

The Chemical Weapons Convention and Norm Enforcement

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Part One: Enforcement

Introduction

Why did the international community respond differently to sarin use in the Syrian Civil War than to every prior case of violation of the norm against chemical weapons? Looking at the mode of response and how it differed from the international reaction to other norm violations within the same conflict suggest that the “The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction,” often abbreviated as the Chemical Weapons Convention (CWC), served as the key factor prompting norm enforcement in this case. I argue, based upon how the CWC functioned to bring about norm enforcement in the Syrian case, that the CWC has proved more effective than past treaties banning chemical weapons for three main reasons: the backing of an actor possessing the relative power to credibly threaten enforcement of the norm, the choice of that actor to constrain itself, and the establishment of specific procedures for the norm’s enforcement including a verification regime and disarmament guidelines. The CWC’s scope, in banning chemical weapon possession in addition to use, arguably also aids the CWC’s ability to enforce the norm against use, although that explanation remains imperfect. The norm against chemical weapons – the belief that their use is wrong – combined with other factors to bring about the CWC in this form, and to prompt enforcement of the norm through the CWC.

Before moving on, the above question (*why was Syria different?*) and answer (*the CWC*) must be contextualized. What accounts for variation in the international enforcement of norms? Such a question exceeds the scope of this project, but explaining the variation in enforcement of a single norm falls well within it. What accounts for variation in the enforcement of the international norm against chemical weapons? No violation of this norm by a state actor prompted enforcement until after CWC came into force into 1997. Correlation does not equal causation, but a close look at the response to the Syrian Civil War suggest the CWC was critical to bringing about the destruction of Assad’s declared stockpiles. How did the CWC set the stage for credible enforcement of this norm where previous agreements had failed? The academic community “has given short thrift to the critical issues of which norms matter, the ways they matter, and how much they matter relative to other factors,” but a growing body of literature is addressing this

oversight.¹ The mechanisms by which norms are hypothesized to operate range from internalization influencing “the emotional dimension of foreign policy behavior” by state leaders, to incorporation in domestic debates given a certain political structure, to externally derived incentives such as the threat of punishment.² This last mechanism carries the benefit of being readily observable, yet relatively little research has made the threat of punishment for norm violation its focus. While studies on the norm against chemical weapons in the past have centered on explaining their use and non-use, understanding the repercussions faced by actors that choose to deploy these stigmatized weapons is critical to grasping how norms operate. This in turn holds implications for understanding how norms are to be studied, whether and to what extent they can be said to exist, and the appropriate foreign policy response to norm violation. This study will explore the failure of the international community to enforce the norm against chemical weapons after its repeated violation (in the Rif War, the Second Italian-Ethiopian War, the Second Sino-Japanese War, the North Yemen Civil War, the Iran-Iraq War, and in Iraq against the Kurds) and contrast this with the effective case of enforcement in the response to the sarin attacks of the Syrian Civil War, the only case of chemical weapons use after the CWC came into effect. The reasons the CWC was able to prompt enforcement where previous treaties failed were threefold: its specificity, the presence of an actor capable of acting as the treaty’s enforcer and the decision by that actor to take on this role and constrain its own options. Scope, more problematically, may also have played a part in the CWC’s effectiveness, and should be expanded further if the CWC is to deal effectively with dual-use technology, as the recent chlorine attacks near Damascus demonstrate.

Defining Norms

Norms are variously defined, but definitions tend to include a combination of at least some of the following building blocks: (1) regular conformity by states to a behavior (2) imperfectly coterminous with and thus distinguishable from rational self-interest, (3) the presence of sanctions for non-conformity, (4) and an explicitly “normative” or moral dimension.³ When

¹Jeffrey Legro, via Gregory A. Raymond. 1997. “Problems and Prospects in the Study of International Norms.” *Mershon International Studies Review* 41:2. 216.

²Raymond. 234; Andrew P. Cortell and James W. Davis, Jr. 1996. “How Do International Institutions Matter? The Domestic Impact of International Rules and Norms.” *International Studies Quarterly* 40:4. 452.

³Gary Goertz and Paul F. Diehl. 1992. “Toward a Theory of International Norms: Some Conceptual and Measurement Issues.” *The Journal of Conflict Resolution*. 36:4. 639.

norms are defined by sanctions for misbehavior, as in Robert Axelrod's characterization that "a norm exists in a given social setting to the extent that individuals usually act in a certain way and are often punished when not seen acting in this way," then the question of a norm's enforcement becomes a question of that norm's existence.⁴ To avoid confusion, this project will assume that enforcement is *not* integral to a norm, which may operate by other mechanisms.

