the structure and roles of the IAEA’s Legal Adviser and Office of Legal Affairs (OLA) and details their contribution to ensuring nuclear safety, security, and safeguards and the use of nuclear technology for peaceful purposes. As Johnson demonstrates, the IAEA’s specific nature provides the Adviser and OLA with an expansive and varied set of tasks, which often require specialist knowledge and the development of solutions to politically sensitive or novel issues. This includes critical roles in the development of the broader international nuclear legal framework as well as unique and politically sensitive work on emerging issues in nuclear safety and technology use.

In Chapter 12, Ricardo Gosalbo Bono and Frederik Naert offer the first look at legal work in a regional organization: the Council of the EU. The chapter is highly informative due to the unique nature of the EU, both as a regional international organization and as a *sui generis* legal order. In this context, Gosalbo Bono and Naert consider the roles of the Legal Adviser (CLA) and Legal Service (CLS) of the Council and the European Council; outline the situation of EU law following the entry into force of the Treaty of Lisbon; and consider the ways the rule of law is protected in the Union, highlighting the unique role of the Court of Justice of the EU. The EU’s story is not purely one of difference; most of the six directorates of the CLS focus on standard tasks of lawyers in an international organization; however, the Legislative Quality Directorate plays a completely novel role relative to legal offices in other organizations. It ensures the quality of legal acts adopted by the Council and makes sure that the acts have an identical meaning across all 24 EU official languages. Due to the nature of the EU, the CLS also has a highly unusual and prominent role in international law-making. It facilitates the development, clarification, implementation, and enforcement of both EU law and international law; has played a central role in the development of the EU Treaties; and, due to the enigmatic relationship between EU law and international law, is frequently confronted by complex legal issues, most notably inconsistencies between EU and international law.

Nicola Bonucci provides another insight into difference in legal practice at an international organization (Chapter 13). Bonucci clarifies that although the Organisation for Economic Co-operation and Development’s (OECD) General Counsel and Directorate for Legal Affairs (DLA) perform many of the standard tasks of lawyers in an international organization, their roles and contemporary practice are evolving as they deal with the issue of future OECD enlargement. The DLA is performing this role while adjusting to a new bi-divisional structure and dealing with growing external political pressures and competing Member State priorities. Despite these difficulties, Bonucci elucidates the OECD’s status as a prominent global standard-setter: pointing
to its influences on the “corporate social responsibility” and “polluter pays” concepts, the tax sector, anti-corruption activities, and public and private governance norms.

Chapters 14 and 15 are closely related and both emphasize the ideas of similarity and difference. In the former chapter, Steven Hill elucidates how international law and day-to-day legal advice are practiced at the Office of Legal Affairs, NATO Headquarters (NATO OLA). He notes that although most of NATO OLA’s day-to-day activities are similar to those of lawyers at other international organizations, other select challenges are inherent and unique to NATO lawyers, who require significant and specialized expertise to contribute to and enable NATO’s missions. Andrés B. Muñoz Mosquera and Borja Montes Toscano build on Hill’s foundations in Chapter 15. Again, they stress that many of the institutional challenges facing the Office of Legal Affairs, Allied Command Operations, Supreme Headquarters Allied Powers Europe (ACO OLA SHAPE) may be similar to those of other international organizations; however, they are also clear that the operational challenges facing NATO legal offices are very distinct. As the authors explain, the most prominent challenges are those associated with gray zone/hybrid warfare, lawfare, and legal domain; the delineation of rules of engagement; and detention in the context of non-international armed conflict.

In Chapter 16, Lisa Tabassi and Stephen Walsh emphasize a similar narrative, but they also focus on the significant influence that politics and legal uncertainty can have on the work of advisers in international organizations. The Organization for Security and Co-operation in Europe (OSCE) is, after all, a forum for political dialogue and a platform for joint action on a variety of security issues. Furthermore, unlike most international organizations, the OSCE is not treaty-based. This injects an element of complexity into the legal issues that arise for the OSCE’s Legal Adviser and OLA, especially as debate persists, among OSCE States and academics, as to whether the OSCE possesses international legal personality, privileges and immunities, and/or legal capacity. This rather unique layer of complexity is exacerbated by the fact that OSCE personnel often work in dynamic security environments and are often secondees; the sometimes complex and fragmented relationships between OSCE organs; and the presence of separate treaty bodies operating on OSCE premises.

Finally, in Chapter 17, Marco Ferrazzani describes the European Space Agency’s (ESA) role as lawmaker as well as the roles of the ESA Legal Counsel and Legal Services Department (LSD). In many ways the Counsel and LSD play a very typical advisory and representative role; however, they also deal with very unique and emerging legal issues, which are focused – quite literally – out of this world. The contribution of ESA and its legal advisers to international law creation is significant: ESA has taken numerous actions and
Initiatives on space law, and its European Centre for Space Law is often central when emerging space law issues are being contemplated.

