INTERNATIONAL HUMANITARIAN LAW CONFERENCE

CHEMICAL WEAPONS, ARMED CONFLICT AND INTERNATIONAL HUMANITARIAN LAW

Centre for International Defence Policy
Queens University
Kingston, Ontario
October 29th, 2018

EXTERNAL REPORT

Prepared By

Olivia Hamilton
Provincial IHL Coordinator
Canadian Red Cross, Ontario
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Background

This was the second IHL Conference organized in partnership between the Ontario International Humanitarian Law Unit of the Canadian Red Cross and the Centre for International Defense and Policy (CIDP) at Queens University. This event was further made possible thanks to the contributions from the International Committee of the Red Cross.

The organizing committee was assisted by the work of the International Humanitarian Law Working Group for Ottawa (IHL WG – OTT) as well as some student volunteers from the Faculty of Law at Queens University, who assisted with the event promotions, registration and summary report writing.

Objective

As part of the mandate of the Red Cross Red Crescent Movement and thus National Societies around the world, public engagement on humanitarian issues and International Humanitarian Law (IHL) is an important objective. Through academic conferences, the Canadian Red Cross Society upholds this strategic objective by providing a space to engage the academic community in impartial discussions on IHL as it relates to contemporary issues.

The objective of the conference was not only to educate the public and bring awareness to the discussion surrounding IHL and the prohibition on the use of chemical weapons in armed conflict, but also to engage academics and students alike in discussions on the application of IHL and the role of the Red Cross Red Crescent Movement in promoting and safe-guarding these laws.

The speakers that participated in the panel discussions during the conference offered their expertise on IHL, emphasising the facts surrounding the prohibition of the use of chemical weapons and international mechanisms to monitor compliance which deepened the attendee’s understanding and also offered an opportunity to consider where we are today and where we are headed in terms of strengthening compliance and bringing violators to justice.

There were 41 people in the audience who were made up of students, members of the Canadian Armed Forces representing different centres, professionals from Non-Governmental Organizations, academia and members of the Kingston area community, out of 77 who registered prior to the conference. Including the guest speakers and members of the organizing committee, there was a total of 49 people in the room.

The objectives set out for the number of people in attendance (70) was unmet by 28 however the panel was diverse and the target audience for this conference was present.
The Conference

Prior to the start of the conference guest speakers and attendees were invited to enjoy a light lunch during the registration period just outside of room 202. The conference was opened by Professor Kim Richard Nossal, Director of the Centre for International Defense and Policy at Queen’s University. Professor Nossal welcomed everyone and provided opening remarks to set the stage for the conference that followed. After his opening remarks, Professor Nossal introduced the keynote speaker, Mr. Daryl Kimball, Executive Director of the Arms Control Association.

Daryl Kimball provided the keynote address entitled, ‘The Past, Present and Future of the Chemical Weapons Convention’, during which, he spoke about the Organisation for the Prohibition of Chemical Weapons (“OPCW”), the implementing body for the CWC, which came into force in 1997, and has been successful in overseeing the demilitarization of chemical weapons (“CW”) stockpiles over the past 20 years. Even still, not all countries are parties to the CWC, and CW continue to be used and stockpiled today. Mr. Kimball summarized the history of the use of CW, the first significant use being by Germany in Belgium in 1915 during WWI, which prompted the drafting of the 1925 Geneva Protocol. Since WWI, CW use continues around the world. The largest CW use since the CWC came into force has been in Syria beginning in 2012 and August 2013. Mr. Kimball then went on to summarize how the 1997 CWC came to be, beginning in 1974 with bilateral discussions between the US and Russia. While no breakthroughs were made during the 1980’s, discussions concluded in January 1993, and the CWC was ratified by 1997. To date, there are 193 State parties. The CWC prohibits State parties from developing, producing, acquiring, stockpiling, and retaining CW. One of the significant accomplishments of the CWC is the verified destruction of most declared CW stockpiles. As of 1.5 years ago, 90 of 97 verified CW production facilities have been destroyed. Mr. Kimball concluded his keynote by highlighting six current and future challenges to the CWC, noting the 4th review of the CWC taking place November 2018:

