

**International Law and Disarmament:
The Case of Chemical Weapons**

**The Search for Consensus on Syria and Beyond:
The Second Annual Justice Stephen Breyer Lecture on International Law
Brookings Institution | Washington, DC
9 April 2015**

**Ahmet Üzümcü
Director-General OPCW**

Thank you for your warm welcome, Ambassador Martin Indyk.

And thank you, Deputy Mayor Ingrid van Engelshoven, for your generous introduction.

Dr Williams,

Dear guests,

Ladies and gentlemen,

It is a great honor to be with you today to deliver the second Justice Breyer Lecture at this prestigious institution.

Before coming here, I read with great interest Justice Breyer's observations at last year's inaugural lecture on the Supreme Court in the world.

I was fascinated by his perspectives on the lessons that can be drawn from the international community for helping to preserve American values.

I am not myself a lawyer, but my own experience at the OPCW has been steeped in the applications of international law for helping to achieve a world free of chemical weapons.

It is this experience which I wish to draw on in my remarks today.

In particular, I want to show how the mission to eliminate Syria's chemical arsenal tested the resilience and flexibility of the Chemical Weapons Convention – and the strength of global consensus against these brutal weapons.

This work has brought us close to some very complex and challenging legal issues – particularly where they intersect with political realities.

I will also point to some emerging challenges that will require us to adapt and supplement our traditional measures – notably, in response to the terrorist threat.

Ladies and gentlemen,

We are all well aware of the intractable nature of the current situation in Syria.

Now in its fourth year, the war has not only adversely impacted regional security, but has also emerged as one of the foremost humanitarian crises of our time.

An estimated 220,000 people have died.

Some 3.8 million refugees have fled to neighbouring countries.

The war has bled across the border into Iraq – and countries in the region remain on high alert, having to address new risks to their security.

Yet although attempts to effect a political settlement have foundered, a glimmer of hope was able to spring from one of the darkest chapters of the war.

It occurred when the world learned of reports of chemical weapons attacks in Syria in late 2012 and through 2013.

In August 2013, these concerns reached a fever pitch on the eastern edges of Damascus.

It was there in Ghouta, a suburb of Syria's capital, that an estimated 1,500 people died following an attack with the deadly nerve agent, sarin.

Directly after the attack, social media conveyed unforgettable images of suffering and death on the part of innocent civilians, including children.

These images sent shockwaves throughout the international community and engendered a strong reaction.

What happened in the wake of these attacks demonstrated that disarmament can occur, even amidst the ravages of war.

For in the middle of this brutal civil conflict, in a rare moment of unity and resolve, the international community seized on an opportunity to remove the threat of chemical weapons from Syria.

On September 14, Syria submitted its ratification for accession to the Chemical Weapons Convention – and that same day – Russia and the United States agreed on a framework for the elimination of Syria’s chemical weapons.

Less than two weeks later, on September 27, the OPCW’s Executive Council adopted a landmark decision that charted the course for a fast-track plan to eliminate Syria’s chemical arsenal.

On the same day the UN Security Council passed Resolution 2118 endorsing the Executive Council decision.

The mission called for the removal of all chemical weapons from Syria for destruction outside the country – and the destruction of all production facilities within Syria.

Though this undertaking stretched the operational limits of our organisation and tested our resolve, we had been well prepared for such scenarios.

Within days, a team of OPCW inspectors was on the ground, assisting Syrian officials to prepare an initial declaration and verify the destruction of chemical weapons production facilities, equipment and unfilled munitions.

And with our UN partners, through the OPCW-UN Joint Mission, we devised plans for accessing production and storage facilities – and overseeing the removal of Syria’s chemical weapons.

Those weapons had to be transported overland – in the midst of a raging civil war – and transferred to ships for delivery to destruction facilities at sea and on land.

The most lethal chemicals – sulfur mustard agent and methylphosphoryl difluoride (DF), a nerve agent precursor – were neutralized aboard the *Cape Ray* – a US vessel – in the Mediterranean.

Resulting effluents from these operations – and other toxic chemicals from Syria’s weapons program – were sent for destruction at facilities in Finland, the United Kingdom, Germany and the United States.

And, critical to our success, no fewer than 30 countries supported this mission through significant in-kind and financial contributions.

Much of this work was done in dangerous conditions within extremely tight deadlines.

The results speak for themselves:

Within less than a year, we were able to report that all declared chemical weapons slated for destruction abroad were removed from Syrian territory.

Ninety-eight percent of these weapons have now been destroyed, including all so-called Category 1 chemical weapons – sulfur mustard and main nerve agent precursors.

