

THE ROLE OF THE ATTORNEY-ADVISER IN THE U.S. DEPARTMENT OF STATE: INSTITUTIONAL ARRANGEMENTS AND STRUCTURAL IMPERATIVES

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I

INTRODUCTION

Given the importance of the work done by the Attorney-advisers in the Office of the Legal Adviser¹ of the U.S. Department of State, there is remarkably little literature on them, their role in the development of U.S. foreign policy, or the role or function of the Office itself. This may be attributable in part to the scant literature on lawyers in general. It may also be because, like most lawyers in government jobs, some considerable part of the Attorney-advisers' work is not generally available for public inspection and, if it were, it would reduce greatly their effectiveness as advisers and counselors. It is also possible that reviews of their work are scarce because the work itself is so complex and varied that it is impossible to get a handle on it without much more comprehensive, empirical research than any sensible Legal Adviser would allow. Of course, it

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Information for this article comes not only from the sources cited, but also from almost four years of service in the Department of State, first as Deputy Legal Adviser and then as Deputy Under Secretary for Economic and Agricultural Affairs and Ambassador for Trade and Environmental Affairs. The views herein are entirely my own, of course, and in no way reflect the views of the Department of State or the U.S. government.

In addition to my own experience and the articles cited, I have relied heavily on information and insight I received from numerous Attorney-advisers in the Legal Adviser's Office, information and insight not only generously provided during my tenure in the Department, but also in response to a simple questionnaire I distributed. I would like to thank the many who responded to this questionnaire and to my many follow-up oral and written questions. All were extraordinarily generous with their time and effort, and I am much in their debt. Particularly helpful were Evan Bloom, David A. Balton, Catherine Brown, Melinda Chandler, John Crook, Marina Gonatas, Robert Harris, James Hergen, Jeff Kovar, and T. Michael Peay. Of course, mistakes—both informational and analytical—are mine alone.

1. For somewhat obscure historical reasons—but now continued by the Department and all attorneys in the office out of a matter of fierce pride—the Legal Adviser is never designated by the more common American spelling of “advisor,” but rather by the older English spelling of “Adviser.”

is also possible that there is little to add to the description given by Professor Richard Bilder some thirty-six years ago.²

Frankly, I suspect each of these explanations is, in part, true. At the same time, four years in the Department of State left me with the impression that the role of the Attorney-adviser in the policy formation process was critical and generally little understood in legal or political science circles. Academic explanations of foreign policy development are too frequently fundamentally inadequate because they do not account for either the role of the Attorney-adviser or the importance of international law.

However, a mere description of the day-to-day work of the Attorney-adviser would not provide the necessary information to situate correctly either the Attorney-adviser or international law in the policy process. Moreover, that description has been done and done well before.³ Instead, one must have a much better sense of the institutional structures within which those policy dialogues occur and, equally importantly, the impact of those institutions and structures on the way in which Attorney-advisers operate and the way in which their work product is developed and introduced into the policy formation process. It is to that end that I write this article. In particular, I hope both to provide additional information about the structural and institutional imperatives that constrain and shape the work of the Attorney-adviser and to offer some rudimentary thoughts about exactly what kind of information and analysis is necessary to understand this complex process fully.

In gathering such information, I reviewed the existing literature, but the literature is sparse, often excellent, but sparse.⁴ Accordingly, I was forced to rely to some extent on my rapidly receding memories of almost four years of service in the Department of State during the Administration of President George Bush. One and a half of those years was spent in the Legal Adviser's Office; the remaining time was spent as a client on the policy side. Still, even this experience seemed woefully inadequate, so I did again what I so often did during my four years in the Department. I asked my friends in the Legal Adviser's Office. And, as always, they responded to my undoubtedly annoying questions with speed, insight, and deep understanding.

My rather casual and informal survey queried the nature of the work and the impact the Attorney-advisers thought they had in the policy formation and execution process. In the end, however, I was less interested in exactly how

2. Richard B. Bilder, *The Office of the Legal Adviser: The State Department Lawyer and Foreign Affairs*, 56 AM. J. INT'L L. 633 (1962).

3. For excellent discussions of the structure and work of the Office, in addition to Bilder, *supra* note 2, see John R. Crook, *Practicing International Law for the United States*, 6 J. TRANSNAT'L L. & POL'Y 1, 2 (1996); James G. Hergen, *Opportunities in Public International Law: The U.S. Department of State and Otherwise*, in CAREERS IN INTERNATIONAL LAW 135, 148-49 (Mark W. Janis ed., 1993).

4. See *supra* note 3. For an excellent discussion of the work of international legal counsel in other countries, see Gerald Fitzmaurice, *Legal Advisers and Foreign Affairs (Review Article)*, 59 AM. J. INT'L L. 72, 74 (1965) (reviewing LEGAL ADVISERS AND FOREIGN AFFAIRS (H.C.L. Merillat ed., 1964)). In his article, Judge Fitzmaurice, a former judge of the International Court of Justice, reviews a series of essays written by legal advisers from foreign ministries around the world.

important they considered their work than I was in the factors they identified as relevant in giving or depriving them of power and influence in the policy process. Most important, I wanted to know which institutional and structural variables shaped their professional judgment, activities, and degree of influence.⁵

The Attorney-advisers I questioned responded magnificently. Not only did most I ask respond, but they frequently identified and helped me analyze factors and variables I had not considered before. Indeed, this essay is as much theirs as mine.

II

THE PRACTICE OF LAW IN THE LEGAL ADVISER'S OFFICE

A. The Traditional Work of the Legal Adviser's Office

It is easy to summarize the work of the Legal Adviser's Office. Its own recruiting brochure describes it most succinctly: "The Office of the Legal Adviser furnishes legal advice on all problems, domestic and international, that arise in the course of the Department's work."⁶ Easy, but quite meaningless. A much better, more systematic and comprehensive discussion of the work of the Attorney-adviser is contained in Professor Richard Bilder's excellent article describing the Office, its history, and function.⁷ He outlines six main legal functions, including the Office as counselor, draftsman, advocate and negotiator, judge, and international law expert.⁸

Most attorneys responding to my informal survey did not categorize their work in precisely the same way as did Professor Bilder, but they did generally indicate that their main tasks were much like those he described more than thirty years ago, with three major additions, to which I will turn shortly. Most respondents indicated that they spent the majority of their time: researching and advising on international law issues (and the implications of international law on domestic law and vice versa); providing clearance on behalf of the Of-

