



Attachment

1. Noting the mandate of the Organisation for the Prohibition of Chemical Weapons (“OPCW”), this analysis is limited to examining the prohibition to develop, produce, acquire, stockpile or retain, transfer, or use chemical weapons and the possible exercise of universal jurisdiction for acts in violation of this prohibition.
2. The OPCW was established to achieve the object and purpose of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (“Chemical Weapons Convention”, “Convention”, or “CWC”)¹ and to ensure the implementation of its provisions. The present comments pertain to the possible exercise of universal jurisdiction by national courts in the case of an alleged breach of a prohibition set forth by the Convention.

¹ Article 1 of the Chemical Weapons Convention establishes a prohibition on

each State Party, never under any circumstances, “to develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone” and “to use chemical weapons”.

4. In the context of national implementation, States Parties are provided with some flexibility as to how to fulfil their obligations under the Convention. This flexibility comes directly from Article VII of the CWC, as it requires each State party, “in accordance with its constitutional processes” to “adopt the necessary measures to implement its obligations” under the Convention.²
5. In particular, Article VII(1) of the Convention requires each State Party to prohibit natural and legal persons from undertaking any activity prohibited

criminalising activities relating to chemical weapons prohibited under the
CWC

7. In addition, the OPCW notes that, in response to the extraterritoriality requirement contained under subparagraph 1(c) of Article VII of the

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never be used and must be destroyed pursuant to Article IV of the Convention.
