

The evisceration of a disarmament body

By Bob Rigg,
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The Queen of the Netherlands will endanger her good reputation when she unveils a monument to the victims of chemical warfare at the headquarters of the Organisation for the Prohibition of Chemical Weapons ([OPCW](#) [1]) in The Hague on 29 April 2007, on the occasion of the tenth anniversary of the entry into force of the chemical-weapons convention (CWC). This is also the fifth anniversary of the firing, on 22 April 2002, of former OPCW Director-General [José Bustani](#) [2], which is not being officially commemorated.

The OPCW embodied hopes and aspirations born of the cold war. The organisation [mandated](#) [3] to abolish and destroy the world's chemical weapons brought together under one roof many diplomats and leading scientists who had played key roles in their development for the cold-war protagonists. They knew better than most just what chemical weapons were capable of. In some cases they were genuinely committed to chemical disarmament; in others they were simply looking for highly paid employment to compensate for lost job opportunities.

The uniqueness of the OPCW was seen in the capacity of its technical secretariat to independently, without fear or favour, verify whether its member-states were in fact complying with the commitments they had entered into (previous unverifiable disarmament treaties had foundered on the fact that states could with impunity develop prohibited weapons while at one and the same time masquerading as peace-loving members of the international community). This is why Article VIII, paragraph 46 of the [CWC](#) [4] states that OPCW staff "shall not seek or receive instructions from any Government ..." If the secretariat found that a member-state was possibly in breach of its treaty obligations, it was mandated to draw this to the attention of the relevant policy-making organs for action. It follows from this that, if secretariat staff are to fulfil their mandate effectively, member-states must scrupulously respect their independence.

Bob Rigg worked for nine years for the [Organisation for the Prohibition of Chemical Weapons](#) [5]. He resigned in 2002 in protest at the ousting of Director-General José Bustani. He lives in New Zealand.

Also by Bob Rigg in openDemocracy:

["International law or US hegemony: from chemical weapons to Iraq \[6\]"](#) (9 January 2003)

Although the function of the OPCW was to "audit" member-states' compliance with the CWC, its director-general enjoyed none of the legal protection traditionally vested in an auditor-general. It also escaped notice that the OPCW had no mentionable financial reserves, and would be absolutely vulnerable if it was threatened with the removal of a major source of funds. Moreover, a key cold-war assumption underpinning the CWC - namely that the two superpowers and their "coalitions of the willing" would cancel each other out - had not survived the cold war.

I was a staff member of the organisation from late 1993 onwards, and was struck by the spirit of idealism that initially swept away the cobwebs of the cold war. World peace, sustained by the slow but sure abolition of weapons of mass destruction, actually appeared to be achievable for a brief window of opportunity. During the four preparatory years leading up to the entry into force of the CWC, this sense of idealism waned, as it became clear that the United States and Russia - the world's two largest possessors of chemical weapons, whose membership was a *sine qua non* for the new organisation - no longer ascribed major political importance to the CWC. Strangely enough, the end of the cold war and the perceived obsolescence of mutually assured destruction meant that grand disarmament gestures no longer had broad electoral appeal.

Also, it was beginning to dawn on US military strategists that, in the new unipolar world which it dominated, concessions in the name of peace and disarmament merely watered down its overwhelming military superiority, and no longer won votes back home. Iraq's devastating large-scale use [6] of chemical weapons against Iran, which had been covertly backed by the United States, with logistical support from Germany and others, had recently shown how effective chemical weapons could be in conventional frontline warfare [7]. And the potential military usefulness of incapacitating chemical agents - a category of chemical weapon prohibited by the CWC - was being noted.

For a combination of these reasons the Clinton administration failed to push through the ratification of the CWC while it controlled Congress, and was then compelled to cut a deal with Jesse Helms [8] and the Republicans eroding some of its key provisions, as a precondition for its ratification. The US government was legally bound to implement these "killing amendments", while the director-general of the OPCW was equally bound to implement provisions of the CWC that were at variance with them. The stage had been set for later conflict. Russia vacillated until some months after US ratification and entry into force before it joined the party.