5. At least some of these structural aspects of the Legal Adviser's job were discussed in a Report issued by an *ad hoc* committee, created by the American Branch of the International Law Association and the American Society of International Law, to study the role of the Legal Adviser. See *The Role of the Legal Adviser of the Department of State: A Report of the Joint Committee Established by the American Society of International Law and the American Branch of the International Law Association*, 85 AM. J. INT'L L. 358 (1991). This report reaches a somewhat more pessimistic set of conclusions than those offered by the majority of respondents to my survey. Frankly speaking, this may be due in part to the report's focus on the Legal Adviser himself, who, in all honesty, almost never seems a particularly powerful figure in the government, while I focus mainly on the Attorney-advisers whose influence generally seems surprisingly strong and pervasive. Nevertheless, this is an interesting report, written by people with long exposure to the Office. For an excellent commentary on the report, see Richard B. Bilder, *International Law and U.S. Foreign Policy: Some Reflections on the ASIL/ILA Report on the Role of the Legal Adviser*, 1 TRANSNAT'L L. & CONTEMP. PROBS. 201 (1991).

6. OFFICE OF THE LEGAL ADVISER, DEPARTMENT OF STATE, PRACTICING LAW FOR THE OFFICE OF THE LEGAL ADVISER 1 (1991).

7. See Bilder, *supra* note 2.

8. See *id.* at 639-41. He also has a seventh, catch-all category for "non-legal functions" of the Office, which may cover some of the work I describe immediately below. See *id.* at 641-42.

office of Legal Adviser on memoranda on various foreign policy issues that were to be presented to Department principals; attending both intra-departmental and inter-agency meetings, at which policies were developed, debated, and resolved; and negotiating and drafting international agreements.

B. Additional Tasks Assigned to the Office

The Attorney-advisers also clearly indicated, however, that they now spend considerable time in three areas that received either only passing mention or no mention at all from Professor Bilder. Perhaps as many as twenty percent of the attorneys in the Office are now engaged in routine legal work of the kind that comprises the bread and butter work of virtually any in-house legal counsel's office. They work on the legal aspects of personnel matters, including some very large discrimination lawsuits which have been filed against the Department over the past decade, building acquisitions, supply procurement, compliance with various budgetary rules and regulations, and the like.⁹

In addition, an increasingly large amount of time is spent reviewing and considering ethics and potential conflict of interest issues relating to Departmental personnel. All appointees to the Department at a certain level or above must fill out voluminous forms relating to all their financial holdings and dealings. These forms must then be examined to determine whether such dealings comply with the relevant ethics and disclosure laws. These review tasks, which are increasing every year, fall to a small band of Attorney-advisers in the Office.

Some respondents also indicated that responding to inquiries from Congress about various matters and demands for documents relating to numerous congressional investigations may occupy as much as fifteen to twenty percent of their time. In short, unlike earlier days in the Department, almost half of the attorneys in the Office are now engaged in work that is less like the purely international advisory work generally identified with the Office, and much more like the more routine in-house work that general counsel's offices perform in virtually any agency in the government.

9. This work tends not to be among the most favored in the Office and a number of accommodations have been made to Attorney-advisers to make it more palatable. First, some small number of attorneys have been hired specifically because of their expertise in these areas and then told, upon hiring, that their assignments will involve these matters for at least some considerable time. Rotation to other positions within the Office is not completely precluded, but these attorneys are hired with the understanding that such reassignment will occur, if at all, only after a substantial period of service in the position for which they are initially hired. A second solution to this problem has been the promise made to entering attorneys that their rotation in one of these offices would be followed by a rotation in one of the more interesting, desirable offices. This promise has generally been accompanied by the articulation of a vague policy that all new entrants to the Office must spend some number of their early years in one of these less desirable positions. Of course, this rotational pattern is probably observed in the breach just about as often as it is observed in actual practice, but it does help ameliorate the unhappiness in some small way. As an aside, over the years, many Attorney-advisers have expressed to me similar reservations about the more routine work involved in servicing the Iran-U.S. Claims Tribunal. Almost 20% of the attorneys in the Office spend virtually full time engaged in this work. The response of the Office to these expressions of unhappiness has been similar to that demonstrated in the case of the more general in-house legal work.

III

PARTICIPATION IN THE POLICY FORMATION PROCESS

Among the more interesting questions about the work of Attorney-advisers is the extent to which they give policy, as well as legal, advice. This inquiry is definitionally problematic because the distinction between “law” and “policy” is intrinsically hard to draw, and nowhere more so than in the case of “international law” and “foreign policy.”

The Office’s own recruiting brochure highlights the ambivalence about whether international law is indeed law in any meaningful sense, or merely a rhetorical framework into which one shoehorns policy debates. The brochure starts straight-forwardly by indicating, rather innocuously, that the Office provides “legal advice on all problems, domestic and international, that arise in the course of the Department’s work.”¹⁰ The uncertainty of the matter surfaces in the next part of the description, which suggests Attorney-advisers advise principally on foreign policy, and that international law is merely an afterthought:

This advice includes assisting Department principals and policy officers in formulating and implementing the foreign policies of the United States and promoting the development of international law and its institutions as a fundamental element of those policies.

Attorneys in the Office . . . contribute to the development and conduct of U.S. foreign policy and . . . work directly with high-level U.S. and foreign officials, the Congress, and White House staff. . .¹¹

However, these thorny theoretical and practical problems do not long detain the attorneys actually working in the Office. Even more to the point, the manner in which the attorneys dismiss this conflict in their own minds is very interesting. By and large, they consider themselves engaged in very lawyerly tasks and, while recognizing the sometimes rather hazy and inconclusive norms that comprise international law, they nevertheless see themselves as doing things not all that different from lawyers in other departments of the U.S. government and even in the private sector. They see themselves as, first and foremost, practicing law.¹²

Given how much “international law” reflects—and in some cases may be coterminous with—policy, however, it is interesting to examine much more closely how much—and how—Attorney-advisers think they participate in the