- Destruction of the remaining US stockpiles;
- Neutralization of buried CW munitions in China, including old Japanese munitions that are difficult to destroy;
- Universalization of the CWC, particularly in the Middle East and North Korea;
- Noncompliance, attribution, and accountability continue to be a primary challenge, especially with ongoing use in Syria. The OPCW is currently developing a new attribution mechanism in response to Russia’s use of its Security Council veto to halt a joint investigative mechanism purported to determine who is responsible for attacks like the sarin gas attack in Syria;
- National implementation to prevent the import and export of chemical agents, as required by Article 7 of the CWC. While Canada has the legal and commercial capacity to do so, other countries do not; and,
- Adaption of the verification system for improved verification of small and new facilities.

1 Notes were taken from the Queen’s Student Summary Report written by: Effie Lin, Mairi MacDonald and Joycna Kang; 2018.
After Mr. Kimball took questions from the audience, Professor Nossal went to the podium to thank Daryl and introduce the next speaker, Ms. Catherine Gribbin, Senior Legal Advisor, IHL National Office, Canadian Red Cross Society (CRCS).

Ms. Gribbin provided an overview of the basics of International Humanitarian Law and drew the audience’s attention to numerous legal sources that were applicable to the prohibition of the use of chemical weapons. After answering questions from the audience, Professor Nossal thanked Catherine and invited the audience to take a 30 minute break in the area just outside of the conference room at which point refreshments were served and networking took place.

The panel commenced just after the break with the panel moderator, Ms. Catherine Gribbin, Senior Legal Advisor to the Canadian Red Cross, introduced the panel and panel topic. The first panel member to speak, LCol Allan Taylor, Section Head, Operational Medicine, Canadian Forces Health Services Group Headquarters, Department of National Defence, addressed ‘Common and Emerging CBRN Threats for the military and the humanitarian community’ from a medical perspective. In refuting that chemical weapons are a thing of the past, LCol Taylor begins his presentation with a reminder that chemical weapons are extremely effective and it is rather out of fear of reprisal that CWs are not used. Such weapons are not always designed to kill, but often to maim, injure, de-activate or control areas, because doing so costs money, time and resources, and can reduce fighting ability. He listed six main categories of CWs that make up today’s biggest threats. While many CWs were used throughout the Iraq wars dating back to the 1980s, the Assad regime has predominantly used chlorine as a weapon of terror in 2018. His main concern in the Syrian context is that chlorine is often difficult to detect, but more importantly that Assad continues to use CWs despite claiming stock and destruction, leaving actual remaining amounts unknown. The other emerging uses of CWs are non-state and non-traditional use. LCol Taylor ultimately concludes with the view that more biological weapons and increase in non-State armed group usage are the most substantial CW's threats to militaries. He underscored the importance of CW research in the assistance in decontamination, first aid, surveillance, and providing countermeasures to these threats. Ending on a positive note, LCol Taylor highlighted that Canada continues to be a world leader in CBRN research.

The next speaker was LCdr Laura Morrison, Office of the Judge Advocate General, who delivered a presentation on ‘Chemical Weapons and International Law’. In her presentation, she emphasized the fact that past extreme uses of chemical weapons are often followed by international treaty law developed by states to prevent the repetition of such extreme uses. From this emerges the overarching question of whether there is a need for more laws on the use of chemical weapons to be developed on the one hand, or better mechanisms for compliance with existing laws on the other. LCdr Morrison then turned her attention to existing international law on chemical weapons beginning with the 1924 Geneva Gas Protocol (GCP), which is only applicable to instances of international armed conflict. Many states came together and backed the Protocol, but a more developed treaty was
needed. This led to the creation of the Chemical Weapons Convention (CWC), a treaty which is now accepted as customary international law. Since the CWC applies during peacetime and during armed conflict, it is not an IHL-specific treaty. The CWC was widely signed onto by 193 states parties. The CWC is enforced by the Organization for the Prevention of Chemical Weapons (OPCW) through a challenge and inspection regime – any state party to the convention can ask the OPCW to open an inquiry into another state party’s compliance. LCdr Morrison placed emphasis on Article XII of the CWC which outlines measures to both ensure compliance and redress non-compliance. These measures include sanctions, and the option for states parties to recommend collective measures as long as they comply with international law. Even with the advent of the CWC and the OPCW, LCdr Morrison indicated that there isn’t much substance to the body of the convention other than the essential reliance on the social and global taboo on the use of chemical weapons. There is some debate about whether the nature of a conflict (that is, whether it is international or non-international) has an impact on the CWC’s application. She concluded that it is generally accepted that the broad wording of “under any circumstances” in the CWC, signals that it applies whether the armed conflict is international or not. Grounding the use of chemical weapons in IHL, LCdr Morrison stated that the principle of distinction is not met when chemical weapons are used, since it is difficult to accurately target an objective and not cause widespread and unnecessary suffering to civilians at the same time. Ultimately, LCdr Morrison concludes that there is a strong need for more effective mechanisms of compliance with existing international law governing the use of chemical weapons in armed conflict.