An imbalance

Major challenges now confronted the fledgling organisation. The text of the CWC itself was full of holes. Political consensus had been achieved at the price of removing contested text, much of which related to strategically and operationally important issues on which states had been unable to agree. Until these gaps were plugged, the OPCW's capacity to effectively implement the CWC would be limited.

Fulsome promises made by powerful industrialised states in Geneva to persuade developing states to join the CWC were abandoned as soon as they ratified. Without the support of the developing-world states, universality would have been a mirage, and the CWC would have become just another scrap of paper. During the OPCW's early phase, persistent attempts to bring these promises to fruition produced no meaningful outcome. This alienated many developing states, which felt that they had committed themselves to the onerous burden of national CWC implementation on a basis of false pretences. Whereas the nuclear non-proliferation treaty [9] (NPT) had provided for the transfer of peaceful nuclear technology - at considerable profit to the nuclear possessors - the chemical industries of the developed world were unwilling to erode their market dominance by sharing chemical expertise and technology.

The alienation generated by this was in turn reflected in the unwillingness or incapacity of many states to comply with the CWC's onerous requirements for national implementation. States lacking effective border controls and a functioning bureaucratic infrastructure, and whose embassies are sometimes unable to pay for rent or electricity, can at best go through the motions of national implementation. Some member-states even lack the resources to prepare draft implementing legislation. Although the universality of the CWC is now *de jure* almost a

reality, many key requirements for its effective national and international implementation are still lacking.

Although the entry into force of the CWC occasioned much official self-congratulation, the low level of diplomatic importance ascribed to tackling the many legal and political challenges inherited from the preparatory organisation was reflected in the generally low calibre of diplomatic representation in The Hague. If member-states [10] had been serious about resolving the many pressing issues they had inherited, they would have assigned senior diplomats of high standing to work in The Hague, with a mandate to strike deals and to break the diplomatic deadlock. They neglected to do so.

A taboo

It is important at this point to violate an OPCW taboo by stating that, despite the CWC's confidentiality annex, various national-intelligence agencies play an unrecognised but important role in its work. Many staff members have an intelligence background, partly because chemical weapons have always been closely linked with national security. Especially those governments with a chemical-weapons capability or a sophisticated chemical industry have a concern to protect their own strategically important military and industrial secrets, and are also open to the possibility of acquiring those of other member-states.

While I worked with the OPCW I was requested to provide an English summary of a Dutch tape. On one section of the tape Ruud Lubbers [11], the outgoing conservative prime minister of the Netherlands, said that "in this post-cold-war era the most promising opportunities for international espionage lie with international organisations". Do some states support the OPCW, at least in part, because of the intelligence opportunities which it offers?

While electronic surveillance is undoubtedly "normal" in relation to any international organisation whose work touches on matters of national security, the gathering of human intelligence is equally important. In the case of the OPCW, some United States nationals and members of the US delegation play a lead role here. Other states, especially those with a significant chemical industry, also engage in such activities.

While the secretariat is monitoring compliance by member-states, key states are ceaselessly monitoring the secretariat, to ensure that its everyday activities are consistent with national priorities.

Whereas small delegations generally lack the resources to be active in this field, the US delegation is sufficiently large and well-resourced to closely monitor every aspect of the work of the secretariat. The aim of this is to enable the US delegation, in consultation with Washington, to ferret out and nip in the bud any proposals or initiatives not consistent with US policy. The US is aided and abetted by some of its nationals on the staff of the organisation, who tend to be concentrated in strategically important areas. For example, all directors of administration have been US nationals of varying degrees of competence, frequently state-department hacks nearing the end of their shelf-life. The director of administration is ideally placed to exercise considerable influence over recruitment and budgetary matters, and to influence the flow and distribution of information within the secretariat. As if this were not enough, the US delegation is continuously socialising with key staff members, and is patiently and resourcefully facilitating indiscretions about everything from recruitment to the secretariat's inspection and verification functions.

