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## The Chemical Weapons "Red Line": What International and United States Law Say About the Use of Chemical Weapons and Why We Should Care

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*FEATURE ARTICLE*

**THE CHEMICAL WEAPONS  
“RED LINE”: WHAT  
INTERNATIONAL AND  
UNITED STATES LAW SAY  
ABOUT THE USE OF  
CHEMICAL WEAPONS AND  
WHY WE SHOULD CARE**

*by* GHIRLANDI C. GUIDETTI

**O**n August 20, 2012, President Obama was asked about the prospect of United States intervention in Syria’s civil war.<sup>1</sup> The President stated that

the U.S. had “communicated in no uncertain terms with every player in the region that [the possibility that chemical weapons might fall into the wrong hands is] a red line for us and that there would be enormous consequences if we start seeing movement on the chemical weapons front or the use of chemical weapons.”<sup>2</sup> He later explained that the “red line” terminology was not own creation but rather the international communities’ standard.<sup>3</sup>

#### A HISTORY OF GRAPPLING WITH THE THREAT OF CHEMICAL WEAPONS

The international community’s attempts to address the use of chemical weapons predate the nearly 100,000 deaths caused by such weapons in World War I.<sup>4</sup> In 1899, 25 nations ratified the “Declaration Concerning Asphyxiating Gasses” at the International Peace Conference at The Hague.<sup>5</sup> Signatories of the agreement agreed to abstain from the use of projectiles designed to spread “asphyxiating or deleterious gases.”<sup>6</sup> Limited in scope, the treaty only applied when two powers that were parties to the agreement were at war, and ceased to operate in the event that a nation not a party to the agreement intervened in the conflict.<sup>7</sup> Notably, the U.S. was the only power at the International Peace Conference that did not become a party to the agreement.<sup>8</sup> The U.S. representative refused to sign on to the declaration reasoning that the technology was still nascent and believing that gas warfare was just as humane as other forms of warfare.<sup>9</sup>

In 1925, the international community created the more expansive Geneva Protocol which was ratified by the U.S. 50 years later in 1975.<sup>10</sup> Finally, the 1993 Chemical Weapons Convention (CWC) was created to comprehensively address the elimination of chemical weapons.<sup>11</sup>

#### HUMAN RIGHTS CONCERN OVER CHEMICAL WEAPONS

According to the Organization for the Prohibition on Chemical Weapons (OPCW)<sup>12</sup>, the CWC defines a chemical weapon as “any toxic chemical or its precursor that can cause death, injury, temporary incapacitation or sensory irritation through its chemical action.”<sup>13</sup> The CWC also identifies some of the well-known chemical agents and itemizes four categories of agents: choking, blister, blood, and nerve.<sup>14</sup> Devices intended to deliver chemical weapons are

themselves considered chemical weapons by the convention even when they do not contain toxic material.<sup>15</sup>

Multiple human rights organizations have devoted attention to the use and misuse of chemical weapons, including Human Rights Watch (HRW), Physicians for Human Rights (PHR), and the UN Human Rights Counsel, which recently issued a report on the situation Syria<sup>16</sup>. The August 2013 report fails to reach conclusions about the chemical agents used, their delivery systems, or the perpetrators.<sup>17</sup> Notwithstanding the inconclusiveness of its report, the Counsel explicitly recommended that the rejection of weaponized chemical weapons be part of the precautions to minimize the impact of attacks on civilians.<sup>18</sup>

In the context of warfare, the use of chemical agents and weapons is of significant concern to human rights advocates because of their indiscriminate nature.<sup>19</sup> Chemical weapons have the potential to affect not just those in the immediate vicinity of deployment, but those downwind.<sup>20</sup>

Alastair W.M. Hay, Professor of Environmental Toxicology at the University of Leeds notes that in combat, chemical weapons are often used as an adjunct to traditional arms.<sup>21</sup> “In an entrenched position, riot control agents can be used to flush people [or] soldiers out of trenches and then kill them. Chlorine does the same thing. In the civilian setting [chemical agents are used] because police forces want something that is not as harmful as a baton or a gun.”<sup>22</sup>

