

Ratification of the Geneva Protocol and the control of
CHEMICAL WARFARE.

Should teargas and herbicides also be banned?

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THE GENEVA PROTOCOL of 1925 is again before the Senate for belated ratification. It aims at the simple and universally accepted goal of controlling chemical and biological warfare.

When we look a little deeper, we discover the intricacies of the means by which we hope to achieve such a goal. The problems include the subtleties of legal draftsmanship, complexities of technical distinction of chemical from other weapons, uncertainties how to verify and respond to apparent violations, controversies over the nature of international law and confusions about what is meant by a "national interest."

The only evident hindrance to U.S. ratification is the conflict over the definition of a chemical weapon prohibited by the protocol. The text condemns "the use in war of asphyxiating, poisonous or other gases . . . and of all analogous liquids, materials or devices." A phrase like "other gases" is so vague that it can mean only what the parties intend it to mean. Does it apply to tear gas? To defoliants?

If "other gases" is taken in its literal chemical sense, the protocol would be a dead letter, for "other gases" include the effective agent of gunpowder, oxygen to sustain the crews of submarines and high-flying aircraft and gas turbine devices to propel them. Some legal authorities have argued that actual military usage since 1925 has broadened the scope of the prohibition.

For example, tear gas might have saved many lives in the World War II battles of the Pacific islands. That neither side used it is hard to explain except for its chemical warfare implications. Nevertheless, tear gas is used in Vietnam, in a different political and military context.

The enemy is less clearly defined, and political and humanitarian factors limit the use of other available weapons. Perhaps more important, the Japanese also had (or the United States believed they had) the capacity for retaliation with far more lethal chemical weapons. Furthermore, neither Japan nor the United States was a signatory of the Geneva Protocol during World War II. This history, then, has little bearing on the morality of chemical weaponry or on the semantics of the protocol.

Should the protocol be adopted with a provision to include tear gas and herbicides? The pros and cons

of the debate must cover a number of arguments.

1. Technology race.

(Pro): We must restrain a potential technology race that will proliferate the use of chemicals in war.

(Con): But this may even have humanitarian merit. Why not look for nonlethal weapons as a "technological fix" to alleviate the death and suffering which have always been associated with war?

(Pro): It would be fine if other weapons could be replaced by nonlethal chemicals. In the real world, tear gas and other chemicals will be used to augment firepower. It would be increasingly difficult to maintain a sharp boundary line between forbidden poison gas and permitted tear gases if the latter were used on any large scale. A stubborn defense of the use of tear gas in war would then result in collapse of the whole structure of restraints on chemical weapons.

(Con): This risk could be lessened if the use of certain specified compounds, like CN tear gas, were exempted under international agreement that they would make war less brutal. Some such understanding is probably needed anyhow to clarify the difference between civil use of tear gas for riot control (where it is clearly an alternative to firepower) and use in war—a difference that is clouded by wars of insurgency and national liberation.

2. The abuse of power.

(Pro): Chemical weaponry illustrates the exploitation of technology in support of U.S. military power. Tear gas, herbicides, helicopters and electronic sensors have facilitated intervention in Southeast Asia. By encouraging an illusion of victory, such tools have encouraged the United States to exercise its power in transcendence of its core interests. The global revulsion against gas warfare can be focused to mobilize public opinion against the juggernaut of the Defense Department. This may be injecting extraneous issues into the domestic conflict over foreign policy, but the political and economic preponderance of the executive and the industrial-military complex leave no alternative.

(Con): U.S. power is not the only source of evil in the world and, wisely used, may be indispensable for world order. We ought to improve our political machinery to control the Defense Department, not obstruct its technical capacity. Relying on technical treaty obligations to direct our foreign policy leaves us in a vulnerably inflexible position in responding to technological surprises.

(Pro): But we still have the nuclear shield.

(Con): And if we have nothing else, we will have to rely on nuclear weapons to protect ourselves.

3. Marking off a firebreak.

(Pro): Incorporating tear gas into the protocol links it to poison gas, which everybody condemns. We will then have a clear firebreak that will deter everybody from using any chemical weapon of any kind.

(Con): The protocol is a mutual contract that is automatically abrogated if a party violates it. So if any chemical

is used in violation of the protocol, it will tear down the whole structure of prohibition. One trouble with a firebreak is that if a spark does fly across one, there may be no defenses on the other side. So any firebreak had better be as wide and clear as it is, say, with nuclear weapons.

This is especially important in a crisis, when communication between opponents may be shaky at best. The whole text of the protocol needs to be gone over again to be sure there is a clear common understanding of its intent.

(Pro): A very good way to do this would be for the Senate to formulate a very precise list of formal reservations about its meaning. For example, the Senate should indicate that the United States does regard the use of tear gas and herbicides in war as weapons falling within the prohibition.

This prohibition should hinge on its formal acceptance by a majority of the other signatories. The reservations already attached to the protocol by France and most other signatories unleash its adherents against any country that violates any provision of it.

To safeguard the firebreak, the U.S. reservation should limit the right of reprisal to the use only of similar chemicals, not nerve gas or other lethals, should any country transgress the restriction on herbicides and tear gas. This procedure would also make clear that the United States was attempting to codify new law without accepting a moralistic attack on past actions.

4. Why bother about the protocol anyhow?

(Con): It merely disavows the use of chemical weapons (this discussion puts biologicals aside), but the threat of their use remains. Many countries have stockpiles of lethal nerve gas and the capacity to make more. The United States may be placed at a disadvantage since the protocol generates more effective pressure against us to close out our chemical warfare capability than will operate in closed societies.

(Pro): But democracies always face this kind of limitation as compared to totalitarian regimes, and it may not be so crucial while we retain an effective nuclear deterrent. We can agree, however, that the protocol is an imperfect step toward arms control over this area. It is nevertheless a necessary step, in practical and propagandistic terms, before negotiations for more pervasive forms of control can proceed. These will involve complicated problems of defining potential weapons, many of which are common articles of industrial use.

Fortunately, many countries share our concern about these weapons. Whatever rational distinctions might be made between tear gas and poison gas, we probably have to concede that they are firmly connected in world opinion. We will need the full benefit of that opinion to help work out the technical complications controlling lethal chemical weapons.

THE "CON" SIDE of this dialogue relied on a classical model of international relations, which supposes that each country is a unitary actor. It reminds one of the days when the kings called themselves France or England, an image of sovereignty that many smaller countries are still in the process of evolving.

The model is breaking down for the United States under the stress of a contested war; in the process, the very concept of "the national interest" has become as fuzzy and confused as this dialogue illustrates. Whatever else one thinks of the war in Vietnam, this must be reckoned as one of its costs.