The last speaker on the panel was Mr. Daryl Kimball, who also addressed conference attendees as the Keynote speaker earlier in the afternoon. The title of his panel discussion was, ‘Responses to Violations of the Norm Against Chemical Weapons’, in which he tackled the question of how the international community can respond to CW violations, with Syria as a case study. Over the past five and a half years, numerous parties, especially the Assad regime, have committed multiple war crimes and have demonstrated that there is clearly no military solution to the situation. The use of CW has been one of the worst aspects of the war (Syria context) in that they are very effective in generating terror. There has been some success in enforcing the prohibition of CW use since international attention increased by the massive sarin gas attack in August 2013, even though CW use began in 2012. The Obama administration was concerned that the Assad regime may use its stockpiles against Israel and that neighbouring states or ISIS may get their hands on the stockpiles. After the US made its threat of force, Russia responded and impressed upon Assad that he needed to join the CWC. Syria then went to the OPCW, which approved a timeline for compliance under resolution 2118. In many ways, this was a remarkable success in removing a massive threat, not necessarily for the protection of civilians but for neighbouring countries in the case that other non-State armed groups may gain access to the CW. While a large amount of CW were removed, by 2014, additional incidents of CW use had been documented. Under the OPCW’s mandate, a fact-finding mission was established to determine if and what type of CW was being used. An existing OPCW-UN Joint Investigative Mechanism, which was established by a Security Council resolution, was unable to confirm attribution since its mandate was blocked by Russia’s veto. Mr. Kimball noted that despite this, the general norm against CW use cannot be said to be eroding because of the
robust responses seen over the last few years. However, future challenges remain as Russia and Syria are continuing to block and obscure the work of the OPCW, which is concerning especially since Russia is one of the founding parties of the CWC. In January 2018, the French government launched an initiative in association with 38 other countries for the purpose of supplementing the international mechanisms that seek to hold CW-using parties responsible and to facilitate the sharing of investigation information; this initiative is still underway. In June 2018, CWC State parties began a project focusing the attribution of CW use to ensure that investigative mechanisms can still be effective in spite of Russia’s objections. Mr. Kimball concluded by pointing out that these ongoing international initiatives demonstrate that the international community as a whole is interested in ensuring that the push against the CW prohibition norm is not permitted to continue. After Mr. Kimball finished his remarks, Ms. Gribbin opened the floor to questions from the audience. She also encouraged the panelists to ask questions of each other.

The conference ended with Ms. Svetlana Ageeva, Advisor IHL, Ontario, Canadian Red Cross, delivering closing remarks. Ms. Ageeva began by thanking everyone for attending the conference then touched upon the benefits of hearing from various perspectives (legal, medical, military and ngo) in discussing these timely topics. She recounted the key points that each speaker presented and reinforced the importance of IHL and strengthening compliance when addressing the issues of the use of CW. Ms. Ageeva then thanked the organizing committee, partners, funders and guest speakers for making the conference a success. In closing, she asked all those in attendance for feedback via the online feedback survey and displayed the instructions on the screen. Some of the speakers stayed behind to answer additional questions posed by individual attendees.

