

CSHL NEWSLETTER

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Prohibition of Chemical Weapons

Besides nuclear weapons and biological weapons, chemical weapons are one of the weapons of mass destruction. They are defined by the Organisation for the Prohibition of Chemical Weapons (OPCW) as chemicals that are used to cause intentional death or harm through their toxic properties.[1] This definition also extends to munitions, devices, and other equipment specifically designed to weaponize toxic chemicals.[2] Chemical weapons are considered as one of the weapons of mass destruction for a reason, after we witnessed its first large-scale appearance during World War I when Germany released thousands of tonnes of chlorine mustard and other chemical agents at Leper, Belgium on 22 April 1915. [3] The attack resulted in the painful death of more than 90,000 soldiers, and almost 1 million people were blinded or disfigured or suffered debilitating injuries. These indiscriminate attacks caused outrage, and the 1925 Geneva Protocol prohibiting the use of chemical weapons was created, signed, and ratified by many states.[4] However, the problem was that the Protocol itself did not prohibit the development, production, or possession of chemical weapons, instead only prohibiting the use of chemical weapons in war. And states parties could also make reservations to use chemical weapons in response to other chemical attacks or against other states that were not parties to the Protocol.

Therefore, even though no chemical weapons were used again in the European battlefield, during the Cold War the United States and the Soviet Union came to maintain enormous stockpiles of tens of thousands of tonnes of chemical weapons. Nevertheless, after negotiation by the UN Conference on Disarmament, the Chemical Weapons Convention (CWC) opened for signature on 13 January 1993, entered into force on 29 April 1997, and now has 193 states parties.[5] The purpose of this Convention is to eliminate and prohibit the development, production, acquisition, stockpiling, retention, transfer, or use of chemical weapons. Besides the CWC, chemical weapons are also prohibited by Customary International Humanitarian Law (CIHL). Pursuant to Rule 74 of CIHL, "The use of chemical weapons is prohibited," and state practice establishes that this rule applies to both International Armed Conflicts (IAC) and Non-International Armed Conflicts (NIAC).[6] Therefore, even the remaining 13 states that are not parties to either the 1925 Geneva Protocol or the CWC are still bound by this rule of CIHL and prohibited from using chemical weapons based on Customary International Law.

In a nutshell, the 1925 Geneva Protocol, the Chemical Weapons Convention, and Customary International Humanitarian Law prohibiting the use of chemical weapons are one of the biggest achievements of the international community. No more victims will suffer from this heinous weapon, and the world can finally move towards being a peaceful community.

[1] United Nations: Office for Disarmament Affairs, Chemical Weapons, (n.d), available at <https://www.un.org/disarmament/wmd/chemical/>.

[2] Ibid.

[3] Organisation for the Prohibition of Chemical Weapons (OPCW), History, (n.d), available at: <https://www.opcw.org/about/history>.

[4] Ibid.

[5] Organisation for the Prohibition of Chemical Weapons (OPCW), What is a Chemical Weapon?, (n.d), available at: <https://www.opcw.org/our-work/what-chemical-weapon>.

[6] Customary IHL, Rule 74, Chemical Weapons.

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