

MILITARY USE OF CHEMICAL RIOT CONTROL AGENTS, A CASE FOR LEGAL ASSESSMENT

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Abstract

The Art.36 of 1977 Additional Protocol-I to the Geneva Conventions requires a legal assessment for any new weapons to be introduced in service. The very nature of Non-Lethal Weapons makes a even more stringent case for legal assessment.

The use of chemical Riot Control Agents during military operations is subject to a number of rules, including:

- the Chemical Warfare Convention;
- the general provisions of the Humanitarian Law and Law of Armed Conflict;
- national laws;
- specific Rules of Engagement.

In some cases these rules seem to be in mutual contrast, creating problems of interpretations, which can differ in a significant way among different countries, though often signatories of the very same treaties, part of the very same international organizations, and jointly deploying their troops during the same operations. While most of the countries currently deploy and use Riot Control Agents during Peace-Support-Operations, some States and Non-Governmental-Organizations consider this use to be in contrast with international treaties.

A proposed method of assessment will be presented, taking into account the following factors:

- Legal status of the users (Civil Police, Gendarmerie, Military Police, Soldiers, etc);
- Nature of the chemical agents (irritants, incapacitants, malodorants);
- Means of delivery;
- Scope and status of the operation (Chapter VI peace-keeping, Chapter VII peace-enforcing, law enforcement, counter-terrorism, humanitarian, non-combatant evacuation, search-and-rescue, etc).

In case a similar path could be followed in future also for addressing other potentially critical legal subjects, such as:

- Non-Lethal Mines vs. the Ottawa Convention on AP land mines;
- Dazzling Lasers vs. the Inhumane Weapons Convention;
- Non-Lethal Bio Technologies vs. the Biological Warfare Convention.
- General Non-Lethal Weapons vs. the rules of Proportionality (possible cause of superfluous injury, unnecessary suffering, or disproportionate to the military advantage, risk of indiscriminate use).

Keywords:

Chemical Warfare Convention

Riot Control Agents

Peace Support Operations