

## 100 Years On: Strengthening the Norm against Chemical- Weapons Use

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### Summary

During the World War I, the German forces used Chlorine Gas for the first time on April 22, 1915, killing thousands of French soldiers. This incident brought to fore the deadly consequences of the use of chemical weapons. After this even though not recognised universally, the norm against use of chemical weapons had become an important moral and legal constraint during the WWII years. The international community has made significant achievements towards banning the use of chemical weapons in armed conflicts ever since. This has been made possible due to successful enforcement of the Chemical Weapons Convention (CWC).

On 22<sup>nd</sup> April, 1915, during the First World War (WWI), German forces used Chlorine gas for the first time, killing thousands of French troops in the battlefields in Ypres, Belgium.<sup>1</sup> This incident introduced the era of weapons of mass destruction (WMDs) in the history of modern warfare. Since then, chemical agents have become the only WMDs to be used repeatedly in conflict situations. Subsequently, one hundred years later, the international community has made significant achievements towards banning the use of chemical weapons in armed conflicts. This has been made possible due to successful enforcement of the Chemical Weapons Convention (CWC) that seeks to ban the development, production, transfer, and use of chemical weapons.<sup>2</sup> Widely hailed as the most successful disarmament treaty in the history of humankind, the CWC embodies the norm against use of chemical weapons in existence for more than a century in various forms.<sup>3</sup> Since its entry into force in 1997, 190 states have joined the CWC and significant progress has been made towards the elimination of world's declared chemical weapons stockpile.

Nevertheless, the fact that the threat of use of chemical weapons is far from being resigned to history is a grim reminder in the centenary year of Ypres tragedy. When the threats of chemical weapons use were widely believed to have disappeared from the international scene, the reported use of chemical weapons in Syria in 2013 has once again served as a wake-up call to the international community about the dangers posed by these weapons. Not only has the use of chemical agents raised strong suspicions of Syrian military's involvement but more importantly it undermined the longstanding taboo against the use of chemical weapons.<sup>4</sup> Given the fact that the

normative proscription has played a pivotal role in banning the use of chemical weapons in armed conflicts, the Syrian crisis has once again underscored the need to reinvigorate and strengthen the normative bulwark against the use of chemical weapons.

### **Chemical Weapons in the Past: Norms-versus-Interests**

The norm against use of poisonous substances in armed conflicts has been in place for more than a century now. As early as in 1899, the Hague Declaration, followed by the Hague Convention of 1907, banned the use of projectiles that diffused “asphyxiating or deleterious gases”.<sup>5</sup> Although the use of poison gas as a potential military weapon was considered by European armies at the beginning of WWI, it was not deployed in large quantities in early stages of the campaign either by allied or central powers. When found deadlocked in trench warfare against French troops in Belgium, Germany considered unleashing poison gas on French troops. However, being a signatory to the Hague Convention, it was reluctant to use poisonous gas for breaking the military stalemate. Germany’s decision to eventually use chemical weapons at Ypres in 1915 thus not only caught the world by surprise but resulted in all-out use of chemical weapons during the WWI, killing hundreds of thousands and leaving as many as one million injured. Such devastating use of chemical weapons in pursuit of limited military goals significantly bolstered the odium attached to chemical weapons and resulted in the adoption of Geneva Protocol in 1925, which broadened the prohibition beyond projectiles to any asphyxiating, poisonous or other gases.<sup>6</sup>

Although not recognised universally, the norm against the use of chemical weapons had become an important moral and legal

constraint during the WWII years. As argued by scholars like Richard Price and Nina Tannenwald, the non-use of chemical weapons by both the Allied and the Axis powers had not been so much for the fear of mutual retaliation but more importantly due to legal and normative constraints attached to their use.<sup>7</sup> While the taboo against the use of chemical weapons did not restrain Italy from using them in Libya in 1930, in Ethiopia during 1935–1936, and by Japan against China during 1937-1945, it nonetheless played an important limiting role during the WWII.

The military significance of chemical weapons declined during Cold War years due to the invention of new categories of WMDs. Not only had it further enhanced the moral opprobrium against the use of chemical agents but also helped initiate diplomatic efforts to legally ban their production and use. Further, use of Agent Orange by the US army in Vietnam generated strong domestic public reaction and eventually forced the US administration to stop its use in Vietnam. Similarly, use chemical weapons by Saddam Hussein in the Iran-Iraq war (1980-88) and against destitute Kurdish minorities drew adverse international reactions and strengthened the international community’s resolve against their use. The Iraq crisis provided an important stimulus to the international community to conclude negotiations on a comprehensive treaty to ban the production and use of chemical weapons. It led to the Chemical Weapons Convention that not only banned the use of chemical weapons but also their possession, production, and transfer. The CWC was opened for signature in 1993 and entered into force in 1997. This has further diminished the political and military utility of chemical weapons had for states which perceived them to be “poor man’s atomic bomb”.

