The BerlinGroup21 in 2024

The OPCW Continues to Refuse to Address the Douma Controversy

Peace, security, and socio-economic well-being for all are supposed to be assured through a world-wide network of multilateral institutions. Such a network exists and is led by the United Nations. The Organisation for the Prohibition of Chemical Weapons (OPCW) is among them with the stated responsibility to deploy 'impartial mechanisms necessary to verify compliance and to redress … non-compliance' and 'to ensure a credible and transparent regime for verification'.

Given repeated failures of these two institutions, especially during this tumultuous third decade of the 21st century, two questions must be asked: i. if the UN is not fit for purpose what has to be done to change its architecture?; And ii. what must happen to restore the credibility of the OPCW in accordance with its mission as adopted by the Assembly of State Parties?

The UN of 2024 cannot be the UN of 1945. Fundamental reforms are urgent and long overdue. Today, the global political landscape is more complex and diversified than ever before. The west-centric UN of the past is no longer acceptable to non-western nations and peoples. Voting patterns in the UN General Assembly reflect this undeniably, as does the stalemate prevailing in the UN Security Council.

The OPCW remains a west-east battleground for global geo-political leadership in which international law and institutional independence have become collateral damage with citizens around the world as victims.

The BerlinGroup21 (BG21) was founded in 2021 and is comprised of former OPCW Director-General José Bustani, Richard Falk, Professor Emeritus of Princeton University, Dr. Piers Robinson, and Dr. h.c. Hans von Sponeck.

BG21's sole objective is to provide empirical evidence about the OPCW's malpractice and the UN's partiality in its cooperation with the OPCW in connection with the investigation of the alleged attack of 7 April 2018 on the Syrian city of Douma in which, according to the OPCW and Western permanent members of the UN Security Council, chemical weapons were used. The OPCW's Fact Finding Mission (FFM) had investigated this alleged chlorine gas attack after 43 civilians were found dead in an apartment building.

Disagreements within the OPCW about this serious allegation came initially from two OPCW senior scientists, Brendan Whelan, a chemist from Ireland, and Ian Henderson, an Australian ballistics expert, who pointed out that the scientific assessment of the Douma incident in no way supported the OPCW's conclusions that the attack had occurred as alleged.

In a public Statement of Concern, released by the BG21 on 11 March 2021, 28 internationally known professionals with backgrounds in Middle East affairs, geopolitics,

multilateralism, and intelligence, expressed their profound concern about the serious irregularities concerning the Douma investigation.

The BG21, supported by expertise relating to chemical analysis, toxicology, ballistics and other areas of relevance such as the review of witness accounts, took this as a challenge to carry out an in-depth analysis of the circumstances surrounding Douma. BG21 wanted to make the case of Douma a case for finding the truth, nothing else.

The BG21 Report

Following two years of intensive investigations by BG21 a comprehensive report, commissioned by two members of the European Parliament for which the BG21 is most grateful, was distributed in May 2023 to the OPCW senior management and all of the OPCW 193 States Parties. This report, based upon evidence emerging from a number of OPCW scientists and officials and analysis of multiple documents, demonstrated a series of substantial procedural and scientific flaws regarding the OPCW Douma Fact Finding Mission (FFM).

Critical flaws identified by the BG21 report include:

> **1) The deliberate suppression of the Douma investigation team's original interim report and an attempt to publish a secretly modified report which made unevidenced claims regarding the alleged weapons attack. Publication of this deceptive report was only prevented when a senior OPCW scientist, Dr Brendan Whelan, discovered the fraud and protested to senior management. This incident confirms that one or more officials within the OPCW conspired in order to attempt to publish a scientifically fraudulent and misleading report. Such actions are incompatible with the behaviour expected of a trusted international organisation and the incident needs to be investigated as a suspected breach of the OPCW's confidentiality regulations (BG21 Review: pp. 26-27 and p. 62).**
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> **2) Systematic sidelining of OPCW inspectors deployed to Syria and refusal to address substantial issues raised by the two senior inspectors regarding scientific and procedural malpractice involving suppression of evidence and biased analysis (BG21 Review: pp: 24-26 and 31-33).**
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> **3) Suppression of a toxicology report provided by NATO experts and which stated, unequivocally, that the victims at Douma were not killed by chlorine gas and, in a 2023 OPCW-IIT (Investigation and Identification Team) report, presenting demonstrably false scientific claims regarding alleged chlorine exposure and the Douma victims (BG21 Review: pp. 39-43 and pp. 73-76).**
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> **4) Suppression of witness testimony stating the alleged attack had not occurred and that hospital scenes associated with it had been staged (BG21 Review: pp. 43-45 and pp. 79-99).**
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> **5) Repeated and systematic attempts to exaggerate chemical analyses in order to misleadingly suggest the FFM had found hard evidence of chlorine gas use (BG21 Review: pp 101-117).**

6) Obfuscation and censorship of impact studies necessary to show whether the two cylinders found at the alleged attack sites had been dropped from a Syrian Air Force helicopter or had been placed manually (BG21 Review: pp. 119-135).