In a moment of rare unity over the course of the Syrian conflict, the international community was able to forge an exceptional disarmament agreement that produced tangible results – in a remarkably short period of time.

What I especially welcomed about the Syrian chemical disarmament mission was that the United States and Russian Federation played a key role by leading the international community to act in unison on the issue of chemical weapons.

And I am pleased that the OPCW's strong tradition of consensus underpinned all decisions taken in relation to this mission.

Yet even with strong tailwinds of global political will at our back, none of these accomplishments would have been possible without the well-established legal norm of the Chemical Weapons Convention and its application to Syria's chemical disarmament.

All of our work in Syria – from putting our people on the ground for inspections to destroying chemical weapons at sea – relied on our soundly navigating international legal strictures and political hurdles.

Other work is still underway, such as clarifying Syria's declaration and completing the destruction of its chemical weapons production facilities.

And, disturbingly, there have been new allegations that toxic chemicals are being used as a weapon in Syria.

In April 2014, in response to earlier allegations that toxic chemicals were being used as weapons in Syria, I established a Fact-Finding Mission.

The mission was tasked to gather facts on the ground regarding alleged use.

Among its findings, the mission concluded – with a high degree of confidence – that chlorine had been used regularly and systematically in three villages in Syria.

The work of the mission is continuing with the full support of the Executive Council of the OPCW and was recently endorsed by the UN Security Council in resolution 2209.

We are currently analyzing information in relation to the allegations of more recent chlorine attacks, and will decide on a course of action based on this analysis.

As is clear, the Syria mission was comprised of an intricate constellation of actors, organisations and international legal agreements.

You can imagine the many obstacles that our legal team had to negotiate to maintain the forward momentum of the mission in these circumstances.

Simply put, the OPCW had never been tasked with anything like it.

Typically, the work of chemical disarmament takes place over a period of years – even decades – under peaceful circumstances, where agreements can take years to develop and even longer to implement.

Let me bring to light just a few examples of the legal challenges we faced and the circumstances surrounding them.

Among other obligations, Article I of the Convention stipulates that no State Party should transfer chemical weapons to anyone – directly or indirectly.

This ran counter to the US-Russia Framework Agreement, which sought the removal of Syria's chemical weapons from the country – for accelerated destruction outside Syrian territory.

To this end, UN Security Council Resolution 2118 endorsed our Member States' agreement to allow destruction to occur outside Syria.

The OPCW's activities in disarmament normally hinge not on the actual destruction of chemical weapons, but rather, on the verification that these activities have been implemented by the possessor state.

But in the case of Syria, due to the circumstances within that country, the possessor state was not assigned the role of destroying its chemical weapons stockpile, and the OPCW and its Member States needed to find new solutions.

The OPCW and its States Parties came up with innovative solutions for destruction – at sea and in commercial facilities.

This required addressing the necessary international and domestic legal requirements – and the interplay amongst them – across numerous territories, States and companies.

And as you might expect, some of the human and environmental safety and liability issues associated with the packaging, transportation, storage, destruction and disposal of chemical weapons was anything but “business as usual.”

Furthermore, the Fact-Finding Mission was not foreseen by the Chemical Weapons Convention.

The legal basis for the mission is to be found in the broad authority given to me as Director-General to ensure that we uphold at all times the object and purpose of the Convention.

This authority was reinforced in this instance by the relevant decisions of the OPCW Executive Council and UN Security Council resolutions 2118 and 2209, the endorsement of the Executive Council for the Fact-Finding Mission, and, its acceptance by the State Party concerned through an exchange of letters between myself and the Syrian Arab Republic.

Yet against all these legal challenges, the guiding principle for the OPCW was simple: “extraordinary situations call for extraordinary measures.”

The elimination of Syria’s chemical weapons programme has not, of course, stopped the conflict.

But it has stopped deadly nerve agents from being used, such as in the case of Ghouta, and therefore removed an invidious threat to the people of Syria and the region.

Ladies and gentlemen,

I have often described the Chemical Weapons Convention as the most effective treaty in the history of multilateral disarmament.

And with good reason.

Assigning equal commitments to all Member States – and backed by a strong network of support and mutual assistance – the Convention stands alone as the only legally binding instrument to ban an entire class of weapons of mass destruction under international verification.

Among our 190 Member States, eight have declared possession of chemical weapons.

Three of them have completely destroyed their stockpiles, namely India, Albania and a State Party that prefers not to be identified.

Iraq has finalized a destruction program for remnants of chemical weapons, and Libya has eliminated its chemical weapons – with only a modest amount of component chemicals left to be destroyed.

In a remarkably short period of time, 98% of Syria's chemical weapons have also been destroyed.

