

March 31, 1971

Mr. William Epstein
Alternate Representative of the Secretary-
General to the CCD
Room 190
Palais des Nations
1211 Geneva, Switzerland

Dear Bill:

Here are some recent items connected with the Geneva Protocol hearings before the Foreign Relations Committee. I do not believe the Committee is likely to report out the Protocol for some time to come. I think that a large majority oppose the Administration's "understandings" regarding riot gas and herbicides. Aiken and Church have gone so far as to say repeatedly and in public that the Protocol should be put aside until the "understandings" can be withdrawn.

I have heard from officials in Washington that some of the neutral nations at Geneva have expressed the view, in private, that it would be better for the U. S. to ratify the Protocol now than to delay any longer, even if delay might allow the understandings to be withdrawn. In particular, this view has been attributed to Ambassador Myrdal. I would certainly like to know if this is the general impression of those directly involved with the discussions at Geneva. I would of course consider any information on this score as strictly confidential.

I believe there is a reasonable chance that the understandings can be withdrawn, either within the next few months or, failing that, after the next elections.

With warm personal regards.

As ever,

Matthew Meselson

P.S. I have sent the enclosed items to Ambassadors Myrdal, Ignatieff, Krishnan, and Tanaka without, ~~any~~ ~~consent~~. I have also sent them to Martin Kaplan along with a letter explaining the situation. Please note the third paragraph in the third column of the John Finney article.

SUMMARY LIST OF POSITIONS CONCERNING THE USE OF
TEAR GAS IN WAR DEVELOPED BY PROFESSOR M. MESELSON AND
WILLIAM EPSTEIN AT CBW SEMINAR AT QUEEN'S UNIVERSITY, CANADA,
ON 23 JANUARY AND AT NEW YORK ARMS CONTROL SEMINAR ON 3 FEBRUARY 1971

I. MILITARY CONSIDERATIONS

1. The old humanitarian argument is simply not borne out in practice either in Vietnam or elsewhere. Tear gas has been used as an adjunct to other conventional weapons in order to kill more people.
2. Nevertheless the use of tear gas has been of marginal or even minor importance from the military point of view.
3. The danger of escalation. The use of any gas could lead to the use of more lethal gases.
4. The exercise of the right of reprisal or retaliation could also lead to escalation.
5. While it is true that tear gas might be used mainly in guerrilla-type of wars, its use can spread and escalate.
6. The use of tear gas could also lead to proliferation in other chemical weapons for use in war. It would be an incentive to others to acquire a CBW arsenal. Some people already regard CBW as a poor country's "atom" bomb or mass destruction weapon. Moreover, if any kind of C/W is used, why not BW? The use of any one of CBW would tend to make use of others accepted.

II. POLITICAL CONSIDERATIONS

1. The use of any form of CBW tends to anger people or create a feeling of horror. It is regarded as something barbaric and horrible and creates a bad image.
2. As indicated above, if you can use incapacitating CW, why not incapacitating BW? Any use of CW might lower restraint and create acceptability for use of other C and B weapons.
3. The use of tear gas can lead to domestic arguments and turmoil.
4. The use of tear gas in war and the resultant domestic reaction can undermine the case for and the will to use tear gas for domestic riot control and civilian police purposes, ~~where~~ its use does actually result in saving lives and is better than the use of guns or police truncheons.
5. It encourages the argument that the technologically advanced/industrialized countries are the ones who use tear gas against the backward countries, guerrillas and liberation movements.

III. LEGAL CONSIDERATIONS

1. The historical weight of legal opinion is that tear gas is banned by the Geneva Protocol.
2. This was reinforced by the UN Declaration in resolution 2609 A (XIV).
3. A rule of "no gas" is clear and easy to understand and to enforce, whereas a rule permitting the use of "some gas" is confusing and arguable.
4. It is easy to draw a clear and simple line, namely, that where the intent and the effect of the use of gas is to save lives, such as in civilian riot control, domestic police action or international peace-keeping (as was the case when it was used in Gaza), its use should not only be permitted, but perhaps even encouraged. On the other hand, if it is used for any military purpose whatsoever in war, its use should be banned. A clear example of the distinction is that American military police used tear gas for riot control and police purposes against American soldiers during World War II, but not against the enemy.

IV. MORAL OR ETHICAL CONSIDERATIONS

1. False reasons are given for using tear gas in war, e.g. humanitarian purposes, saving lives and other corrupt excuses.
2. From time immemorial the use of CBW has been regarded as immoral. Even in the days of the Romans, it was said "Arms belli non venenis geri" - war is waged with weapons, not with poisons.
3. A better moral climate both internationally and domestically is created by erecting a moral barrier or fire-break against the use of any kind of B weapon.