#### THE U.S.’ RECORD ON CHEMICAL WEAPONS

Although the U.S. refused to sign the 1899 Declaration, believing at the time that chemical weapons were humane, its modern-day position is characterized by unambiguous rhetoric opposing the use of chemical weapons.<sup>23</sup> Similarly, in 1942 President Roosevelt referred to reports that the Axis powers were considering the use of chemical weapons and stated:

“Use of such weapons has been outlawed by the general opinion of civilized mankind. This country has not used them, and I hope that we never will be compelled to use them. I state categorically that we shall under no circumstances resort to the use of such weapons unless they are first used by our enemies”<sup>24</sup>

Despite its straightforward public statements, the U.S. position may actually be less categorical and more complex.<sup>25</sup> It was at the insistence of the U.S. that the Geneva Protocol was adopted in 1925, long before President Roosevelt's statement.<sup>26</sup> The U.S., however, would not ratify the agreement until 1975.<sup>27</sup>

It was recently reported that in 1988, the U.S. helped Saddam Hussein in Iraq's war with Iran by providing intelligence conveying the location of Iranian troops posed to gain a major strategic advantage.<sup>28</sup> It did so, "fully aware that Hussein's military would attack with chemical weapons, including sarin, a lethal nerve agent."<sup>29</sup> The recently declassified documents which brought to light the U.S.' involvement in Iraq include a November 4, 1983 CIA memo reporting that "the Iranians are trying to acquire proof of Iraq's use of mustard agent to present to the UN [and that] Tehran would take such evidence to the UN and charge US complicity in violating international law."<sup>30</sup> The memo concluded that international outcry against Iraq for the use of chemical weapons was unlikely, however, and that even if Iran obtained firm evidence of Iraq's widespread use of chemical weapons, real sanctions were unlikely since the Soviet Union employed similar weapons in Afghanistan and Southeast Asia without repercussion.<sup>31</sup>

The CIA memo reflects how the goal of preventing the propagation of chemical weapons use was offset by political considerations; namely, avoiding setbacks in efforts to strengthen ties between the U.S. and Iraq.<sup>32</sup> Another declassified CIA document speaks of the proliferation of chemical weapons over a 20 year period in the 1970's and 80's and cites "apparent international tolerance for [chemical] weapons use in local conflicts".<sup>33</sup> These conditions, the report concludes "increases the probability that chemical weapons will be used more frequently in the future and complicates the ability of the U.S. to conclude an effective chemical weapons treaty."<sup>34</sup>

The Reagan administration may have made a similar calculus in electing to keep quiet when it discovered what was believed to be a chemical weapon nerve agent production facility and a storage facility in Israel in 1982.<sup>35</sup> Israel signed the CWC in 1992 but has not yet ratified it, creating doubt as to whether the U.S. ally still maintains its stockpile of chemical weapons.<sup>36</sup>

Reports that chemical agents may have been used in the war in Bosnia and Herzegovina in July of 1995 prompted the U.S. to investigate; however, the government refuses to release the report.<sup>37</sup> Will the future declassification of

secret memos one day reveal that the U.S. was complicit in those acts? Ultimately, the U.S.' actual position is unknown.



#### CONCERNS OVER TEAR GAS AND THE PUSH TO EXPAND THE CWC

It is now confirmed that the chemical agent used in Syria was sarin gas, a "Schedule 1" chemical banned by the CWC.<sup>38</sup> Sarin causes painful symptoms which include heavy sweating, drooling, respiratory distress, nausea, vomiting, lack of bladder and bowel control, altered mental status, and generalized muscle weakness and twitching.<sup>39</sup>

Tear gas, which is considered a riot control agent under the CWC and not banned, can cause severe tearing, eye spasms, corneal damage, burning in the nose and throat, respiratory distress, severe chemical and flame burns and may even damage chromosomes and change DNA.<sup>40</sup>

According to an August 2012 PHR report, Bahrain, Chile, Egypt, Honduras, Israel, Libya, Panama, Syria, Tunisia, Turkey, Uganda and Yemen have all deployed tear gas against civilians.<sup>41</sup> In Bahran, for example, PHR describes how security forces are using tear gas ". . .as weapons not just to disperse

crowds but to wound, harm, harass, and intimidate. . . protesters, in violation of UN protocols for the use of force.”<sup>42</sup>