10. See OFFICE OF THE LEGAL ADVISER, *supra* note 5, at 1.

11. *Id.*

12. The recruiting brochure recognizes this in the end, when describing in detail the precise kinds of tasks that occupy the time of the Attorney-adviser. The brochure continues, “Typically, attorneys draft, negotiate, and interpret international agreements, domestic statutes, federal regulations, executive orders, and other legal documents and provide guidance on questions of international and domestic law.” *Id.* And those tasks—coupled with “represent[ing] or assist[ing] in representing the United States in meetings of international organizations and conferences . . . [and] represent[ing] the United States before international tribunals such as the International Court of Justice and the Iran-U.S. Claims Tribunal, as well as international arbitrations”—pretty much cover the range of activities in which the Attorney-advisers describe themselves being engaged (and, frankly speaking, in which I generally found myself engaged during my few years of service in the Office). *Id.*

policy formation process. Professor Bilder notes that “the distinction between ‘law’ and ‘policy’ is, as a practical matter, hard to draw and harder to maintain.”¹³ He further notes that Attorney-advisers may well have “considerable influence” on policy matters for a variety of reasons, including the personal prestige and respect they earn with their clients, their analytical ability and articulateness, and their background, knowledge, and expertise.¹⁴

Interestingly, in response to my questions about their role in the policy formation process, the Attorney-advisers largely downplayed their input and impact on actual choices among policy alternatives. A few acknowledged that because policy and law were often deeply intertwined, they inevitably played some role in the development of policy. Others indicated that they played a considerable role in devising tactics to achieve various policy objectives, especially in international negotiations. They offered views on the timing of presentation of issues, the order in which issues might be presented, the emphasis given to various issues, and the like. As a general matter, however, they claimed that they generally did not play any major role in choosing between possible policy alternatives.

Yet they did describe, with remarkable uniformity, three very particular roles in the policy formation process. First, they virtually all indicated that they provided advice and counsel regarding the consistency of various policies over time and across different geographical and subject matter areas. This ability to provide advice regarding the consistency of policy derives in part from the continuity of personnel in the Office and the resultantly long memory that the Office thus possesses. Moreover, since the Department is divided up into regional and functional bureaus, it is possible that one bureau may address an issue in a fashion quite different from that of another bureau. That can be caught at the level of the Under Secretary’s office, but, unless the issue is relatively major, the inconsistency may well not come to the attention of that office either.¹⁵ Given that all Attorney-advisers work for the same Office and that there is considerable interaction among the Attorney-advisers in that Office, however, it is entirely possible and perhaps not surprising that the best hope of spotting inconsistencies lies in the person of the Attorney-adviser in any given situation.¹⁶

13. Bilder, *supra* note 2, at 655.

14. *Id.*

15. Moreover, Under Secretaries are often political appointees without life-long experience in the Department and, thus, any inconsistency in action among bureaus that occurs over any length of time also may not be caught by the Under Secretary.

16. In a slightly different context, Judge Fitzmaurice, a former judge on the International Court of Justice, also recognized that a well-situated Legal Adviser, with some continuity of tenure, could contribute significantly to the policy formation process because he would be working . . . at the center of things in constant touch with the sections or desks he advises, often in close contact with ministers, seeing (over a long period) most of all that goes on of real importance, and continually participating in international negotiations, going to international conferences, to meetings of international organizations, et cetera.

Fitzmaurice, *supra* note 4, at 83.

Second, a number of Attorney-advisers observed that they played a large role in determining how various policies can be achieved consistently with domestic and international law. In many cases, they provide that advice at the outset and thus that information becomes part of the data set that policymakers must consider when making their policy decisions. Policy options that have considerable potential for a legal confrontation with Congress or with another country may be less desirable, while those options that allow the U.S. to continue to claim the high legal ground may have some additional appeal.

Finally, virtually every respondent replied that among their most important tasks in the policy formation process was helping their clients identify and analyze the various policy alternatives and, on occasion, articulate and defend policy options that had not been considered or that were receiving inadequate attention. Given the kind of training lawyers receive and the skills they generally develop, it is not surprising that this would be something within the Attorney-advisers expertise and of particular usefulness to their clients.

At the same time, however, virtually all of the respondents also claimed that once they had assisted in setting up the possible policy choices—and in many cases providing an analytical framework within which the pros and cons of each choice could be evaluated—they generally took a large step back and allowed the policymakers to choose from among the various alternatives. They noted that they made a conscious effort not to press their particular point of view or policy preferences, except in the most exceptional cases.¹⁷

One suspects, however, that the matter is not nearly this simple. In the first place, the very way in which policy choices are set up for the decisionmakers, the analytical framework within which they are considered, and the manner in which the various advantages and disadvantages of each option are rhetorically structured cannot help but deeply influence the thinking of even the most objective policymaker. Any contribution to the policy debate, even if it allegedly involves no more than the creation of an analytical framework within which to consider the problem, necessarily plays some substantive role in the resolution of that debate.

More importantly, international lawyers generally believe deeply in the importance and utility of adherence to international rules and norms. Whatever the short-term costs of obedience to a particular rule or adherence to our treaty obligations, “[o]ur longer-term interests as a nation lie in the integrity and stability of treaty regimes in times of change and turmoil.”¹⁸ One observer put much of the argument rather succinctly:

17. Only one of the respondents claimed that he frequently gave policy advice in certain areas. He also suggested that his clients both expected and appreciated such advice from him. Interestingly, however, by the time this particular Attorney-adviser responded to the questionnaire, he had actually moved out of the Legal Adviser’s Office into a senior policy position in the client bureau. It is quite possible that both his interest in becoming, and his already developing skills as, a policy adviser made him both an exception to the general rule and an obvious candidate to move over to the policy side of the Department.

18. Crook, *supra* note 3, at 5.

[W]hile in a particular situation compliance with law may impede the attainment of an immediate foreign policy objective, a policy of respect for international law has a very practical basis. Thus, such a policy seems indispensable to the general establishment of conditions necessary to the protection of our own citizens abroad, the effective conduct of international relations, and the ultimate achievement of the kind of world in which the people of this country wish to live.¹⁹

Thus, it seems to me highly unlikely that the judgment of Attorney-advisers is not somewhat colored in these policy debates or that their contributions would not tend to favor a policy that they believe enhances the stability and coherence of the international legal regime.

In addition, a very large number of foreign policy issues also contain a significant legal dimension. Although it is not easy to quantify the extent of the legal dimension, one strongly senses that its significance has increased rather dramatically over the past number of years. For example, international issues must increasingly be resolved within the context of an international agreement.²⁰ Multilateral and regional organizations play an increasingly large role in the conduct of world affairs, and thus solutions to issues must be structured in a relatively rule-oriented manner. And Congress increasingly attempts to intervene in the foreign policy process, often through the use of legislation that somehow limits the discretion of the President, constrains his choice of policy options, or otherwise steers and directs his decisionmaking processes.²¹

In these circumstances, it is increasingly difficult, if not impossible, to disentangle pure policy matters from the legal issues. Thus, not surprisingly, attorneys are increasingly involved in the resolution of these matters, the line between policy and law becomes more and more blurred, and the attorneys necessarily make more and more decisions that have deep policy implications.