7) Failure to address substantive evidence indicating the events in Douma had, in fact, been staged and that the victims were killed by means other than the alleged chlorine gas attack (BG21 Review: pp. 42-43, pp: 113-114, p. 130 and p. 132)

Taken together, these flaws, along with multiple other issues, all of which are fully demonstrated and documented in the BG21 review, mean that the OPCW's central claim, that there were 'reasonable grounds' the alleged chemical weapons attack occurred, is inaccurate and untenable.

At the 9372nd Security Council meeting, held on 11 July 2023, Brazilian diplomat Wazima Szatmari stated:

> ***Brazil received with deep concern the most recent report circulated by the Berlin Group 21 in the Hague on the process that led to the publication of the final report of the mission deployed to investigate the alleged use of chemical weapons in Douma in April 2018. The document raises a host of extremely concerning issues that the OPCW should not ignore if it is to preserve the credibility of its conclusions, regarding not only the Douma incident but all aspects of non-verification missions. We expect the OPCW Director-General and the Secretariat to address the issues raised in the Berlin Group review in a transparent manner, preferably by the next session of the OPCW executive council.***

At the recent OPCW Conference of States Parties (CSP28), November 2023, the Brazilian ambassador stated:

> ***We remain extremely concerned with the questions related to the non-routine inspections in Syria, questions that must be properly and unequivocally addressed by the Organisation. Genuine efforts in this regard would demonstrate its commitment to transparency and evidence-based rigour in its verification processes. These measures are even more necessary given the past episodes of political interference in OPCW, such as was the case with the dismissal on spurious grounds of its first Director-General José Bustani in 2002.***

And again, at the 9519th UN Security Council meeting held on the 22nd of December 2023, the Brazilian ambassador reiterated that:

> ***The OPCW currently faces a crisis of credibility, as evidenced by the recurrent questions raised in relation to inspection activities in Syria. We believe that these issues must be properly and unequivocally addressed by the OPCW with a view to breaking the current cycle of counterproductive controversies and to preserving the credibility of the organisation. Throughout this year Brazil has been making concrete proposals to this end in the policy making bodies of the OPCW which thus far have not been heeded.***

The Brazilian government also condemned Decision C28/DEC.12, which asserts the 'continued possession and use of chemical weapons by the Syrian Arab Republic', stating that:

> ***… the decision in question was adopted by a very contentious vote in which the majority of member states either voted against or chose to abstain or to be absent. This result clearly demonstrates how this decision failed to garner broad support … It represents another dangerous step towards the erosion of support in an organisation that was once based on consensus. Brazil abstained … out of the conviction that it runs counter to the mandate of the OPCW and works at cross purposes to our efforts to shore up the credibility of the organisation. The result of the voting also indicate that this concern is shared by a growing number of states and merits serious reflection.***

Despite all of these calls from Brazil, which include the need to address the issues surrounding the Douma investigation detailed in BG21's review, there has been no response from the OPCW. We can only conclude that silence has prevailed because the OPCW is unable to address the flaws identified in the BG21 review. If it cannot address these flaws, the OPCW cannot have confidence in its finding that the Syrian government was responsible for the alleged attack in Douma.

This failure to respond is morally and politically unjustifiable. The death of 43 civilians in Douma on 7 April 2018 remains unexplained and, given the unexplored evidence of staging, there is the very real possibility that a major war crime was committed by opposition elements in Douma. As such, any and all attempts to stifle further investigation into their deaths, including refusal to address the issues raised in the BG21 review, potentially amounts to the cover up of a war crime. Truth, justice, and accountability are being denied to the victims and their families.

Why is Douma Important?

There have been multiple cases of alleged chemical war crimes in Syria. Why then select Douma, a single alleged incident among many, for close attention? The principal reason is that this case, because of the compelling evidence now available in the public domain regarding manipulation of the FFM investigation, confirms that the OPCW Syria investigations are unreliable. The BG21 review provides extensive evidence to show that the OPCW's Douma FFM had all the characteristics of a corrupted investigation designed to mislead in order to protect western interests at all costs including severe damage to the credibility of the OPCW. Consequently, all other cases investigated by OPCW mechanisms should also be re-assessed including Khan Sheikhoun (2017) and Ghouta (2013). Douma is also highly significant because it was used to justify military action by the US, UK and France against Syria, and which had no UN Security Council authorization.