Overall the conference was a success even with lower numbers than last year’s conference in the room. The calibre of speakers and topics they addressed were complimentary to one another and served to prompt well articulated and important questions from the audience. The moderator also engaged all panel members in answering the questions raised by the audience and encouraged the speakers to ask questions of their fellow panelists. The audience in attendance was a good mix of students, professionals and members of the Canadian Armed Forces.
Annex 1 – Event Poster

Chemical Weapons, Armed Conflict and International Humanitarian Law

Register Now: www.redcross.ca/IHLQueens

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October 29, 2018 | 12 - 5pm | Queen’s University
Robert Sutherland Hall | Conference Room 202
138 Union Street | Kingston, ON | K7L 2P1

Light Lunch Will Be Provided
### Annex 2 – Agenda

#### 2018 Canadian Red Cross International Humanitarian Law Conference
Room 202 | Robert Sutherland Hall | Queen's University | 136 Union Street, Kingston | October 26th, 2018

**Chemical Weapons, Armed Conflict and International Humanitarian Law**

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Presenter(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12:00</td>
<td>Registration and Lunch</td>
<td></td>
</tr>
<tr>
<td>1:00</td>
<td>Welcome Remarks</td>
<td>Kim Richard Nossal, Professor, Political Studies, and Director, Centre for International and Defence Policy (CIDP), Queen's University</td>
</tr>
<tr>
<td>1:30</td>
<td>The Past, Present and Future of the Chemical Weapons Convention</td>
<td>Daryl Kimball, Executive Director, Arms Control Association</td>
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<tr>
<td>1:55</td>
<td>Session on international Humanitarian Law</td>
<td>Catherine Gribbin, Senior Legal Advisor, National Office, Canadian Red Cross</td>
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<tr>
<td>2:45</td>
<td>Break</td>
<td></td>
</tr>
<tr>
<td>3:15</td>
<td>Panel Presentations</td>
<td>Moderator: Catherine Gribbin</td>
</tr>
<tr>
<td>3:15</td>
<td>Common and Emerging CBRN Threats for the military and the humanitarian community</td>
<td>LCol Alan Taylor, Section Head, Operational Medicine, Canadian Forces Health Services Group Headquarters, Department of National Defence</td>
</tr>
<tr>
<td>3:15</td>
<td>Chemical Weapons and International Law</td>
<td>LCdr Laura Morrison, Office of the Judge Advocate General, Canadian Armed Forces</td>
</tr>
<tr>
<td>4:20</td>
<td>Responses to Violations of the Norm Against Chemical Weapons</td>
<td>Daryl Kimball, Executive Director, Arms Control Association</td>
</tr>
<tr>
<td>4:50</td>
<td>Question and Answer Period</td>
<td>All</td>
</tr>
<tr>
<td>5:00</td>
<td>Closing Remarks</td>
<td>Svetlana Ageeva, Advisor IHL, Ontario, Canadian Red Cross</td>
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Annex 3 – Speaker Biographies

2018 Canadian Red Cross International Humanitarian Law Conference
Room 202 | Robert Sutherland Hall | Queens University | 138 Union Street, Kingston | October 29th, 2018

Speaker Biographies

**Kim Richard Nossal**
Kim Richard Nossal is the director of the Centre for International and Defence Policy at Queen’s University. He is the author of a number of works on Canadian foreign and defence policy. His latest book, co-authored with Jean-Christophe Boucher, is *The Politics of War: Canada’s Afghanistan Mission, 2001-14* (2017).

**Daryl Kimball**
Daryl G. Kimball has been engaged in research and policy advocacy on nuclear and chemical weapons non-proliferation and disarmament issues for nearly three decades. Since 2001, he has led the independent, non-governmental Arms Control Association in Washington, D.C. The Association, which was established in 1971 publishes the monthly journal Arms Control Today, which is widely regarded as the journal of record in the field.

**Catherine Gribbin**
Catherine Gribbin is the Senior Legal Advisor, International Humanitarian Law at the Canadian Red Cross. Catherine recently returned from Nigeria where she was the Operational Legal Coordinator for the ICRC's Nigeria Delegation. She has worked at the Canadian Red Cross in a number of different positions since 2009. Ms. Gribbin received her LL.B. from Dalhousie University and articled in Toronto doing criminal defence. Catherine was called to the Bar in Ontario and Nova Scotia and is a member of the Law Society of Upper Canada.