PHR has called for the creation of an international group of health professionals, public health experts, lawyers, and law enforcement officials to draft guiding principles on the use of all toxic chemical agents, and to determine whether certain such agents including tear gas, which are now considered non-lethal, should be reclassified under the CWC.<sup>43</sup>

The goal appears to be putting “some international rules in place on when and where these agents should be used”, as opposed to banning them all together.<sup>44</sup>

Not everyone is focused on expanding the scope of the CWC. According to Yasemin Balci of the Verification Research, Training and Information Centre (VERTIC),<sup>45</sup> the most significant legal issue concerning chemical weapons today is that the large percentage of state parties —101 states or 53 percent — have not passed adequate legislation to prevent the misuse of certain toxic chemicals.<sup>46</sup> Balci explains that important steps to prevent proliferation, such as setting up authorization procedures for their import and export and deciding who can produce, acquire, retain or use them, are being skipped.<sup>47</sup> “The state parties in question might not have a sizeable chemical industry, but their lack of legislation creates loopholes in the global system, which can be exploited by those with malicious intent, whether they are state or non-state actors.”<sup>48</sup>

#### THE RESPONSE IN SYRIA AND ITS SIGNIFICANCE FOR THE FUTURE OF CHEMICAL WEAPONS

By late 2012, it was well known that Syria had an operational chemical weapons program.<sup>49</sup> Reports began to surface that president Bashar al-Assad’s regime had deployed chemical weapons.<sup>50</sup> It was not until September of 2013, however, that the U.S. and Russia agreed to work together and devise a plan to dismantle Syria’s chemical weapons program.<sup>51</sup> With a plan in place, momentum quickly built to address the issue - Syria’s embattled president has signed the CWC, and the dismantling of the nation’s chemical weapons program is underway.<sup>52</sup>

On September 20, 2013, Syria submitted a declaration of its stockpiles of chemical weapons to the OPCW, as required by the agreement negotiated by the U.S. and Russia.<sup>53</sup> The OPCW then adopted a timeline for destroying Syria's chemical weapons, which was unanimously adopted by the UN Security Council.<sup>54</sup>

UN and OPCW officials arrived in Syria on October 1st and began monitoring the destruction of Syria's stockpiles of chemical weapons by Syrian officials.<sup>55</sup> Syrian forces are reported to have rendered inoperable all of the declared chemical production facilities and mixing and filling plants.<sup>56</sup> The next stage of the process is the removal and destruction of the chemicals themselves.<sup>57</sup> The first load of chemicals left Syria on a Danish frigate and marine vessels from China and Russia on January 7, 2014.<sup>58</sup> Those vessels will dock at ports in Italy where the materials will be trans-loaded onto American vessels which will transport the cargo to international waters for destruction.<sup>59</sup>

#### CONCLUSION

Despite a hundred-year history of increasing agreement that the use of chemical weapons is a line that should not be crossed, the exact location of that line is still unclear; we have used chemical agents in war, in genocide, and on protestors. Multiple international agreements are in place, yet the use of chemical agents is still a serious concern for human rights organizations around the world. The impending resolution of the issue in Syria suggests a move by the international community in the right direction. However, in other parts of the world such as Bahrain, the U.S. and international response to the use of chemical agents seems to add to the precedent that despite widespread international agreement that chemical weapons are intolerable, the U.S. will sometimes tolerate them.

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#### NOTES

1 The Department of State has categorized the conflict as a "full scale civil war". *Syria, Country Specific Information*, TRALVE.STATE.GOV, (Oct. 25, 2013, 1:48PM), [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1035.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1035.html); James S. Brady, *Remarks by the President to the White House Press Corps*, THE WHITE HOUSE OFFICE OF THE PRESS SECRETARY (Aug. 20, 2012, 1:27PM), <http://www.whitehouse.gov/the-press-office/2012/08/20/remarks-president-white-house-press-corps>.