The everyday reality of international organisations bears scant resemblance to their regulations, rules and rhetoric. The US wields disproportionate influence over their policy formulation and

decision-making, not simply because of its economic and political muscle, but because it acts to ensure the continuous flow of complete and accurate information about everything they are doing.

A plot

José Bustani, a senior Brazilian diplomat with a disarmament background, was appointed OPCW director-general at the entry into force of the CWC, on 29 April 1997. Three years later, his appointment was extended "by acclamation". Bustani's secretariat was charged with implementing an international treaty faint-heartedly supported by key member-states, and lacking clear guidance for him and his staff in fundamental areas. Bustani's predecessor had been an accommodating British diplomat characterised by a reluctance to tackle thorny questions head on, and a proclivity for deal-cutting.

Bustani was confronted with the nearly impossible task of managing the now mandatory inspection and verification process. In accordance with his mandate, he was legally bound to apply the CWC, unqualified by the United States amendments. The first fruit of this clash of treaties was the failure of the US government to supply the legally required industry declarations for the first two years after entry into force. Until these declarations were submitted, industry inspections could not begin. Within a very short time this precipitated a crisis within the OPCW, with other states understandably wondering why they should comply with their treaty obligations if the state representing the world's largest chemical industry was not doing so.

Once inspections of US facilities began, irreconcilable differences of opinion about an ever-wider range of unresolved issues proliferated, complicating the relationship between the US and the OPCW. Also, the legally binding limitations on the application of the CWC in the US confronted other member-states with a discriminatory inspection regime applying one standard to them and another to the US. This contradiction is still in force.

The investiture of President George W Bush in January 2001 marked a watershed for the OPCW whose significance can only now be fully grasped. Control over foreign policy was assumed by a small but tightly-knit group of individuals, such as John Bolton, driven by a political agenda publicly spelled out in the Project for the New American Century [12]. This ambitious programme propounded a doctrine of Pax Americana, with its manifold associations [12] of bygone global empires. In the unilateral post-cold-war world the US would seek to assert itself worldwide, to ensure US hegemony throughout the 21st century. Rearmament was a central theme, and disarmament was dropped overboard. Multilateralism and the rule of law were rendered insignificant in a context defined by the threat and the reality of absolute power.

The Bush administration immediately distanced itself from a wide range of multilateral initiatives, and focused increasingly on international "coalitions of the willing". The US torpedoed the comprehensive nuclear test-ban treaty by declaring that it reserved the right to conduct further nuclear tests, should this be in the national interest. Just before 11 September 2001 the US axed the protocol to the biological-weapons convention [13], which would have established a verification and inspection mechanism based on the OPCW model. After 11 September the Bush administration became a bull in an international china-shop in its single-minded pursuit of a "war on terror" led as much by states demonised [14] as the "axis of evil" as by non-state entities such as al-Qaida.

A bombshell

We now know that a decision to attack Iraq was taken almost as soon as Bush was elected. The US tirelessly maintained that Iraq's chemical and biological weapons capability was a serious

threat to world peace, and hyper-inflated its importance. The US wanted the OPCW to confirm Iraq's chemical-weapons capability, and to legitimise a military intervention. Without knowing it, Bustani, with his reputation for defending the integrity of the CWC, found himself a multilateral pawn in a grand geopolitical power-game. If the OPCW went into Iraq, the US government could not be confident that Bustani's inspectors would deliver the goods. He had to go. The gloves came off, with diplomatic enforcers such as [John Bolton](#) [15], then under-Secretary for State, and Ambassador Donald Mahley taking up frontline positions.

