

Walt - Newfield Feb
If this guy has
his facts right, I think
this is an important
article -- and I would
see it in an early
issue --

What do you think?

Bernie

BF. rec'd 2/20/80

Poison Gas: Verification and Dispute Settlement

René V.L. Wadlow

The serious presumption of the use of poison gas against the hill tribes in Laos and the charges of gas use on a wider scale in Kampuchea and the more recent charges of poison gas in Afghanistan has raised in a dramatic way the need for strengthening the 1925 Geneva Protocol for the prohibition of the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare.

The Protocol was drafted after the wide-spread use of poison gas during the First World War. It was a protocol to an aborted treaty to regulate the international trade in arms - a topic that has escaped control by treaty to this day. The Protocol was widely adhered to, though a good number of states made reservations - largely of the type that if a non-signatory used poison gas against them, they were no longer bound.

As is so often the case, arms control treaties cover the conditions of the previous war rather than future ones. The First World War had been a properly declared war between countries with well-established frontiers and fought near large cities with a developed press, scientific laboratories and possibly independent observers. The prescriptions of the Protocol were designed for such conditions. Thus the Protocol contains no provisions for investigation of charges, no agreed-upon methods of dispute settlement and, of course, no provisions for sanctions. The Protocol was left unrelated to the machinery of the League of Nations and is thus unrelated to the United Nations. There are no mandatory steps to be taken when charges of poison gas use is made.

The cases of poison gas use between 1925 and the Second World War in Ethiopia and China did not create an institution-building

precedent, and the full extent of its use is only now becoming known. *by whom?
how?*

Since the Second World War, the problems of verification and dispute settlement have multiplied. Violence goes on in relatively inaccessible places; wars are seldom formally declared, and fighting takes place in "civil wars" which are not thought to be covered by the 1925 Protocol. The accusations of the use of poison gas in the civil war in Yemen was largely ignored. The war itself hardly attracted the attention of the U.N. nor of many independent observers.

The situation in Laos has been overshadowed by the political tensions and the human tragedy of the wider Indo-China area. The districts where poison gas use is reported are in western Laos far from the cities and access to the hill areas for any outside observer is forbidden. Since the poison gas is said to be used by the Vietnamese troops invited into Laos by the Lao government, there can be no formal protest on the part of the Lao government.

The political situation is the following: The Hmong -or Meo- minority in Laos, numbering some 300,000 and the Lao government are engaged in a struggle over the degree of Hmong autonomy and the Hmong agricultural pattern of slash and burn shifting agriculture. This struggle over the degree of autonomy and the maintenance of a particular way of life with its language, rituals and agricultural techniques has been a constant theme in the relations with the ethnic minorities in the Indo-china area. The struggle for autonomy and the protection of identity went on during the French colonial period and was aggravated in the years of violence since the end of the Second World War. The ethnic minorities have been divided politically, have supplied valued military forces for various sides and have often been manipulated with promises of greater autonomy - promises that were never kept.

This pattern has been particularly evident in Laos. Since the advent of the new Lao government in 1975, many members of the hill tribes have feared reprisals of a political nature or increased pressures on their traditions. Many have withdrawn deeper into the mountains; others have taken refugee status in Thailand. However, there has also been a continuing cycle of violence in the hill tribe areas. There has been some resistance to the new government of a guerrilla nature, cutting land communications and attacks on small units of Lao and Vietnamese troops. Such resistance has created fears in the government of foreign aid to and influence on the hill tribes and has led to further governmental repression. Thus the Lao government, with strong Vietnamese military assistance, has waged an armed campaign against the Hmong, allegedly aimed at the ultimate resettlement of the Hmong in the lowlands and plains controlled by the ethnic Lao and radically changing the agricultural pattern of the Hmong. It is in this cycle of violence and repression that *accusations*, reports) of the repeated and indiscriminate governmental use of poison gas have been made. ~~by the Lao government~~

Charges of poison gas use had been made by hill tribe refugees coming into Thailand. Some of these reports were issued by the press services (A.P., U.P.I., New China) and published in a number of newspapers without provoking a general hue and cry. ^{It}Spurred on ~~by~~ press reports and interest in the US Congress, systematic interviews with refugees were carried out both by the US Department of State and the Office of the Army Surgeon General. The interviews were carried out in a number of different camps, and the stories told varied enough not to have been pre-arranged. The evidence was reported by Colonel Charles Lewis, Chief, Dermatology Service, Brook Army Medical Center, Fort Sam Houston, Texas, and Evelyn Colbert, Deputy Assistant Secretary of State to the House of

Representative's Subcommittee on Asian and Pacific Affairs on December

12th 1979. Colonel Lewis stressed that " Estimates from the Hmong interviewed include approximately 700-1000 deaths as a direct result of the use of chemical agents, and that many times this number were made ill. It was told on numerous occasions that entire villages were devastated by these agents with no survivors.

In the episodes described, most of the animals exposed to the chemical agents were killed. Generally all chickens, dogs, and pigs died, and to a lesser extent the cattle and buffalo.

From the documentation of the medical symptoms and signs produced by the use of chemical agents, it is felt that at least 2, and possibly 3 different chemicals may have been used; such as (1) a nerve agent, (2) an agent that induces massive bleeding from gastrointestinal tract, (3) an agent that is probably a riot control gas. In some reports, it would appear that 2 agents were often used in the same attack.