2 James S. Brady, *Remarks by the President to the White House Press Corps*, THE WHITE HOUSE OFFICE OF THE PRESS SECRETARY (Aug. 20, 2012, 1:27PM), <http://www.whitehouse.gov/the-press-office/2012/08/20/remarks-president-white-house-press-corps>.

3 Rosenbad, *Remarks by President Obama and Prime Minister Reinfeldt of Sweden in Joint Press Conference*, THE WHITE HOUSE OFFICE OF THE PRESS SECRETARY (Sept. 4, 2013 2:45 PM), <http://www.whitehouse.gov/the-press-office/2013/09/04/remarks-president-obama-and-prime-minister-reinfeldt-sweden-joint-press->.

4 *Chemical Weapons*, UNITED NATIONS OFFICE FOR DISARMAMENT AFFAIRS, <http://www.un.org/disarmament/WMD/Chemical/> (last visited Nov. 15, 2013); James B. Scott, *The Hague Conventions and Declarations of 1899 and 1907*, N.Y. OXFORD UNIVERSITY PRESS, (1915), <http://archive.org/stream/hagueconventions00inteuoft#page/224/mode/2up>.

5 James B. Scott, *The Hague Conventions and Declarations of 1899 and 1907*, N.Y. OXFORD UNIVERSITY PRESS, (1915), <http://archive.org/stream/hagueconventions00inteuoft#page/224/mode/2up>.

6 *Id.*

7 *Id.*

8 George Bunn, *Banning Poison Gas and Germ Warfare: Sould the United States Agree?*, 1969 Wis. L. Rev. 375, 375 (1969), available at [http://iis-db.stanford.edu/pubs/22365/Bunn\\_Banning\\_Poison\\_Gas\\_and\\_Germ\\_Warfare.pdf](http://iis-db.stanford.edu/pubs/22365/Bunn_Banning_Poison_Gas_and_Germ_Warfare.pdf)

9 *Id.* at 376.

10 *Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (Geneva Protocol)*, U.S. DEPT. OF STATE, <http://www.state.gov/t/isn/4784.htm> (last visited Nov. 15, 2013).

11 Email Interview with Yasemin Balci, Legal Officer, Verification Research, Training and Information Centre (VERTIC) (Oct. 17, 2013).

12 The OPCW “is the implementing body of the Chemical Weapons Convention (CWC), which entered into force in 1997. As of today, the OPCW has 189 Member States who are working together to achieve a world free from chemical weapons. They share the collective goal of preventing chemistry from ever again being used for warfare, thereby strengthening international security.” See *About the OPCW*, ORG. FOR THE PROHIBITION OF CHEMICAL WEAPONS, <http://www.opcw.org/about-opcw/> (last visited Nov. 15, 2013).

13 *Brief Description of Chemical Weapons*, ORG. FOR THE PROHIBITION ON CHEMICAL WEAPONS, <http://www.opcw.org/about-chemical-weapons/what-is-a-chemical-weapon/> (last visited Nov. 15, 2013).

14 *Id.*

15 *Id.*

16 *About us*, HUMAN RIGHTS WATCH, <http://www.hrw.org/about> (last visited Nov. 15, 2013); *Chemical Weapons*, PHYSICIANS FOR HUMAN RIGHTS, <http://physiciansforhumanrights.org/about/impact/chemical-weapons.html> (last visited Nov. 15, 2013); *Report of the independent international commission of inquiry on the Syrian Arab Republic*, UNITED NATIONS GEN. ASSEMBLY, Aug. 16, 2013, available at [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A\\_HRC\\_24\\_46\\_en.DOC](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A_HRC_24_46_en.DOC).

17 *Report of the independent international commission of inquiry on the Syrian Arab Republic*, UNITED NATIONS GEN. ASSEMBLY, Aug. 16, 2013, available at [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A\\_HRC\\_24\\_46\\_en.DOC](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A_HRC_24_46_en.DOC).

18 *Id.*

19 Email Interview with Alastair W.M. Hay, Professor of Environmental Toxicology, University of Leeds (Oct. 19, 2013).

20 *Id.*

21 Professor Hay also works with PHR. *Id.*

22 *Id.*

23 See, i.e. James S. Brady, *Remarks by the President to the White House Press Corps*, THE WHITE HOUSE OFFICE OF THE PRESS SECRETARY (Aug. 20, 2012, 1:27PM), <http://www.whitehouse.gov/the-press-office/2012/08/20/remarks-president-white-house-press-corps>; *Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (Geneva Protocol)*, U.S. DEPT. OF STATE, <http://www.state.gov/t/isn/4784.htm> (last visited Nov. 15, 2013).