Although Director-General Bustani was aware of the deterioration in the relationship between the US and the OPCW, the news that the US government, in early February 2002, had launched a campaign to secure his dismissal landed like a bombshell. With the active backing of the state department in Washington, the US delegation launched a military-style campaign relying on speed and surprise. It was made clear that, if Bustani was not removed, all US funding would be withdrawn from the OPCW, which would go under (see George Monbiot, "A war against the peacemaker", [Guardian](#), 16 April 2007 [16]).

Within two and a half months the [objective](#) [17] of securing Bustani's dismissal had been achieved. Level-headedness and due process were conspicuous by their absence. Senior US nationals on the OPCW staff lobbied openly against their director-general and intrigued with their own delegation. One of them is now director of administration. Ambassador Mahley invited US nationals on the staff to private meetings which served the purpose of [mobilising](#) [18] those who were opposed to Bustani and intimidating those who were not (without the backing of the US delegation, no US national's contract would be extended).

The state department greatly enlarged the US delegation with reinforcements from Washington, to target other delegations, and launched a parallel international campaign in capitals. In the current post-Iraq environment - very different from the wave of international support which buoyed the Bush administration after 9/11 - such an initiative would almost certainly be vigorously resisted.

The Bustani incident was a brutal diplomatic manifestation of Pax Americana (see Hannah M Wallace, "A coup in the Hague", [Mother Jones](#), 28 June 2002 [19]). It is nevertheless interesting that only forty-eight OPCW member-states voted for the US resolution, while forty-three abstained, with seven, including Russia and China, [opposed](#) [20]. In his defiant final [statement](#) [21], Bustani prophetically stated that this outcome would be a victory for "unilateralism in multilateral disguise."

With Bustani [discarded](#) [22], and with US ascendancy over the OPCW at its height, a semblance of normality had to be restored as soon as possible. [Rogelio Pfirter](#) [23] - a compliant Argentinean - was immediately appointed to replace Bustani, and has done nothing to rock the boat ever since. The OPCW's back had been broken, and its capacity to function independently had been eliminated. The US delegation has rewarded the organisation for good conduct with generous contributions to its budget.

The words of the [International Labour Organisation's administrative tribunal](#) [24] (ILOAT), which "set aside" the conference's decision to fire Bustani, and found that it "contravened the general principles of law of the international civil service", still resonate uncomfortably today: "To concede that the authority in which the power of appointment is vested . . . may terminate that appointment in its unfettered discretion, would constitute an unacceptable violation of the principles on which international organisations' activities are founded . . . by rendering officials vulnerable to political change." With the omnipresent US delegation looking over its shoulder, the OPCW is now incapable of performing politically delicate assignments with unquestionable integrity.

At a time when (in October 2005) the new director-general was praising [25] the US for its "unwavering commitment to this crucial disarmament effort", the OPCW knew that the US would be the only CW possessor not to destroy its chemical weapons by the CWC destruction deadline. Low-risk facilities in developing countries producing soap, urea, and other substances lacking any possible dual use application are now receiving more than half of all inspections, while high-risk facilities in developed countries are being seriously under-inspected.

A bad smell

The US is now, together with other developed states, proposing that it should be able to "order" inspections at specific sites in other countries. The US has also proposed that member-states be able to put forward "national inspectors" to conduct inspections, thus undermining the political neutrality of the inspectorate. The director-general has done away with bodies established to advise him on contract extensions, and now - in the absence of any checks and balances - has absolute power over all staff members.

Compliance and servility are the watchwords of the new OPCW, which was also a testing-ground for the subjugation by the US of other international and United Nations organisations. It can be argued that Henry Hyde's UN reform bill [26] as adopted by Congress embodies principles developed on the battleground of the OPCW. The current OPCW director-general is understood to already have offered to step into the shoes of the International Atomic Energy Agency's feisty Mohamed ElBaradei [27], whom the US government has unavailingly struggled to eliminate.

Something is rotten in the state of multilateral disarmament and non-proliferation.

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- [18] http://www.armscontrol.org/act/2002_05/opcwmay02.asp
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