Finally, the advice and role of an attorney in the United States even in a putatively purely policy debate must always be considered against the backdrop of our nation's deep respect for the law and legal traditions and our peculiar susceptibility to arguments framed in legal terms.²² Thus, when the lawyers enter a policy discussion in almost any manner, they may well have an influence disproportionate to the centrality of the legal issues in the matter.

19. Bilder, *supra* note 2, at 656 (footnote omitted). Professor Bilder went on to note that "[e]xperience in the Office tends . . . to impress one deeply with the logic in terms of national interest of a policy of compliance with international law." *Id.* at 679.

20. Professor Bilder observed some years ago that: "[i]n part this importance of legal questions is a result of the postwar tendency to subject more and more areas of international problems to regulation by international agreement. . . ." *Id.* at 654. This tendency is certainly even more pronounced today.

21. *See id.*

22. In the context of international law, see, for example, *id.* at 679-80.

IV

INFLUENCE OF ATTORNEY-ADVISERS

A. Influence Within the Department of State

Whether attorneys in the Office have significant influence within the Department is another extremely interesting question, the answer to which turns out to be much like the answer to many other questions: "It depends." A first cut at answering this question comes from answers the Attorney-advisers themselves made in response to my inquiry about their influence within the Department, especially as compared with attorneys in other government agencies. Virtually all the respondents thought they generally had at least as much clout as lawyers from most other agencies with which they worked. Whether, in fact, they have more or less clout is not nearly as interesting or important an issue, however, as the reasons the lawyers generally gave for the degree of clout they had within the Department. The answers were highly illuminating and reveal much about the relationship between institutional structures and arrangements, on the one hand, and influence, on the other.

First, some respondents noted the very high quality of the Attorney-advisers in the Office. The sheer competency of the people made them a force to be reckoned with. That certainly comports with my experience in the Office. The overall quality of the Office is exceptionally high.

Second, some pointed to the way in which the structure of the Department created situations in which the Attorney-advisers were likely to have considerable influence. In this regard, a number of respondents highlighted their relatively high degree of access to senior policymakers and Department principals. This access stems from the way in which the Office assigns Attorney-advisers to particular client bureaus, the way in which the Department structures the Bureaus to be highly hierarchical, and the way in which the Department rotates foreign service personnel on a frequent basis. Each will be examined in turn.

1. *Client bureau assignment.* The Department is divided into regional²³ and functional²⁴ bureaus. For the most part, the Office is structured in a way that corresponds to the Department's divisions. Thus, for most of the regional and functional bureaus, there is a corresponding office in the Legal Adviser's Office.²⁵ Clients are encouraged to—and do—task work directly to "their" attor-

23. The six regional bureaus are the following: African Affairs, East Asian and Pacific Affairs, European and Canadian Affairs, Inter-American Affairs, Near Eastern Affairs, and South Asian Affairs.

24. A sampling of the functional bureaus would include the following: Administration; Consular Affairs; Democracy, Human Rights, and Labor; Economic and Business Affairs; Intelligence and Research; International Narcotics and Crime; International Organizations; Legislative Affairs; Oceans, International Environment, and Science; Politico-Military Affairs; Population, Refugees, and Migration; and Public Affairs. For a more complete listing of all the offices within the Legal Adviser's Office and some discussion of the Bureaus to which they correspond, see Hergen, *supra* note 3, at 143-48.

25. There are two exceptions to this general pattern. First, some small number of offices within the Legal Adviser's Office do not correspond to bureaus within the Department because the work they

neys. Clients directly appoint Attorney-advisers to their international delegations (and, as a general rule, pay for the attorney's travel and associated expenses), and clients generally determine the extent and nature of attorney participation in their various projects. This close relationship between attorney and client results in attorneys having relatively close and frequent contact with, and easy access to, senior policymakers and, when Department principals are involved in a matter, to them as well.²⁶

2. *Hierarchical bureau structure.* Attorney-adviser influence is also enhanced by the highly hierarchical and relatively self-contained nature of the Department's bureaucracy. As a general rule, each person in a bureau reports up a chain of command that is entirely insular within his or her bureau until it reaches the level of the Under Secretary. Staff officers within regional bureaus do not generally interact at the policy level much with staff officers from other regional bureaus, while interaction with officers from functional bureaus is only slightly greater. Each office within the Legal Adviser's Office is relatively small, however, and the overlap in responsibilities is both considerable and explicitly recognized and acknowledged. Thus, attorneys in one office are in frequent contact with attorneys from another office.²⁷ This, in turn, allows attorneys in the Legal Adviser's Office to serve as informal channels of communication between various bureaus within the Department.²⁸ Attorney-advisers also often prove a highly useful back-channel route for both learning and conveying vital information in the interagency process and for formulating useful interagency solutions to both legal and policy issues.

do is relatively independent and generally unrelated to the work of any particular bureau. For example, the Office of International Claims and Investment Disputes, which deals with the legal aspects of espousal of a claim by a U.S. citizen against a foreign government or the claim of a foreign national against the U.S. government, has no counterpart in the Department itself. This office operates largely independently of any of the other functions of the Department. The same is true of the Office of Private International Law, which coordinates U.S. participation in various multilateral negotiations, organizations, and study groups that deal with the unification and harmonization of private international law.

Second, a small number of offices within the Legal Adviser's Office also do not directly correspond to a particular bureau, but instead do the work of all or part of two or three bureaus. For example, the Office of Buildings and Acquisitions does work for parts of more than one Bureau. The Office of Law Enforcement and Intelligence does the work for the Bureaus of both Intelligence and Research and International Narcotics and Crime, while the Office of Human Rights and Refugees is responsible for the legal work from both the Bureau of Democracy, Human Rights, and Labor and the Bureau of Population, Refugees, and Migration.

26. See Bilder, *supra* note 2, at 638.

27. See Hergen, *supra* note 3, at 148.

28. Professor Bilder observed in this regard:

Finally, since the Office's work brings its attorneys into constant and informal contact with each other, with both high and low-level Department policy officers, and with the legal offices of other agencies, it tends to form a unique channel of communication between various bureaus and agencies. It frequently can use this network of contacts to cut red tape, bridge bureaucratic chasms, and lay the groundwork for solutions to inter-bureau or inter-agency problems.