24 *Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (Geneva Protocol)*, U.S. DEPT. OF STATE, <http://www.state.gov/t/isn/4784.htm> (last visited Nov. 15, 2013).

25 *Id.*; Bunn, *supra* note 8 at 378; Shane Harris and Matthew M. Aid, Exclusive: *CIA Files Prove America Helped Saddam as He Gassed Iran*, FOREIGN POLICY, Aug. 26, 2013, available at [http://www.foreignpolicy.com/articles/2013/08/25/secret\\_cia\\_files\\_prove\\_america\\_helped\\_saddam\\_as\\_he\\_gassed\\_iran?print=yes&hidecomments=yes&page=full](http://www.foreignpolicy.com/articles/2013/08/25/secret_cia_files_prove_america_helped_saddam_as_he_gassed_iran?print=yes&hidecomments=yes&page=full); Matthew M. Aid, Exclusive: *Does Israel Have Chemical Weapons Too?*, FOREIGN POLICY, Sep. 9, 2013, available at [http://www.foreignpolicy.com/articles/2013/09/09/does\\_israel\\_have\\_chemical\\_weapons\\_too?page=full](http://www.foreignpolicy.com/articles/2013/09/09/does_israel_have_chemical_weapons_too?page=full); *Were Chemical Weapons Used in Bosnia?* HUMAN RIGHTS WATCH, Nov. 19, 1998, <http://www.hrw.org/news/1998/11/18/were-chemical-weapons-used-bosnia>; 18 U.S.C. §229(b) (1998).

26 The protocol entered into force in 1928. Bunn, *supra* note 8 at 378.

27 *Id.* at 379; *Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (Geneva Protocol)*, U.S. DEPT. OF STATE, <http://www.state.gov/t/isn/4784.htm> (last visited Nov. 15, 2013).

28 Shane Harris and Matthew M. Aid, Exclusive: *CIA Files Prove America Helped Saddam as He Gassed Iran*, FOREIGN POLICY, Aug. 26, 2013, available at [http://www.foreignpolicy.com/articles/2013/08/25/secret\\_cia\\_files\\_prove\\_america\\_helped\\_saddam\\_as\\_he\\_gassed\\_iran?print=yes&hidecomments=yes&page=full](http://www.foreignpolicy.com/articles/2013/08/25/secret_cia_files_prove_america_helped_saddam_as_he_gassed_iran?print=yes&hidecomments=yes&page=full)

29 *Id.*

30 *Id.*

31 *Id.*

32 *Id.*

33 *Id.*

34 *Id.*

35 Matthew M. Aid, Exclusive: *Does Israel Have Chemical Weapons Too?*, FOREIGN POLICY, Sep. 9, 2013, available at [http://www.foreignpolicy.com/articles/2013/09/09/does\\_israel\\_have\\_chemical\\_weapons\\_too?page=full](http://www.foreignpolicy.com/articles/2013/09/09/does_israel_have_chemical_weapons_too?page=full)

36 *Id.*

37 *Were Chemical Weapons Used in Bosnia?* HUMAN RIGHTS WATCH, Nov. 19, 1998, <http://www.hrw.org/news/1998/11/18/were-chemical-weapons-used-bosnia>.

38 Louis Charbonneau and Michelle Nichols, *U.N. confirms sarin used in Syria attack; U.S., UK, France blame Assad*, REUTERS, Sep. 16, 2103, <http://www.reuters.com/article/2013/09/16/us-syria-crisis-un-idUSBRE98F0ED20130916>; sarin is “banned” in the sense that the CWC states a “State Party shall not produce, acquire, retain, transfer or use Schedule 1 chemicals unless: (a) The chemicals are applied to research, medical, pharmaceutical or protective purposes; and (b) The types and quantities of chemicals are strictly limited to those which can be justified for such purposes; and (c) The aggregate amount of such chemicals at any given time for such purposes is equal to or less than 1 tonne; and (d) The aggregate amount for such purposes acquired by a State Party in any year through production, withdrawal from chemical

weapons stocks and transfer is equal to or less than 1 tonne.” Convention On The Prohibition Of The Development, Production, Stockpiling And Use Of Chemical Weapons And On Their Destruction, *available at* [http://www.opcw.org/index.php?eID=dam\\_frontend\\_push&docID=6357](http://www.opcw.org/index.php?eID=dam_frontend_push&docID=6357).

