

The United States and the Geneva Protocol of 1925

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The Geneva Protocol of 1925 prohibits the use in war of "...asphyxiating, poisonous, or other gases, and of all analogous liquids, materials, and devices..." and of "...bacteriological methods of warfare". It was drafted on the initiative of the United States and was signed by the delegates of the U.S. and of 28 other states at Geneva on June 17, 1925. During the years before World War II, it was ratified by 47 states, including most of the major powers.

At present, 60 states are bound by the Protocol through ratification or accession, twenty of them since World War II and thirteen within the past two years.

Ironically, after initiating and signing the Protocol at Geneva, the United States did not ratify it. The Treaty was favourably reported by the Committee on Foreign Relations but after debating the matter in 1926, the Senate referred it back to the Committee. There it remained buried until 1947 when, together with several other long-pending treaties, it was withdrawn by President Truman as being obsolete.

The Senate debated the Protocol in 1926 in both open and secret session. There appears to be no official record of what was said in the latter. The open debate began with a letter from General Pershing urging ratification:

"I cannot think it possible that our country should fail to ratify the Protocol which includes this or a similar provision. Scientific research may discover a gas so deadly that it will produce instant death. To sanction the use of gas in any form would be to open the way for the use of the most deadly gases and the possible poisoning of whole populations of non-combatant men, women and children. The contemplation of such a result is shocking to the senses. It is unthinkable that civilization should deliberately decide upon such a course."

None of the supporters of the Protocol in the ensuing debate took so vigorous a position as did Pershing in his letter. Rather, they confined themselves largely to clearing up misinterpretations of the text of the Protocol, to giving assurances that it had the support of the War Department, and to arguing that ratification would in no way impair U.S. preparedness to wage gas warfare should the U.S. be attacked with gas.

In contrast, opponents of the Protocol argued forcefully with the aid of statistics and letters from military officers and veterans organizations that gas warfare is relatively humane and should not be prohibited. They maintained that U.S. wartime experience had shown gas to be highly effective in producing casualties with proportionately fewer deaths or permanent injuries than caused by high explosive weapons. Leading this line of argument, Senator Wadsworth, chairman of the Military Committee said

"I cannot understand why gas warfare should be picked out as the thing to be abolished, when it was the least cruel of any in the last war, as the figures prove."

Although the accuracy and relevance of this view could have been seriously challenged, supporters of the Protocol in the Senate seemed unprepared to do so.

Opponents of the Protocol were aided by the National Association for Chemical Defense, a large and well organized lobby formed for the express purpose of preventing ratification. Advocates of the Protocol had no comparable organization to support their case.

In withholding its advice and consent to the Protocol, the Senate in 1926 reflected a very different attitude from that which it manifested two years earlier when it unanimously supported a treaty emanating from the Washington Naval Conference of 1922-23. Article V of the Washington Treaty prohibited gas warfare in language identical to that of the Geneva Protocol. Although ratified by the U.S., the Washington Treaty did not come into effect because of French objections to a clause unrelated to gas warfare. Speaking of the failure of the Senate to approve in 1926 what it had unanimously supported in 1924, Deputy U.S. Representative Benjamin Cohen said in an address to the United Nations Disarmament Commission on August 15, 1952: "When the Geneva Protocol was submitted to the Senate for ratification, America was retreating rapidly into isolationism and neutralism and feared any involvement with the League and with Treaties originating from Geneva."

Although not actually ratified by the United States, the Protocol was supported by the Executive Branch during every Administration between the two world wars. President Roosevelt was particularly opposed to gas warfare, as illustrated by the following passage taken from a statement he made to the Congress in 1937:

"It has been and is the policy of the Government to do everything in its power to outlaw the use of chemicals in warfare. Such use is inhumane and contrary to what civilization should stand for."

At the start of World War II, Britain, France and Germany exchanged undertakings to comply with the Geneva Protocol. Gas warfare did not break out in that conflict but after American entry into the war, Roosevelt received reports that Germany might be preparing a gas offensive. Subsequently he declared:

"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."

In 1953 general support for the Geneva Protocol was voiced by the U.S. delegate to the United Nations Disarmament Commission who stated

"It would be a grave mistake to assume that because the United States has not ratified the Geneva Protocol, the United States is opposed to the general objective of the treaty, the effective outlawing of poisonous gas and biological weapons directed against human beings..."

However, by the late 1950s, U.S. policy seemed to have shifted. On September 3, 1959 a resolution was introduced into the House calling for a reaffirmation of "the long-standing policy of the United States that in the event of war the United States shall under no circumstances resort to the use of biological weapons or the use of poisonous or obnoxious gases unless they are first used by our enemies." The resolution was opposed by the Defense Department and the State Department and was not passed. A letter from the former to the chairman of the House Foreign Affairs Committee, dated March 29, 1960 seemed to run directly counter to the principles of the Geneva Protocol and to the previous policies of the executive branch:

"Similar declarations might apply with equal pertinency across the entire weapons spectrum, and no reason is perceived why biological and chemical weapons should be singled out for this special declaration."

More recent policy statements by high administration officials have been made in connection with U.S. military action in Southeast Asia. There, the U.S. is employing chemical weapons on a wide scale for the destruction of foliage and food crops. U.S. forces also are making wide use of an anti-personnel chemical classed as a riot control agent: so-called super tear gas, known as CS. In replying to charges that these actions are in violation of international law, U.S. officials maintain that such chemical agents are not prohibited by the Geneva Protocol. In doing so they have indicated support for the prohibition of the Protocol against poison gas.

Most recently, the U.S. has declared strong support for the Geneva Protocol at the United Nations. In November, 1966 Hungary submitted to the General Assembly a strongly worded resolution demanding strict compliance with the Geneva Protocol, condemning any actions aimed at the use of chemical and biological weapons, and defining the use of such weapons as an international crime. The United States opposed the Hungarian resolution, labelling it an instrument of propaganda. However, a series of amendments led to a resolution that was supported by the United States and passed without opposition in December 1966. The General Assembly resolution calls on all nations to observe the principles and objectives of the Geneva Protocol and invites those states that have not yet ratified it to do so. This invitation would of course apply to the U.S. as well as to other nations that have not yet ratified.