## Emerging Security Challenges & Chemical Weapons Taboo

The CWC's 190 member countries represent about 98 percent of the world's population and landmass, as well as 98 percent of its chemical industry.<sup>8</sup> Through the ratification, member states pledge to declare and destroy all the existing chemical weapon stockpiles. By the end of 2014, about 85% of the world's declared chemical arsenals had been destroyed and the OPCW expects a complete elimination of the remaining stocks by 2023.<sup>9</sup> However, the use of chemical weapons in Syria highlighted that the political expediency during armed struggles can potentially undermine the global norm against use of chemical weapons. Syria had long opposed joining CWC on the grounds that it would not give up its chemical weapons until Israel gave up its nuclear program and joined the Nuclear Non-proliferation Treaty. Egypt too has refused to join CWC on similar grounds.

In 2013, even if Syria buckled under international pressure and acceded to the CWC after the reported use of nerve agents, the international community should take a lesson and ensure that such incidents are not repeated in other parts of the world. The six countries that continue to stay outside the CWC are Egypt, Angola, South Sudan, North Korea, Israel and Myanmar.<sup>10</sup> As the CWC nears the universal status, completing chemical disarmament in the Middle East, held back due to intransigence of Israel and Egypt to join CWC, should be an urgent priority for the international community. Current turmoil in the Middle East is likely to persist until the prolonged territorial disputes and security concerns of Israel and Arab states are resolved satisfactorily through a regional peace process. Given the protracted nature of this process, the international community has an important

stake in strengthening the norm against chemical weapons use to deter the potential users for the fear of strong international repercussions.

Furthermore, new developments such as resurgence of ISIS have created new urgency to achieve the universal chemical disarmament at the earliest. Driven by a deep-seated ethnic and racial hatred, ISIS is widely feared to use toxins for conducting mass-murders. The fact that CWC only covers state parties and has no control over terrorists and insurgent groups poses a serious problem now and for the future. While the technical means to address the limitations of CWC have a long way to go vis-a-vis the challenges posed by harmful non-state actors, state parties and the global civil society must reinforce the norms against chemical weapon use. Only a strong international commitment to the norm of non-use will strengthen the ban against this abominable category of WMDs.

## Endnotes:

- <sup>1</sup> Sarah Everts (2015), "When Chemicals Became Weapons of War", Chemical & Engineering News Magazine Online, URL: <http://chemicalweapons.cenmag.org/when-chemicals-became-weapons-of-war/> accessed on May 18, 2015.
- <sup>2</sup> See Chemical Weapons Convention, Organization for the Prohibition of Chemical Weapons, URL: <https://www.opcw.org/chemical-weapons-convention/>
- <sup>3</sup> Numerous instruments such as Hague convention, Geneva Protocol of 1925, the Biological and Toxin Weapons Convention (BTWC) of 1972, the UNSCR 1540 and national legislations, all seek to reinforce the ban on chemical weapons use.
- <sup>4</sup> Rod Barton (2013), "Chemical weapons use in Syria: Who, what, why?", Lowy Interpreter, August 26, 2013, URL: <http://www.loyyinterpreter.org/post/2013/08/26/Alleged-chemical-weapons-use-in-Syria-Who-what-and-why.aspx?COLLCC=3681858061&>

- <sup>5</sup> Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, The OPCW, URL: <https://www.opcw.org/chemical-weapons-convention/related-international-agreements/chemical-warfare-and-chemical-weapons/hague-convention-of-1907/>
- <sup>6</sup> Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, The OPCW, URL: <https://www.opcw.org/chemical-weapons-convention/related-international-agreements/chemical-warfare-and-chemical-weapons/the-geneva-protocol/>
- <sup>7</sup> Richard Price and Nina Tannenwald (1996), "Norms and Deterrence: The Nuclear Weapons Taboo" in Katzenstein, P. (Ed.), *The Culture of National Security: Norms and Identity in World Politics*, New York: Columbia University Press, pp. 114-153.
- <sup>8</sup> "The Chemical Weapons Ban: Facts and Figures", OPCW, URL: <https://www.opcw.org/news-publications/publications/facts-and-figures/#c1896>, accessed on May 19, 2015
- <sup>9</sup> Jenny Nielsen (2013), "In praise of the Chemical Weapons Convention", IISS, October 31, 2013, URL: <https://www.iiss.org/en/iiss%20voices/blogsections/iiss-voices-2013-1e35/october-2013-39f4/in-praise-of-the-cwc-6514>
- <sup>10</sup> Non-Member States, OPCW, URL: <http://www.opcw.org/about-opcw/non-member-states/>, accessed on May 19, 2015