For this project's purposes, a norm will be defined purely as a rule with a moral aspect, regarding state behavior, codified in a treaty or international declaration. Unlike behavioral definitions, this distinguishes norms from norm adherence, allowing for the logical possibility of ineffective norms, and compatible with inquiry focused on "the impact of international norms on the actual behavior of states," a corpus of research examining topics ranging from the effectiveness of environmental protection norms, to women's rights norms, to norms of war.⁵ This definition also distinguishes norms from the mechanism by which norms affect behavior (enforcement or internalization), countenancing the possibility of different mechanisms, as will be elaborated in the following paragraph. By this codification-oriented definition, the norm against biological and chemical weapons has existed since 1899 and undoubtedly since 1925. Whether the norm has affected state behavior to reduce chemical and biological weapon use beyond what one would observe were states operating purely on self-interest, is a separate question. Whether the norm has been enforced, that is, whether the few violations of the norm since its establishment elicited punishment, is yet another question. If the norm has been enforced unevenly, accounting for variation in its enforcement presents yet another question still. It is these last two questions I hope to shed light on: the variation and extent of norm enforcement in the case of the chemical weapons ban.

Defining Enforcement

Norms are theorized to affect behavior through a number of mechanisms, as stated earlier, including internalization and enforcement. Internalization refers to self-regulation of state behavior to fall in line with a norm's dictates. One definition (differing from this project's) holds that a norm cannot be said to exist unless it has been internalized and apparent behavioral

⁴Ibid.

⁵Guglielmo Verdirame. 2001. "Testing the Effectiveness of International Norms: UN Humanitarian Assistance and Sexual Apartheid in Afghanistan." *Human Rights Quarterly* 23:3. 733; Mary Ellen O'Connell. 1995. "Enforcement and the Success of International Environmental Law." *Indiana Journal of Global Legal Studies* 3:1. 47.

adherence to it is evidently not the result of external incentives. Through internalization, “international norms influence behavior by shaping state identities.”⁶

The mechanism of enforcement, contrastingly, refers to an external stimulus: an international reaction beyond mere verbal opprobrium, involving either grave *material costs* (as from military invasion or severe economic sanctions) or the pressure of the credible *threat thereof*, enacted against a norm violator by other state actors in explicit retaliation for norm violation. While military action and economic sanctions are readily observable, the presence of a credible threat can be indirectly observed through a violating state actor’s sudden, dramatic change in behavior (such as surrendering its chemical weapons stockpiles) that can be reasonably assumed to be the result of international pressure rather than a spontaneous change of heart. In order for such an assumption to be reasonable, the language of political leaders can be analyzed for the presence of a threat. If a threat is present, its credibility can be ascertained by looking at the military or economic ability of the threatening state to carry out its threat. Other factors thought to influence the credibility of threats, such as the democratic nature of the threat-maker (although this factor’s relevance has been contested) will be left aside.⁷ The effectiveness of this mechanism of external pressure or enforcement in incentivizing norm observance from rational state actors is intuitive. If codified norms affect behavior through a mechanism of enforcement, then even the behavior of non-signatory states should be influenced by norms where signatories are willing to enforce them upon non-signatories. Previous research on the extent of norm enforcement has identified several possible explanations for variation in punishment, including competing geopolitical incentives as well as uncertainty about the violation’s scope and nature (which can be mitigated through more extensive monitoring).⁸ The relative power of the norm violator within the international system has also been shown to be of importance in predicting punishment for norm violation, as this variable affects the strategic incentive structure and the very capability of other

⁶ Raymond. 214.

⁷ Alexander B. Downes and Todd S. Sechser. 2012. “The Illusion of Democratic Credibility.” *International Organization*. 66:3. 457-489.

⁸ Daniela Donno. 2010. “Who Is Punished? Regional Intergovernmental Organizations and the Enforcement of Democratic Norms.” *International Organization* 64:4. 593.

states to inflict punishment.⁹ These contributions notwithstanding, relatively little attention has been paid to norm enforcement overall, a gap in the literature this work hopes to help fill.

Cases of Non-Enforcement

Looking at the outcome of six cases (the selection whereof will be explained below) will reveal the history of non-enforcement of the norm against chemical weapons in response to chemical weapons use. The cases to be analyzed consist of: the Rif War, the Second Italian-Ethiopian War (1935-6), the Second Sino-Japanese War (1937-45), the chemical weapon use beginning in 1963 in the North Yemen Civil War (1962-70), and the Iran-Iraq War (1980-88) All of these cases involve chemical weapon use in violation of international norms, and WWI and the Japan-China case additionally involve some violation of the prohibition against biological weapons. The small number of cases of chemical and biological weapon use available for investigation precludes the practicality of a quantitative study and recommends qualitative case study analysis as the most appropriate method for this thesis to employ.

All of these cases take place after the Hague Declaration of 1899, when the norm against chemical and biological weapons was first codified on a grand scale, and all but the first case also occur after the 1925 Geneva Protocol, which reinforced the norm against these stigmatized weapons with greater resolve. While the norm against poison weapons has arguably existed for a vastly longer period of time, focusing on cases from the 20th century onward offers several advantages.¹⁰ First, the norm against stigmatized weapon use was evidenced in writing after 1899 and indisputably established after 1925, rendering cases of stigmatized weapon use from the 20th century onward (and certainly after 1925) immune to accusations that no norm violation occurred because the norm was still inchoate or not yet extant.