Bilder, *supra* note 2, at 642.

3. *The rotation of foreign service personnel.* The Department's rotational pattern for foreign service personnel, combined with the Office's pattern of dedicating certain attorneys to particular bureaus, further empowers the attorneys within the Department. Most bureaus within the Department are staffed by foreign service personnel. The foreign service, in its attempt to create broad-gauged officers who are familiar with many different cultures, societies, and issues, rotates personnel with relative frequency. Thus, in many cases, the staff officer working on a particular problem has only limited knowledge of the way in which issues in his or her areas of responsibility have been resolved in the even slightly distant past. Moreover, since at least some large part of the average foreign service officer's rotations are to positions outside the country, he or she may also not have much exposure to the way in which similar problems are addressed in other bureaus within the Department. Various written reports may document the way in which a problem was addressed in the past, but, frankly speaking, the Department's support structure is relatively thin and its technological capabilities have only recently begun to be upgraded, and thus the ability to retrieve such reports and memorandum is very limited.

The same is not true for the Legal Adviser's Office, however. The Office does have a rotational pattern, particularly for less senior attorneys, but its effect is not quite the same as that of the Department. Rotation may be somewhat less frequent. Moreover, even when an attorney is rotated, with only a few exceptions, he or she is generally not rotated outside the country (or even outside the building or, indeed, the Office). Thus, even attorneys no longer in a particular office are generally available for consultation. In addition, each office is generally headed by someone who has worked in the office at least once before, which also provides considerable continuity. Moreover, the Deputy Legal Adviser who supervises an office has also often worked in that office, providing even more long-term memory. Additionally, since, in the final analysis, the Attorney-advisers are very often asked to address in writing many different aspects of an international situation or to memorialize final agreements or document final resolutions, the Office has a wealth of memorandum and reports on which they can rely. While the technological capabilities of the Office are, of course, no greater than those in the rest of the Department, the Office nevertheless has more continuity of personnel and thus, it seems, more capacity to retrieve past case histories.²⁹

In addition, as discussed earlier, State Department lawyers seem to have at least as great—if not greater—interest in the consistency of the positions taken by their clients in various situations as their counterparts in other legal jobs. International law is both developed and divined in some large measure by the

29. See Hergen, *supra* note 3, at 151. Professor Bilder notes this role of the Office as well: "Thus, the Office tends to provide an element of stability and continuity in certain areas where the 'Wristonization' program and consequent frequent rotation of policy personnel has resulted in the loss of a backlog of experience concerning long-run policy problems." Bilder, *supra* note 2, at 641.

consistency of state practice. Without such consistency, there are neither international legal rules, nor the hope of their development. Moreover, State Department lawyers report that their counterparts in other governments remain remarkably constant across time, across different negotiations and across different subject matter areas. Accordingly, an Attorney-adviser's credibility—and, derivatively clout—in an international negotiation is enhanced in direct relation to the degree to which he or she is espousing views that are consistent with those espoused in prior negotiations. Given that the Attorney-advisers have even additional incentive to ensure consistency of U.S. practice in the international arena, it is not surprising that they are often the repository and champion of that principle.

In certain situations, some respondents thought that attorneys in other agencies might have more clout within their agency than Attorney-advisers in the Department, but those situations fell in relatively predictable categories. First, some mentioned the significant power possessed by attorneys involved in enforcement proceedings, such as enforcement attorneys in the Securities and Exchange Commission or the Environmental Protection Agency ("EPA"), or prosecutors from the Department of Justice. No one who responded to my questions seemed to think that State Department lawyers ever had quite that much power.

When a policy issue was driven largely by domestic legal requirements, moreover, State Department attorneys thought attorneys in other Departments within the government often had very considerable power of a sort that generally did not devolve on Attorney-advisers. For example, the way in which some trade disputes must be managed is sometimes controlled rather strictly by the procedural requirements and timetables imposed by legislation. In those circumstances, the lawyers in the U.S. Trade Representative's Office ("USTR") or the Department of Commerce naturally have considerable, if not dispositive, say in the formation of relevant policy. Relatively few issues within the Department of State's purview are clearly and directly controlled by dispositive legislation, and thus there are relatively fewer occasions when the lawyers totally drive and direct the policy process.³⁰

At the same time, one respondent mentioned the somewhat different role law plays in the policy formation process in the Department of State, as opposed to other Departments. In other Departments, he opined, lawyers generally examined various policy options only for their legal acceptability. Thus, the lawyers tended to say whether an option was legal or illegal and not much more. This gives the lawyers considerable power, but only of a certain sort. Once the lawyer finally concedes that a certain policy option is "legal," then his or her job is done and the matter reenters the exclusive domain of the policy-

30. Lawyers working within the management area of the Department may be an exception to this general rule. Their issues may be directly covered by relevant legislation and other legal authority and any appropriate resolution must be shaped in large part by the legal constraints. In these circumstances, Attorney-advisers would naturally have as much control of the process as their counterparts in other agencies.

maker. This “red light, green light” approach is quite different from that taken by most attorneys in the State Department, however, and, resultantly, while State Department lawyers may not have quite the same ability as their counterparts in other agencies to derail completely a particular policy, they generally stay involved in the policy formation process much longer and have a deeper, more pervasive, influence on the option finally chosen.

This result stems in some part from the differences between domestic and international law. As compared with domestic law, international legal rules are often somewhat vague and hardly ever quite as binding—or at least hardly ever quite as likely to be enforced strictly by an enforcement body with real power. Thus, the legal question is rarely whether something is strictly “legal” under international law, but rather whether a particular policy contributes to the development of a desirable set of international legal rules. In this context, the lawyer necessarily injects legal values and rules into the total policy mix, my respondents suggested, shaping policy and behavior, more than mere approving or disapproving particular policies or behaviors. This role is both slightly different than that played by many attorneys in other agencies and more likely to keep the Attorney-adviser involved more closely in the development of policy than his or her counterparts elsewhere in the government.

At the same time, at least some respondents admitted that their influence varied somewhat depending on the client bureau. For example, since the Bureau of Oceans, International Environment, and Science (“OES”) negotiates many international treaties and agreements, lawyers are generally central to the activities of that bureau. Indeed, wherever legal analysis or drafting is required, the attorneys had considerable influence. In other bureaus, however, the issues tended much more towards the pure policy, with their resolution only rarely reduced to written international agreements. The Bureau of European and Canadian Affairs (“EUR”) falls into this latter category, for example. In this latter case, the lawyers are generally only tangentially involved and then usually only at the last moment.

