Towards a Culture of Legality in International Organizations: The Case of the OPCW

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I. Introduction
The Organization for the Prohibition of Chemical Weapons (OPCW) is unique in the world of international organizations. Its parent treaty – the Chemical Weapons Convention – puts in place an absolute prohibition on chemical weapons, and creates the OPCW to verify compliance with its terms.¹ It is the only standing institution wholly responsible for overseeing the disarmament and non-proliferation of an entire category of weapons of mass destruction. The OPCW’s powers are far-reaching: member states must declare holdings of chemical weapons and certain chemicals (listed in an Annex to the treaty) to the Organization, which in turn conducts on-site inspections in the territories of its members. To indicate the scale of the Organization’s activities, in the first ten years of operations, 2,900

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inspections were carried out in 79 countries; 26,688 metric tones of chemical agents were destroyed under supervision along with 2.77 million munitions.²

By any measure then, the OPCW is a powerful organization. Its powers in terms of verification activities within the territory of its member states are unprecedented. Perhaps even more importantly, it is touted by some as a blueprint for the future.³

The powerful and pervasive role of international organizations in the international legal landscape of the 21st century is being increasingly recognized.⁴ Indeed, the very existence of this journal recognizes that development. One important aspect of the literature is the question of accountability, which this Article explores by using the OPCW as a case study. The following discussion shows that, in granting unprecedented powers to the OPCW to verify compliance with its founding treaty, there has been a lack of corresponding legal accountability of the OPCW to its member states (Part II).⁵ Two modest proposals are posited as a means of addressing, in part at least, that lack of balance (Part III). While purporting to join the conversation about accountability, this Article uses the term “culture of legality,” by which is meant working towards creating a sense in international organizations that the rule of law matters.⁶ Having demonstrated the need to build a culture of legality in the OPCW and sketching a way forward in that regard, the final part of this Article (Part IV) reflects on whether, and if so how, this discussion might fit into attempts to build a more general theory of international organizations.


³) The most obvious example being the (now discontinued) negotiations for a binding protocol for the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.


⁵) This discussion is confined to a narrow view of accountability, being the accountability of the Organization to its member states for operational acts, which are those acts relating to the functions and achievement of the aims of the Organization. See C. F. Amerasinghe, Principles of the Institutional Law of International Organizations 192-193 (1996).