39 “The nerve agent sarin (isopropyl methylphosphonofluoridate) is a water-soluble chemical warfare agent (CWA) that is among the most lethal in existence; a single drop can prove deadly. Sarin is an odorless, tasteless, and colorless compound that can be inhaled or absorbed through the skin or eyes, and may be deployed by bombs or in projectiles, including missiles and rockets. . . . Signs and symptoms appear within one minute of exposure [and include] Eye irritation, including pinpoint pupils, blurred vision, pain, excessive tearing; Heavy sweating and drooling; Respiratory distress, described as a tightness and cough; Nausea, abdominal pain, vomiting, lack of bladder and bowel control; Altered mental status; Unusually low or high blood pressure; Unusually slow or fast heart rate; [and] Generalized muscle weakness and twitching.” *See Recognition and Treatment of Sarin Exposure*, Chemical Warfare Agent Identification Fact Sheet Series, PHYSICIANS FOR HUMAN RIGHTS, April 2013, [https://s3.amazonaws.com/PHR\\_other/PHR\\_Sarin\\_Fact\\_Sheet\\_04-13.pdf](https://s3.amazonaws.com/PHR_other/PHR_Sarin_Fact_Sheet_04-13.pdf).

40 “The chemical CS [o-Chlorobenzylidene malononitrile] remains the most commonly used lachrymatory riot control agent today. Symptoms of CS exposure include severe tearing, burning in the nose and throat, eye spasms, chest tightness, coughing, and wheezing among other signs of oral and respiratory distress. . . . The most toxic chemical lachrymatory agent currently available is chloracetophenone (CN), which irritates the skin and eyes more than CS. As a result, CS gas has generally replaced CN as a riot control agent in many countries, as it is thought to be less toxic—although Handheld Mace still contains a small percentage of CN. Though acute effects of exposure to CN are similar to effects of exposure to CS, CN has a greater potential to cause corneal damage, especially when cartridges have expired. . . . [Other chemical riot-control agents include] ibenz (b, f)-1, 4-oxazepine (CR). . . . Oleoresin capsicum (OC) and pelargonic acid vanillylamide (PAVA). . . . Some tests. . . have shown that CS gas can damage chromosomes and change DNA, raising the potential of these agents to cause long-term carcinogenic and deleterious reproductive effects, as well as concerns about their long-term harmful effects on the pulmonary system following inhalation. In addition, these toxic chemical agents can cause severe burns including (1) chemical burns resulting from direct contact with CS; (2) contact burns from touching the CS canisters; and (3) flame burns, when a grenade explodes too close to an individual. It has also been suggested that CS inhalation may cause breathing complications, such as laryngospasm that can complicate operative procedures.” *Weaponizing Tear Gas: Bahrain’s Unprecedented Use of Toxic Chemical Agents Against Civilians*, PHYSICIANS FOR HUMAN RIGHTS, 11-14, Aug. 2012, *available at* [https://s3.amazonaws.com/PHR\\_Reports/Bahrain-TearGas-Aug2012-small.pdf](https://s3.amazonaws.com/PHR_Reports/Bahrain-TearGas-Aug2012-small.pdf). [hereinafter *Weaponizing*]; Louis Charbonneau and Michelle Nichols, *U.N. confirms sarin used in Syria attack; U.S., UK, France blame Assad*, REUTERS, Sep. 16, 2103, <http://www.reuters.com/article/2013/09/16/us-syria-crisis-un-idUSBRE98F0ED20130916>; Tear gas is not “banned” in the sense that riot control agents are not Schedule 1 chemicals; the CWC provides that “[e]ach State Party undertakes not to use riot control agents as a method of warfare.” Convention On The Prohibition Of The Development, Production, Stockpiling And Use Of Chemical Weapons And On Their Destruction, *available at* [http://www.opcw.org/index.php?eID=dam\\_frontend\\_push&docID=6357](http://www.opcw.org/index.php?eID=dam_frontend_push&docID=6357); however, “there is an “exemption [which] applies to their use for law enforcement. Defining law enforcement is the problem. Tear gases. . . differ from other agents like incapacitants which are sometimes called non-lethal but are anything but. Most incapacitants act on the CNS system causing temporary incapacitation whereas riot control agents act on the pain receptors in the skin. Any incapacitants around today if used to incapacitate will also kill a proportion of people because some will be exposed to lethal concen-