The allocation of lawyers within the Office clearly reflects this reality. Though by most accounts, EUR is by far the most important of the regional bureaus within the Department as a whole (and, generally speaking, the regional bureaus are considerably more powerful and important within the Department than the functional bureaus), nevertheless, the Legal Adviser’s Office generally assigns only two lawyers to work with EUR. OES, on the other hand, which historically has been a bit of a backwater in the Department itself, has as many as seven Attorney-advisers assigned to service its needs.

It is worth speculating, however, whether all these differences across client bureaus derive solely from the nature of the work. In my experience in the Department, I gradually came to suspect another explanation was at least as powerful as the nature of the work explanation. It frequently seemed to me, both when I worked as a lawyer and as a client in the Department, that the difference in the degree to which a bureau involved the lawyers turned as much on

the professional culture of the Department as on anything else. That requires a bit of explanation.

In evaluating the Department's general culture, it is important to note that entry into that dominant professional culture—namely, the foreign service—is highly competitive. In turn, this seems to create an entirely self-contained and self-referential hierarchical pattern of professional identification. Thus, like members of virtually any society in which entry is based on surviving a relatively competitive selection process and in which promotional opportunities are both limited and competitive, many foreign service officers come to view themselves as somehow a breed apart, professionally superior to other professionals, including both other professionals in the Department and similarly situated bureaucrats in other federal agencies. Lawyers may have their own competitive processes and professional hierarchies, but, since the dominant culture in the Department is that of the foreign service and not that of the law, those competing professional hierarchies and achievements simply do not count for very much. Accordingly, the more elite a particular bureau or the more a foreign service officer identifies with this culture, the less influence actors who have different credentials will have.³¹

Among the clearest examples of this is the relative lack of influence of Attorney-advisers *vis-à-vis* the European bureau. As mentioned above, among foreign service officers, EUR is generally considered the elite bureau and European assignments are not only more desirable, but are more likely to lead to assignments at the very top of the Department. This is not surprising, of course, given how extraordinarily European-centered U.S. foreign policy generally is. But the result is an almost palpable disdain by many foreign service officers in EUR for the participation of the lawyers in the policy formation process.³²

Another aspect of Departmental structure that exacerbates this disinclination to use the lawyers in critical situations relates to what many foreign service officers seem to perceive as the principal avenue for professional advancement, namely, exposure to Department principals. It appears to be almost an article of faith among the foreign service—and perhaps correctly so—that one is more likely to rise more quickly if one catches the eye of a powerful Department principal or the attention of a rising star within the foreign service. These peo-

31. Judge Fitzmaurice, who was himself an experienced Legal Adviser, noted, after reviewing essays by a number of foreign Legal Advisers, that this phenomenon was certainly not confined to the United States. He observed that the legal adviser who is part of his country's foreign service and thus has the status of a diplomat "enjoys a status in every respect equivalent to that of his purely diplomatic colleagues, and may even enjoy an enhanced prestige by reason of his additional capacities and attainments in the legal field." Fitzmaurice, *supra* note 4, at 85. The situation of the "non-diplomatic" legal adviser is very different; such a figure is "liable to be looked upon as a sort of Cinderella—necessary, since the sweeping must be done, but not good enough to be taken to the ball!" *Id.*

32. This is not to say, of course, that over time individual lawyers cannot prove themselves useful even to the most insular foreign service officer. Indeed, there are many examples of just that happening. But when it does, it is generally a tribute to the interpersonal skills and overall competency of the Attorney-adviser as much as it is a reflection of the recognition of the importance of legal advice in a particular setting.

ple can make available important, fast-track positions, and thus exposure to these powerful people is critical to maximizing one's professional advancement. Accordingly, ensuring that one's name is somehow on a memo (at least on the clearance line), that one gets into a meeting, that one travels with senior Department personnel, are all among the principal professional preoccupations of at least some part of the foreign service.

In such an environment, it is not surprising that some officers would not be particularly excited about the involvement of an Attorney-adviser, who will probably be very articulate, analytically rigorous, and deeply grounded in the substance of the issue on the table. Indeed, while this is perhaps an overgeneralization and does not give adequate weight to individual personalities, nevertheless, I often sensed that there was some strong correlation between the importance of an issue and the diligence with which the foreign service officers worked to exclude the lawyers.

B. Influence Within the Interagency Process

I also queried the Attorney-advisers about their power and influence within the interagency process. Again the responses were interesting because of the structural variables to which they pointed when identifying the degree of their influence. In response to this inquiry, most Attorney-advisers felt quite strongly, not surprisingly, that their influence depended to some large degree on the issue under discussion. If the Department of State has the lead on a matter, the lawyers' position is likely to be relatively strong. Moreover, if the matter involves interpretation of a treaty or a matter of international law, then, of course, their influence is also considerable.

At the same time, some pointed out that if the treaty was very technical and other agencies had some significant role in either negotiating or executing the treaty provisions, then the Department's influence might be somewhat lower. Such was the case, some suggested, for example, in some trade treaties, with respect to which USTR's power is great, or in aviation treaties, in which the Department of Transportation has a very large voice.

However, even when a treaty might plausibly fall within the bailiwick of another agency, that agency was not likely to have nearly as much influence in the interagency process if that agency did not commit significant personnel to the international side of its legal department. Such was the case, some suggested, regarding international environmental treaties, with respect to which one might anticipate that the EPA would play a significant role both in the drafting and the subsequent interpretation and execution. That was generally not the case, however, because EPA tended not to commit significant legal resources to international matters. Thus, it was a function not only of the degree of technicality of a treaty, but also of the extent to which another agency considered that treaty an important part of its functional mandate and staffed its legal office accordingly.

It also seems that the degree to which a matter is governed largely by domestic law is also relevant to the degree of clout Attorney-advisers have in the interagency process. When domestic law was dispositive, Attorney-advisers generally seemed to feel that their influence was not extremely high. But, again, the matter is slightly more complicated.

In part in order to gain influence within the interagency process, competing agencies sometimes make considerable effort to frame an issue in a way that suggests it is entirely controlled by domestic law. However, this often forces these agencies to walk a bit of a tightrope, because, on the one hand, they want to claim domestic law governs and thus they, not the Department of State, must make the final policy decision, but, at the same time, as a matter of policy choices, they do not want to be actually controlled or constrained by narrow statutory interpretations or requirements. Nevertheless, when an agency can frame an issue as governed by domestic law, the Attorney-advisers generally have less influence in the decisionmaking process.