### 7.2 Personal Insights

Institutional similarities and differences may be the centerpiece of this volume’s narrative, but for those interested in personal stories and experiences, value may also be found in the personal insights that emerge, chapter by chapter, from the contributors. These offer personality, anecdote, and crucial insight into the experience of acting as a legal adviser in some of the most prominent organizations of the global governance network.

In Chapter 3, Corell provides his incisive personal views on the roles of the legal counsel of an international organization and the international civil servant more generally. He also offers a fascinating window into some of the watershed moments during his career at the UN, reflecting on his personal and institutional experiences of prominent historical moments and events, encounters with famous and infamous individuals, and the UN OLA’s continuing efforts relating to gender equality, respect for the rule of law, human rights, international law, and the law of international organizations.

Nannini and Burci (Chapter 8), Johnson (Chapter 11), and Bonucci (Chapter 13) all provide eye-opening insights into the various political issues an adviser may face during their tenure. As Bonucci emphasizes, the OECD’s future enlargement has the potential to bring opportunity; however, it also presents potential risks, especially given the rising trend and threat of political anti-multilateralism and ingrained issues regarding the adaptability and flexibility of the OECD.

Nannini and Burci emphasize that global health governance is particularly affected by increasing politicization, especially the type of anti-multilateralism discussed by Bonucci. Political interferences and diverging state preferences always make legal work more difficult; however, it is the challenges to the very concept of multilateralism that are more concerning, and, as Nannini and Burci report, they are chipping away at the WHO’s mandate. Political and social responses to the COVID-19 pandemic have illustrated this, with misinformation and fake news challenging the WHO’s messaging and even the viability of some of its activities. Even before COVID-19, politicization had already penetrated the WHO’s agenda and led to shifting demands and expectations, placing significant pressures on the WHO Legal Adviser and their Office. These pressures have been exacerbated over the past years.

Political pressure is also significant at the IAEA; indeed, with nuclear weapons and technologies intimately involved in the IAEA’s work, it is not hyperbolic to state that the potential destruction of humankind is in play. In this context, the political pressures facing the IAEA and its legal team are
potentially extreme: this is exhibited by Johnson’s discussion of Iran’s nuclear program and the development of the IAEA’s Low Enriched Uranium Bank.

Finally, Kenney and Egerton close their contribution (Chapter 9) by offering fascinating personal and institutional insights into the practice of law at the IMO, including an explanation of the Legal Office’s changing role as the IMO transitions from an organization focused on law-making to a body focused on implementation.

8. CONCLUDING THOUGHTS

The narrative that emerges throughout this book is a story of similarities, differences, and personal experiences. All these factors come together to serve particular international organizations. They also coalesce in service of international law, the law of international organizations, and the protection and promotion of the international rule of law and, at times, human rights. All contributors make it clear that one of the most important roles played by legal advisers and legal offices in international organizations is that of contributor to and protector of the rules-based international order.

This is sometimes a formal role, for example where the legal adviser and legal office are responsible for drafting treaties or other international standards, where they are tasked with acting as a depository for important legal documents, or where they act as the recipient of communications within complaints mechanisms. Often, however, this role stems from an informal, albeit important, duty, as international civil servants and lawyers, to contribute to, protect, disseminate, promote, and defend the international rule of law, international law, and the law of international organizations.

In today’s world, characterized as it is by global uncertainty, conflict, climate change, migration, and rising political movements that place anti-multilateralism at the center of their political ideologies, this protection must often counter political wrangling. The contributions to this book remind us that beyond their traditional role as legal adviser and representative, all lawyers in international organizations must pay attention to the political aspects, implications, and consequences of their activities.

To conclude: “the legal adviser in an international organization” is embodied by five general characteristics:

1. They must be competent lawyers, who are skilled in the typical activities of an in-house lawyer: i.e., the “standard tasks of lawyers in an international organization.”
2. They must also be intimately familiar with the particularities of their own organization, including, rather obviously, the institutional framework and legal rules and procedures but also Member State sensitivities and the
politics inherent within and external to their organization. This requires flexibility, adaptability, and attention to detail.

3. They hold a dual role, as legal adviser to their organization but also as international civil servant and protector and promoter of international law.

4. They have much to learn from their colleagues and, indeed, rely on formal and informal legal adviser networks to share information, expertise, ideas, and best practices.

5. Finally, they carry with them their own experiences, built up over years of experience – whether it be cross-institutional or within a single organization – in what is, ultimately, a specialized profession.