Countries with the lion's share of the world's chemical weapons stockpile – Russia and the United States – have committed to ensuring complete destruction of their programs by December 2020 and September 2023, respectively.

All told, the OPCW has verified the destruction of 87% of the world's declared chemical weapons to date.

Within the next eight years, we expect that all those stocks will be destroyed.

While six countries remain outside the Convention, Myanmar has now ratified the treaty and is likely to soon join as our 191st Member State.

We anticipate that Angola and South Sudan will follow suit.

We continue to work with Egypt and Israel, especially in the wake of the Syrian chemical demilitarization.

There is no justification for these countries remaining outside the Convention, since chemical weapons are taboo and not a strategic option for any country.

Lastly, North Korea remains a concern, given its complete lack of engagement regarding the issue of chemical weapons.

Despite our accomplishments towards global chemical disarmament, and our efforts to secure universal adherence to the Convention, I must nonetheless strike a further note of caution.

Today, terrorism represents one of the most clear and present threats towards a chemically secure future.

We are all well attuned to the stated intentions of non-state actors to acquire – and use – weapons of mass destruction.

With the likelihood of chemical weapons use by States increasingly remote, we must be alert to the ambitions of terrorist groups.

Recent reports suggesting that toxic chemicals may have been used as weapons in the Middle East are of grave concern.

We are watching these situations very closely and are prepared to look into any serious allegations in these cases.

Yet I must be clear: the threat of chemical weapons use is not confined to a handful of countries or non-state actors in one particular region.

Twenty years ago, you may recall a doomsday cult that launched two attacks by using sarin and hydrogen cyanide in Matsumoto and Tokyo.

Occurring in 1994 and 1995, these attacks took the lives of twenty people and injured thousands.

Had these attacks been engineered differently, the results could have been even more catastrophic, potentially killing thousands.

The Japan sarin attacks were not launched by a State at war – and did not occur in an active conflict zone.

They were carried out by a group motivated to develop and use chemicals to provoke fear and terror.

Given terrorists' propensity to exploit vulnerabilities in the global security system, the threat of chemical weapons should be a concern for all States.

How we deal with these threats represents our next great challenge.

To effectively prevent the re-emergence of chemical weapons, we must push beyond current global non-proliferation norms and seek new solutions.

And though the OPCW is not an anti-terrorism organisation, our mission is to ensure the global ban against chemical weapons is being implemented at the national level.

To do this effectively, we must continue and intensify our work to:

- Strengthen the capacity of national jurisdictions that may not be adequate to detect and prosecute criminal chemical activity;
- Support enactment of legislation to monitor industry and trade toxic chemicals;
- Enhance cooperation between States; and
- Strengthen collaboration with relevant international frameworks and organisations to build global capacity to prevent chemical terrorism.

These are not impossible tasks – but they will require collective action and constant vigilance to bring about meaningful contributions to global chemical security.

The OPCW is seeking to facilitate much of this work in a variety of ways, including through an Open Ended Working Group on Terrorism, which last met in March.

As today's event focuses on the search for international consensus in Syria and beyond, please allow me to conclude my remarks by drawing some lessons from our recent experience.

First, I would posit that, in terms of any work towards peace and stability, one must quickly capitalise on every opportunity.

Windows on complex and contentious arms control opportunities do not stay open very long.

The chance for the removal and destruction of Syria's chemical weapons required swift, decisive action.

Within the OPCW, we are all too aware that such quick action is critical for responding effectively, whether to alleged use of chemical weapons, or as a template for removing such weapons in future scenarios.

A second lesson gleaned from the Syria experience speaks to the strength of international law for framing practical responses to disarmament.

For without the Chemical Weapons Convention, and the organisation that implements its provisions, there would be no rules of the road – and no vehicle to arrive at the destruction of Syria’s chemical arms.

Though we are trending positively towards complete destruction of chemical arms, the threat posed by terrorists will continue to challenge us in this respect.

This builds towards my third – and final – point, perhaps best expressed by German pacifist Ludwig Quidde, who won the Nobel Peace Prize in 1927.

Quidde stated, “Every success in limiting armaments is a sign that the will to achieve mutual understanding exists, and every such success thus supports the fight for international law and order.”

The very action to disarm Syria’s chemical weapons program is an indication that consensus can be reached even in the midst of conflict.

And as we well know, in the absence of a motivating force for political action – you can call it political will – our efforts towards disarmament are powerless.

Never before had any large-scale removal of arms been achieved under such conditions.

But by seizing this opportunity, by employing international law and achieving consensus – the international community was able to attain a remarkable triumph on the road to global chemical disarmament.

Thank you.