None of these reasons should necessarily cause the Legal Adviser's Office to lose influence, of course. The Legal Adviser's Office could equip itself to understand the interstices of WTO, GATT, GATs, or NAFTA rules, or the ins and outs of domestic U.S. law. In reality, however, the Office is simply too small to undertake every possible task. The Office comprises only about 100 Attorney-advisers, less than half of whom work on international matters with an interagency dimension. Though it is theoretically possible for the Office to commit as many attorneys as USTR to figuring out the international and domestic rules governing the WTO or Section 301 actions, as a practical matter, given the other demands placed on the Office, that is simply impossible.³³

Attorney-adviser influence also particularly declines in these matters if the competing agency can also claim some exclusive pipeline to information from the Hill. For example, it is not uncommon for an agency to argue that a particular interpretation of domestic law is required either because various members of Congress insist that this is the correct interpretation and they will amend the legislation to reflect that interpretation if any member of the Executive Branch dares to interpret otherwise, or because certain members of Congress will introduce legislation that even further restricts the Executive Branch's scope of discretion if the Executive Branch chooses to interpret a statute (or exercise its discretion) in a way that displeases Congress. The Department of State, and most other agencies for that matter, for obvious reasons, generally fear any legislation that restricts and limits their ability to act relatively freely. Thus, this is often a very powerful argument and gives considerable authority and influence to whoever can make this argument with some degree of credibility.

33. During my time in the Department, for example, one Attorney-adviser was the entire repository of learning about all multilateral, regional and bilateral trade treaties, as well as all domestic U.S. trade laws. While he was very knowledgeable and highly competent, it was usually no contest when USTR threw all its legal resources against the Department.

Of course, in theory, Attorney-advisers could have as much contact with the main congressional players as officials in other Departments. However, the size of the Legal Adviser's Office makes it very difficult for Attorney-advisers to maintain with all the Hill staffers and principals the level of contact necessary to claim credibly that they know the mind and the will of the Congress. In addition, and perhaps more importantly, the vast majority of the State Department's contacts with the Hill are supposed to be conducted through the Department's Bureau of Legislative Affairs. When the Assistant Secretary for Legislative Affairs is strong, that Bureau protects its prerogatives with vigor, though, even under a strong Assistant Secretary, not always with total success. But, at a minimum, that Bureau can make life very difficult for Attorney-advisers who routinely try to circumvent it and thus most Attorney-advisers simply think their life is too short to have anything but limited contact with the Hill.

Turning back to the issue of interagency clout, some Attorney-advisers pointed out that the Department of State's demands tend to loom large even when its real interests are relatively small. They attributed this in part to their close relationship to their clients. Such a relationship allows attorneys to speak with considerable authority when articulating the Department's position, as well as to lean on their clients to work the policy process to achieve a result favorable to the Department's position. To the extent one can bring external pressure to bear on the other agency lawyers—such as pressure from the policy makers in those lawyers' agencies—one can more likely win interagency debates, even legal ones.

Some Attorney-advisers also attributed the Department's influence to the relatively high status that the Secretary of State, and, by necessary association, the Department have within the governmental hierarchy. On further inquiry, most respondents conceded, however, that degree of that influence is also likely to be strongly influenced by the Secretary's personal relationship with the President. In the days of Secretary of State James Baker, for example, Department principals could be relatively confident that their views would prevail in most situations if the matter was important enough to bring to the Secretary's attention. On the other hand, when Robert Strauss was the Special Trade Representative, the State Department lost considerable ground to the Special Trade Representative's Office on a broad variety of trade matters.

C. Influence in International Negotiations

Finally, I queried the Attorney-advisers about their view of their influence in international negotiations, as compared with their counterparts in foreign ministries around the world. Here the Attorney-advisers generally were of the belief that their influence depended to some degree on the position of the United States. If the U.S. position was vaguely in the mainstream of international opinion and agreement on terms close to the original U.S. position was possible, then the Attorney-advisers were always major actors in the interna-

tional negotiations, especially when the actual drafting began. After all, the United States is the United States and is always a force to be reckoned with.

If, on the other hand, the U.S. position is rather extreme, their influence declines. This decline derives from two related reasons. First, when the United States takes a relatively extreme position, actual drafting of text does not begin until the parties to the negotiation come closer to an agreement on the major policy issues. If the parties are not drafting, then the Attorney-advisers may still be very important within the U.S. delegation in terms of articulating the best arguments for the U.S. position and searching for possible compromises, but, externally, the major discussions are usually conducted by the policy side of the delegations. Second, even if real drafting is taking place, because the U.S. position is not likely to prevail, the other parties are less likely to include the American attorneys in the drafting process.

Having said all this, a number of Attorney-advisers indicated that their influence in international negotiations was often greater than was necessarily warranted even by the significant place of the U.S. in the international order. They opined that attorneys in the Legal Adviser's Office were generally quite good at drafting and were usually willing to work harder than most other attorneys and thus they were often placed at the center of drafting exercises.

This observation is entirely consistent with my experience. I was constantly impressed by the frequency with which Attorney-advisers became the principal drafters of international agreements. I can point to provision after provision in virtually every treaty or agreement on which I worked that was drafted in very large part by the U.S. delegation. Of course, it never hurts that the language of negotiation and drafting in virtually all international settings is English. Neither was it insignificant that the attorneys had instructions, at least on every delegation I led, to be the first to volunteer to draft something, and to be rather insistent in their willingness to work.

But it was obviously much more than that. The strongest confirmation that there was something special about the role of the Attorney-advisers can be seen in instances when the United States has no particular interest in how a certain issue is resolved in a particular negotiation. In those cases, one might expect that the competing parties would hammer the issue out themselves, and that countries that were indifferent would play little or no role in resolution of the matter. Quite remarkably, however, even in those situations in which the U.S. had no particular stake in the resolution of the issue, time after time the U.S. lawyers were called into the drafting process to find language that could bridge the gap between the different positions. Indeed, at the end of virtually every negotiation in which I participated, a number of representatives from other countries would go out of their way to thank me for the assistance of the U.S. lawyers in resolving some issue or another that was vitally important to their country, but had invariably been of no moment to the United States. Since this comports with my experience in the private sector as well—namely, that the U.S. attorneys involved in an international transaction often drive the

process, regardless of the stake of their client or the number of attorneys from other countries in the room—I am inclined to think there might be something about the training, experience, or approach of U.S. attorneys that is significant in this regard. That is a matter for an entirely separate article, however, and it is enough here merely to observe that, at least in my experience, Attorney-advisers are major actors in the drafting process in many, many international negotiations, even when one might think the circumstances would not warrant such a central role.