**LCDr Laura Morrison**
LCDr Laura Morrison joined the Canadian Armed Forces in January 2016. Prior to joining she obtained her JD from the University of Ottawa and her LLM in International Law from the Vrije University Amsterdam. She also articled and worked as an Associate in the Labour and Employment group for the law firm Gowling WLG.

LCDr Morrison was first posted to Ottawa where she worked in the Directorate of International Law of the Operational Law Division within the Office of the JAG, advising on issues related to the use of force, child soldiers, health care in armed conflict, law of the sea and many others. She now continues her work in the Operational Law Division as a part of the Intelligence and Information Operations Directorate and more specifically as the Legal Advisor on human intelligence issues.
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Lieutenant-Colonel Allan Taylor
Lieutenant-Colonel Taylor enrolled in the Canadian Armed Forces as an Army Signals Officer in 1995. He attended the Royal Military College of Canada from 1995 to 1999, completing a degree in Honours Electrical Engineering. In 2002, he was deployed to Kandahar, Afghanistan with 3rd Battalion Princess Patricia’s Canadian Light Infantry as a Command Post Duty Officer. Upon return from the deployment, Lieutenant-Colonel Taylor was posted to 3 PPCLI as the Battalion Signals Officer, also assuming the role of Second-in-command of Combat Support Company in 2003.

In 2004, Lieutenant-Colonel Taylor decided to switch careers and was accepted to medical school at Queens University. He had a strong interest in pursuing additional training opportunities and attending the Military Contingency Medicine course at the Uniformed Services University in Bethesda, Maryland. He then continued at Queen’s as a Family Medicine Resident, completing his training in 2010. His first posting as a Canadian Armed Forces Medical Officer was to 1 Field Ambulance in Shilo, Manitoba as the doctor for 1 Royal Canadian Horse Artillery. He was subsequently selected to be a Medical Officer in the Canadian Special Forces in 2011, moving to Ottawa to assume this position. After two years, he became the Senior Medical Officer of a unit in the Canadian Special Forces Command from 2013 to 2015. In 2015 he became the Staff Officer for Operational Medicine covering Tactical Medicine and Combat Casualty Care. He was subsequently posted to the Supreme Headquarters Allied Powers Europe Healthcare Facility in Casteau, Belgium to help care for NATO soldiers and their families.

Lieutenant-Colonel Taylor is currently the Section Head for Operational Medicine in the Canadian Forces Health Services Group Headquarters. He is responsible for Tactical Combat Casualty Care, the Blood Program and Chemical, Biological, Radiological and Nuclear Medicine in the Canadian Armed Forces.

Svetlana Ageeva
Svetlana Ageeva has worked for the Canadian Red Cross Society since 2003. She holds the position of Advisor, International Humanitarian Law and leads the work of the International Humanitarian Law Unit in Ontario. Svetlana and her team work closely with various partners in promoting knowledge of, respect for and implementation of the rules of International Humanitarian Law by organising regular academic conferences and Exploring Humanitarian Law trainings for education professionals. Svetlana completed her BComm at the Moscow State University, her Masters Degree in International Development at the University of the Witwatersrand, Johannesburg. She recently completed her MBA at McMaster University. Prior to joining Canadian Red Cross Svetlana worked for the Delegation of the European Commission in Southern Africa (Pretoria) in 1998 - 2003.
Annex 4 – Pre-Reading List

**PRE-CONFERENCE READING LIST**

**Title:** Fundamentals of IHL  
**Author:** ICRC  
**LINK:** [https://casebook.icrc.org/law/fundamentals-ihl](https://casebook.icrc.org/law/fundamentals-ihl)

**Title:** Basic Rules of IHL (Canada & Conflict: A Humanitarian Perspective - Student Resource 2.2)  
**Author:** ICRC  
**LINK:** See page 3

**Title:** All you need to know about Chemical Weapons  
**Author:** ICRC  

**Title:** Chemical Weapons: Frequently Asked Questions  
**Author:** Arms Control Association Fact Sheet  
**LINK:** [https://www.armscontrol.org/factsheets/chemical-weapons-frequently-asked-questions](https://www.armscontrol.org/factsheets/chemical-weapons-frequently-asked-questions)