trations in the attempt to incapacitate all. . . riot control agents will stay for many years but. . . getting agreed rules on their use is so important.” Hay, *supra* note 23.

41 *Weaponizing*, *Supra* note 47 at 10-11.

42 *About PHR*, PHYSICIANS FOR HUMAN RIGHTS, <http://physiciansforhumanrights.org/about/#sthash.jNcuDdT7.dpuf>, (last visited Nov. 15, 2013); *Report Documents Bahrain's Use of Tear Gas as a Potentially Lethal Weapon*, PHYSICIANS FOR HUMAN RIGHTS, Aug. 1, 2012, <http://physiciansforhumanrights.org/press/press-releases/bahrain-uses-tear-gas-as-lethal-weapon.html>.

43 Holly G. Atkinson and Richard Sollom, *Weaponizing Tear Gas, Bahrain's Unprecedented Use of Toxic Chemical Agents Against Civilians*, Aug. 2012, available at <http://physiciansforhumanrights.org/library/reports/weaponizing-tear-gas.html#sthash.0D5HSEmk.dpuf>.

44 Hay, *supra* note 23.

45 VERTIC is an independent, non-profit that supports the development, implementation and verification of international agreements

46 Balci, *supra* note 11.

47 *Id.*

48 *Id.*

49 Timeline of Syrian Chemical Weapons Activity, 2012-2013, ARMS CONTROL ASSOCIATION, <http://www.armscontrol.org/factsheets/Timeline-of-Syrian-Chemical-Weapons-Activity> (last accessed Oct. 25, 2013).

50 *Id.*

51 Press Release, U.S. Department of State Office of the Spokesperson, Framework for Elimination of Syrian Chemical Weapons, Sept. 14, 2013, available at <http://www.state.gov/r/pa/prs/ps/2013/09/214247.htm>.

52 *America, Russia and Syria, The weakened West: The deal over Syria's chemical weapons marks a low for those who cherish freedom*, THE ECONOMIST, Sept. 21, 2013, available at <http://www.economist.com/news/leaders/21586565-deal-over-syrias-chemical-weapons-marks-low-those-who-cherish-freedom-weakened-west>; *Assad: Syria needs one year to destroy chemical weapons*, BBC NEWS, Sept. 19, 2013, available at <http://www.bbc.co.uk/news/world-middle-east-24155674>; UN confirms Syria's Assad signed chemical weapons decree, ALJAZEERA AMERICA, Sep. 11, 2013, <http://america.aljazeera.com/articles/2013/9/11/syria-political-stalematelooms.html>

53 *Timeline of Syrian Chemical Weapons Activity*, *supra* note 59.

54 *Id.*

55 The UN reports that the destruction of weapons commenced on October 6th *Id.*

56 *Syria Completes Destruction Activities to Render Inoperable Chemical Weapons Production Facilities and Mixing/Filling Plants*, ORG. FOR THE PROHIBITION OF CHEMICAL WEAPONS, <http://www.opcw.org/news/article/syria-completes-destruction-activities-to-render-inoperable-chemical-weapons-production-facilities-al> (last visited Nov. 15, 2013).

57 Anthony Deutsch, Exclusive: *Syrian chemical weapons mission funded only until end of month*, REUTERS, Nov. 5, 2013, <http://www.reuters.com/article/2013/11/05/us-syria-crisis-chemical-idUSBRE9A40YN20131105>.

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