V

UNIQUE ROLE OF ATTORNEY-ADVISERS AS LAWYERS FOR THE U.S. GOVERNMENT AND FOR THE DEPARTMENT OF STATE

State Department attorneys also seem to feel that their position as government attorneys places demands on them that vary somewhat from those of their counterparts in the private sector. Most of those listed by my respondents were not at all surprising and seem likely to be felt by most government attorneys.³⁴ At the same time, they did identify a few areas in which they thought their professional demands varied even from other attorneys in the government. For example, some respondents pointed out that they are perhaps somewhat more independent than attorneys in the private sector and perhaps even than attorneys in other agencies because they ultimately report to the Legal Adviser, not to the client. Such independence is considerably enhanced by their position in the Department. Attorney-advisers are not part of the foreign service, and, while they occasionally switch over to the policy side, their career advancement and their professional opportunities are generally determined by the front office of the Legal Adviser's Office, not the foreign service management system of the Department itself.

At the same time, most fully recognize that the inability of the client to replace them (except in extreme circumstances where the bureau persuades the Legal Adviser to make a change in assignment) also imposes a particular obligation to provide objective, high quality advice, and to be as nonpartisan, analytically rigorous, careful, and hard-working as possible. In other words, the

34. Attorney-advisers said, for example, that they felt they were required to consider the broader interests of the U.S. government, beyond the possibly more narrow, parochial interests of their clients. Others viewed this slightly differently, but reached generally the same conclusion. They said that their ultimate responsibility was to the Secretary of State, not to the particular bureau they were currently servicing, and thus they looked beyond the narrow interests of the client to the broader interests of the Department and the Secretary. At the same time, at least some respondents recognized that their clients also felt this responsibility, as government employees and State Department employees, so conflicts of this nature were generally limited.

Some also suggested that they were probably more concerned than their clients or attorneys in the private sector with issues of transparency and public accountability. They also mentioned they were ever vigilant—and probably appreciably more diligent than both their clients and non-government lawyers—regarding potential conflicts of interest.

Some also pointed out that because of the nature of government work, the client generally cannot fire them. Thus, they have a particularly strong independent power base and can offer especially candid advice when occasion requires.

very attributes that give them the power of independence also give them the responsibility of power.

Some Attorney-advisers also thought that for a variety of reasons they had a particularly important obligation to ensure consistency in the positions taken by the U.S. government across various issues and across time. As discussed earlier, as a practical matter, the Office, unlike other government legal offices, is often the principal functional repository of information about past practice. Moreover, because the international legal community is relatively small and seems to recycle continually through all sorts of negotiations over many different issues, Attorney-advisers are quite likely to have prior U.S. positions thrown back at them by other countries in international negotiations.

Some respondents also thought that because the Office is the final arbiter of issues relating to international law and because the United States is in a unique position of power and influence internationally, Attorney-advisers had a special responsibility. They described the functional implications of this responsibility in various ways, but the common theme seemed to be that they felt a particular responsibility to assist in the development and maintenance of international law as a positive influence on the conduct of international affairs and a useful tool for the United States to advance its interests abroad. Of course, it is entirely possible that attorneys in other agencies throughout the U.S. Government feel this responsibility in their particular areas as well, and that the main difference between those attorneys and Attorney-advisers is the area of law for which they feel a special responsibility. Nevertheless, many Attorney-advisers seem to feel this responsibility particularly acutely and it forms a very important part of their professional self-identification.

Some Attorney-advisers also thought that their role as members of international delegations and, with some frequency, the head of U.S. delegations to international negotiations also placed particular professional demands on them that were perhaps different from those felt by other attorneys, both in and out of government. The practical implications of these feelings seemed a bit difficult for the respondents to articulate, but at least part of it seemed to derive from the sense that they were binding the United States to a particular course of action in those negotiations and that that imposes very special obligations. They are almost lawmakers—indeed, they are international lawmakers—when functioning in this capacity, and they felt that responsibility very strongly. Of course, attorneys in many other jobs in the U.S. government may also feel this responsibility to some extent—for example, DOJ attorneys who stake out U.S. positions in litigation or attorneys on the Hill who draft legislation—but, in those cases, even when the attorneys are taking positions on behalf of the government, the final decisionmaker is not the attorney, but some other institution, such as the court or the Congress itself. In the case of the Attorney-adviser, that to which they agree frequently becomes binding on the U.S. on the basis of that agreement alone, without further action in the courts or on the Hill. This responsibility seems to weigh rather heavily on many Attorney-advisers.

Some Attorney-advisers also thought they perhaps spoke with more authority on behalf of the State Department than attorneys in many other federal agencies. They thought this was the result of their relatively close relationship to the senior policymakers, as discussed earlier, and the relative lack of bureaucratic layers within the Department. Some also thought that because of this, they received more responsibility earlier in their careers. Because of these structural arrangements, and the broad range of work undertaken by the Office, some Attorney-advisers also thought they worked on a much broader variety of matters than attorneys in other parts of the Government.³⁵

VI

CONCLUSION

The structural and institutional components of the job I have discussed in this article clearly appear to have something to do with the nature of the work performed in the Office and the way in which that work is undertaken and managed. It certainly has much to do with the influence of the Attorney-adviser within the Department, the interagency process, and international negotiations. It may also have much to do with the degree of impact attorneys in the Legal Adviser's Office have on the policy formation process. And it also necessarily influences very directly the way in which Attorney-advisers perform their functions and the unique imperatives that circumscribe and define their professional role and their professional self-definition.

Still, all in all, four years in the State Department left me with the strong impression that whatever the institutional dimensions of the matter, attorneys in the Legal Adviser's Office were so talented and dedicated that they would make a major contribution to the development and execution of U.S. foreign policy. They were—and are—simply too good to be ignored.

35. Even though I did not inquire about it, a number of Attorney-advisers felt compelled to tell me how much they enjoyed their jobs and how high they rated their job satisfaction. They cited a number of reasons, including, among others, highly rewarding and consistently interesting work, significant responsibility early in their careers, steady professional growth, real impact on significant issues of the day, great colleagues, and interesting foreign travel. A few also pointed out the relative long hours, especially for a government attorney, but, interestingly, they all seemed to view that almost as an advantage of the job, not a burden.