**Title:** The Chemical Weapons Convention At a Glance  
**Author:** Arms Control Association Fact Sheet  
**LINK:** [https://www.armscontrol.org/factsheets/cwcglance](https://www.armscontrol.org/factsheets/cwcglance)

**Title:** “Everyone Has a Lot at Stake”: A Q&A with Fernando Arias, the new director-general of the Organization for the Prohibition of Chemical Weapons  
**Author:** Arms Control Association  
**LINK:** [“Everyone Has a Lot at Stake”: A Q&A with Fernando Arias, the new director-general of the Organisation for the Prohibition of Chemical Weapons](https://www.armscontrol.org/factsheets/chemical-weapons-organisations/chemical-weapons-convention)

**Title:** 47 Groups Urge UN Secretary-General to Act on Syria and Establish Investigative Body on Chemical Weapons Attacks  
**Author:** Human Rights Watch press release  
Why is the Use of Chemical Weapons so Repulsive?
Author: Arms Control Association
LINK: http://armscontrolnow.org/2013/08/31/why-is-the-use-of-chemical-weapons-so-repulsive/

Holding Syria Accountable on the CWC
Author: Arms Control Association
LINK: https://www.armscontrol.org/ACT/2016_11/Focus/Hold-Syria-Accountable-on-the-CWC

Chemical Weapons Use Returns to Syria
Author: Just Security (Blog Post)
LINK: https://www.justsecurity.org/32309/chemical-weapons-returns-syria/

The Legality of Using Force to Deter Chemical Warfare
Author: Just Security (Blog Post)
LINK: https://www.justsecurity.org/55005/legality-international-law-force-deter-chemical-warfare/

The International Criminal Court, the Islamic State, and Chemical Weapons
Author: Just Security (Blog Post)
LINK: https://www.justsecurity.org/27359/icc-islamic-state-chemical-weapons/
2.2 Basic Rules of IHL

IHL is a set of rules that aim to preserve human dignity in armed conflict by protecting the most vulnerable persons and by limiting the way in which war is conducted. IHL strikes a balance between the principle of humanity and military necessity.

**PROHIBITIONS**

- Protecting the most vulnerable persons
  - civilians
  - wounded and sick
  - hostage
  - health care workers

**LIMITING THE WAY IN WHICH WAR IS CONDUCTED**

- weapons
  - use of force

**DEFINITIONS**

- Conscience: Members of an armed force, number of any armed group under the orders of a party to the conflict, who have not taken part in hostilities, and whose status is recorded by the parties to the conflict.
- Combatant: Member of an armed force, number of any armed group under the orders of a party to the conflict, who have taken part in hostilities.
- Civilian: Non-combatant, i.e., a person who does not fall within the definition of a combatant.
- Enemy combatant: Person who has been captured by the enemy and who is not a civilian.
- Military objective: Object that is the object of a military action and whose destruction or damage will be to the advantage of a party to the conflict.
Annex 5 – Photos

Pre-Conference light lunch served to all guest speakers and attendees.
Professor Kim Richard Nossal, Director of the Centre for International and Defence Policy, Queen's University, delivering Opening Remark.

Attendees listening to the Keynote address
Keynote Address delivered by Mr. Daryl Kimball, Executive Director Arms Control Association
IHL 101 presented by Ms. Catherine Gribbin, Senior Legal Advisor, IHL National Office, Canadian Red Cross
Panel on Chemical Weapons (from left to right): Mr. Daryl Kimball, Executive Director, Arms Control Association; LCdr Laura Morrison, Office of the Judge Advocate General, Canadian Armed Forces; LCol Allan Taylor, Section Head, Operational Medicine, Canadian Forces Health Services Group Headquarters, Department of National Defence; Moderator, Ms. Catherin Gribbin, Senior Legal Advisor, IHL National Office, Canadian Red Cross

Panel Question and Answer period (See above for list of names)
Closing Remarks delivered by Ms. Svetlana Ageeva, IHL Advisor Ontario Unit, Canadian Red Cross