BG21 suggests, furthermore, that new initiatives, which are fully independent and objective, be considered in order to look into all allegations regarding chemical weapons use in Syria, including allegations against the Government of Syria following its ratification in 2013 of the Chemical Weapons Convention and becoming an OPCW State Party, opposition groups and external actors.

As such, the BG21 Douma investigation is a starting point toward helping us to understand whether this instance of malpractice was a stand-alone initiative or part of a pattern of geopolitically motivated deception operation similar to the ones that had been carried out without any accountability in Vietnam, Cambodia, Afghanistan, Libya, or in the well documented case of Iraq and its weapons of mass destruction, and elsewhere.

Furthermore, the Douma case has implications for the United Nations. The UN has a partnership agreement with the OPCW on Syria and we would expect the Security Council to react positively for a review of this on-going controversy that has stymied for many years the UN Security Council debate on Syria and affected the wider geo-political deliberations within and outside the UN.

Unfortunately, none of this has happened. When the 2021 Statement of Concern was mailed to the Director General of the OPCW, in an envelope marked 'Signatories' and with the sender's address, it was simply returned, unopened, to BG21 (see * below for screenshot). Repeated personalized appeals by BG21 to the Presidents of the UN General Assembly, the UN Security Council and the Human Rights Council, as well as the five permanent members of the Council, concerning the Statement of Concern and the Douma Review, remained unanswered. The UN Secretary-General chose not to even acknowledge receipt of BG21's communications. The UN Undersecretary-General Izumi Nakamitsu, instead of adhering to her mandated responsibility to 'facilitate dialogue among diverse stakeholders', has done the opposite and consistently reiterated her support for the OPCW praising the 'integrity, professionalism, impartiality, objectivity, and independence' of the work of the OPCW without even one reference to the fundamental disagreements among state parties on Douma and the major concerns raised in the BG21 Review. BG21 considers this a serious failure to do justice to her important UN appointment.

The UN remains seemingly unwilling to even question the obvious need for a reassessment of the official OPCW Douma position. The across-the-board 'Douma silence' by UN leadership suggests that this global institution has given way to outside pressures in breach of the UN Charter (Articles 100 & 101) which demands impartiality in the conduct of carrying out its mandate.

Next Steps

UN failure together with the unwillingness of OPCW management to agree to re-open the Douma file, encourages the BG21 to intensify in 2024 its efforts to support government- and non-government follow-ups in seeking a credible re-assessment of the Douma materials with the objectives of i. bringing justice to the victims; and ii. replacing manipulated data with scientific evidence; iii. calling for accountability; and iv. helping to restore the OPCW as a credible multilateral institution.

With these objectives in mind, BG21 in 2024 will take the following steps in 2024 and beyond to:

1. **Broaden its contacts with individual governments, especially those that have responded to the BG21 Douma Report.**

2.Encourage other governments to come forward with reactions on the BG21 findings.

3. Continue to request members of the Security Council, both P5 and E10 countries, to give their critical feedback to the BG21 Report.

4. Appeal to the UN Secretary-General to end his silence on the issue.

5. Strengthen BG21 contacts with non-governmental organizations and individuals to benefit from their knowledge and experience in the areas of BG21 concern.

6. Engage more broadly with media, not just in Europe and North America, to encourage them to review the BG21 Report and to discuss the Report.

7. Convey to the OPCW State Parties, yet again, that the unresolved Douma controversy remains for many citizens around the world a critical geopolitical issue with implications for peace and security and, therefore, needs OPCW State Parties' continued engagement.

8. Re-connect with the signatories of the BG21 Statement of Concern about OPCW to seek their further advice and cooperation.

9. Request those OPCW scientists who prepared the original Fact-Finding-Mission (FFM) report to come forward.

10. Follow-up contacts with parliamentary foreign affairs committees.

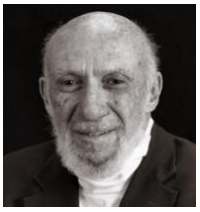
11. Continue cooperation with the two Irish MEPs following their Douma 'Way Forward' document.

12. Engaging with parliamentary factions in the EU Parliament to seek their support in reassessing Douma and bringing closure to this controversy.

In closing, BG21 remains profoundly concerned about the impact on global security of the stalemate in the debate on Douma and the manner in which the current OPCW management and UN leadership have carried out their mandates. Fully aware of its limited capacity to influence the polarized conditions in the OPCW and in the UN, BG21 will nevertheless continue to do all it can to make a difference in the year ahead.

Amb. José Bustani, Prof. Richard Falk Dr. Piers Robinson, Dr.h.c Hans-C. von Sponeck,

BerlinGroup21



***Screenshot of the envelope that contained the Statement of Concern, mailed to OPCW Director General but returned unopened (note that the sender's address has been redacted in this screenshot)**