Clinical manifestations of chemical agents:

a) Almost immediate onset of bleeding from nose, vomiting of blood, diarrhea, and rapid death in 5-15 minutes.

b) Immediate onset of headache, dizziness, decreased vision, tightness of chest, difficulty in breathing, coughing, vomiting, and muscle weakness; death in minutes to hours.

c) Immediate reactions suggesting an irritant agent affecting eyes, nose, throat, and breathing.

d) Essentially no blistering of the skin was elicited from these interviews; thus, the use of vesicants is not supported."

In the face of the accumulating evidence, Secretary Colbert outlined the US government response, following normal diplomatic practice. As she pointed out " In 1977 we had begun a dialogue with

U.S. agencies and other governments as well as with Lao officials in which we sought to focus concern on the welfare of Hmong caught up in Lao-Vietnamese resettlement schemes. In early October, Assistant Secretary Richard Holbrooke in Vientiane reiterated to the Lao leaders our concern over Hmong human rights and other issues relating to them.

In January 1979, the Department again informed the Lao Embassy of its concern about reports of the use of poison gas in Laos, coupling this with a similar demarch in Vientiane. The Lao denied the reports. At the same time we also notified the International Committee of the Red Cross of our concern. In March, the U.S. representative to the 35th session of the U.N. Commission on Human Rights expressed U.S. concern about the plight of the Hmong, specifically raising the issue of reported use of poison gas in Laos against this tribal minority...

We have provided these reports and our conclusions from these investigations to the Lao Government to substantiate and underscore our concern. We have also made demarches to the Vietnamese and Soviets and provided them with these June interview reports, urging that the Soviets use their influence with both Hanoi and Vientiane to raise the matter with their allies. The Vietnamese and the Lao, have categorically rejected reports of the use of such gas. The Soviets have stood behind these assertions. We have also provided information developed in these reports to other governments, asking each to share with us any available information they may have. Thus far, none have come forward with additional evidence.

In late 1978, we had noted isolated allegations by the Pol Pot Government, at that time still in control of the country, that Vietnamese troops were using "poison gas" delivered by artillery fire in eastern Kampuchea. Following the Vietnamese invasion and occupation of Kampuchea, these allegations began to multiply as did refugee reports of apparent gas attacks that were in some instances lethal. While we obviously cannot accept Pol Pot allegations at face value, we are concerned by and investigating refugee reports. We do not have the volume of reporting from Kampuchea at this time that we have seen from Laos. We are, however monitoring developments related to reports of gas use in Kampuchea very closely. We note that in Kampuchea, Vietnamese forces, and their allies, face a guerilla resistance, often based in rugged and relatively inaccessible terrain, much as they do in Laos. In our demarches to the Vietnamese and Soviets, mentioned above, we made it clear that our concern about these reports related to all of Indochina."

The Deputy Permanent Representative of Democratic Kampuchea, Te Sun Hoa, presented a text on "Crimes Perpetrated by the Vietnamese Troops of Aggression" claiming poison gas use in Kampuchea, to the UN Commission on Human Rights at the end of January 1980.

These diplomatic measures, and the lack of success in going beyond charges and denials indicate the need for creating investigation and dispute-settlement mechanisms. An investigation carried out by a single country - no matter how well done or well publicized - will be discounted as politically motivated. Charges of the violation of the 1925 Protocol with no remedial actions proposed will only lead to an increased build-up of chemical weapons among the major powers and potentially other states as well.

Already William Safire, who raised the question of poison gas use in Laos for the wider public with a moving article "The Yellow Rain in Laos" in the December New York Times has followed up ^{with} "The Other Gas Crisis" and deals with the recent reports of poison gas use in Afghanistan. There he says, "In Afghanistan, the Soviet purpose in using Asian anti-communists as guinea pigs has become clear: Poison gas is a counterinsurgency weapon the Soviet army can and will use. The weapon that was too loathsome to use in World War II is now an active part to the Red Army arsenal, to terrorize, demoralize and kill guerrillas. What can the United States do about it?... The trusting way has failed. Now let the United States try another way, which usually works better with the Russians: Let the United States build up its chemwar deterrent... The only way to deter Soviet chemical warfare is the way that the Allies prevented the Nazis from using

this dread weapon in World War II: by showing the aggressor that its use of poison gas would cause effective retaliation in kind."

Thus there is a real danger in a spiral build-up of chemical warfare weapons. A debate has gone on in military circles for some time as to the effectiveness and the ethics of chemical weapons. The diplomatic negotiations at the U.N. in Geneva on a comprehensive ban on chemical weapons including a prohibition on the development, production and stockpiling of chemical weapons as well as the destruction of existing stocks have long seemed to be on the edge of success and then new difficulties come up.

Therefore there must be international pressure to re-inforce the prohibitions on use that exist in the 1925 Geneva Protocol and to strengthen it. What is necessary is to appeal for the creation by the United Nations of an ad hoc investigation into the complaint of poison gas use in Laos and Cambodia, followed by steps to strengthen the 1925 Protocol by the creation of permanent verification and dispute-settlement procedures. The task would be to investigate all charges of the use of prohibited gases. Such a permanent body would also include a committee of experts who could begin their work without a prior U.N. resolution.