Furthermore, there exist far better records available for analysis on cases of chemical and biological weapon use in the 20th century onward than exist for deployment of these weapons further in the past. Estimations of the number of Athenians to die after their wells were (probably) poisoned by Sparta during the Peloponnesian War are likely less accurate than estimations for the number of chemical weapons victims in the North Yemen Civil War. The

⁹ Renee De Nevers. 2007. "Imposing International Norms: Great Powers and Norm Enforcement." *International Studies Review* 9:1.

¹⁰ Price, Richard M. 1997. *The Chemical Weapons Taboo*. Ithaca: Cornell University Press. 18.

greater accessibility of the more recent past will help ensure precision in this thesis's analysis. This presents a benefit to only looking at cases from the 20th century onward, in addition to positioning all examined cases within an era after the firm establishment of a norm against chemical weapons.

Discarded Cases

An explanation of other case studies considered for analysis and discarded will now be given. Based solely on analysis of these five cases, timely and clear retaliation seems unprecedented. However, at least one case of just that can be found if one surveys historical international reactions to cases of perceived stigmatized weapon *possession* in addition to use: the Iraq War (2003-11). While the Iraq War retaliated against a perceived case of stigmatized weapon possession that proved incorrect, it provides the clearest case of declared punishment for stigmatized weapon possession. The main reason for not taking this route lies in the lesser nature of the taboo on possession as opposed to use. The language of the 1925 Geneva Protocol refers only to the use of, rather than the possession or stockpiling of, chemical and biological weapons.¹¹ The norm against possession was not codified on a large scale until the CWC was adopted in Geneva in 1992, and the CWC did not come into force until 1997. While enforcement in this case is compatible with my argument that the CWC is critical to enforcement of chemical weapons norms, because the norm against use was codified earlier than the norm against possession, this thesis elects to focus on variation in the consequences of the older and surer norm violation.

World War I's conspicuous absence warrants explanation. Because the goal of this study is to identify variables contributing to the likelihood of punishment (or the threat thereof) following norm violation and this is most observable when outside states not previously embroiled in a given conflict elect to intervene (or threaten to do so) after the violation of the norm, the chemical weapons use of World War I, despite presenting a solid case of norm violation, presents a difficult case for analysis and was regrettably excluded. It is hard to untangle what, if

¹¹Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare. 1925: "The use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilized world; and [...] this prohibition shall be universally accepted as a part of International Law [and we] agree to extend this prohibition to the use of bacteriological methods of warfare," accessed at the United Nation's website at http://www.un.org/disarmament/WMD/Bio/pdf/Status_Protocol.pdf

any, portion of the response was attributable to an attempt to punish the violation of norms and what part of the response was merely the pragmatic continuation of war without regard for norms. Also, although Germany launched the first large-scale gas attack, it claimed to be avenging an earlier smaller-scale Hague violation in France, and so the identity of the initial norm violator is in dispute, further muddying attempts to learn whether the violator received punishment specifically for the violation. Germany further claimed that, regardless of who struck first, the manner of Germany's chemical weapons deployment did not violate the Hague agreement. Ultimately the case of World War I would prove unfruitful for understanding why some instances of norm violation go unpunished while others invoke international retaliation, and I may need to drop this case. Although the wealth of stigmatized weapon use in WWI at first glance might seem to promise for contributing to the thoroughness of this study, it has been excluded.

Non-Enforcement (pre-CWC)

Despite chemical weapon use in the Rif War, the Second Italian-Ethiopian War, the Second Sino-Japanese War, the North Yemen Civil War, Halabja and the Iran-Iraq War, none of these cases prompted clear enforcement. One of the cases of stigmatized weapons use I will examine (Iran-Iraq) prompted a plain response, but even in this case the mode of response was either difficult to classify as retaliation or severely delayed. One of this study's five cases, Italy, incited mild sanctions that were never fully enforced. Other violations went wholly unpunished.

A cursory look at these cases shows the overall incidence of retaliation to be quite low or even non-existent in the period prior to the CWC. Only two cases on the above list might be considered to have elicited retaliation that clearly related to the norm violation and possibly, although not certainly, acted as signals disincentivizing similar future norm violations (although attending adequately to that issue exceeds this study's scope). During the Iran-Iraq War itself, the international community turned a blind eye to Iraq's actions. Moreover, Iraq could not have utilized chemical weapons to the extent it did without considerable help from other states. A year after that war's end, however, a part, albeit minor, of the explicit justification for the first Gulf War lay in Iraq's history of human rights abuses including past use and then current possession of stigmatized weapons. Almost twenty years after the end of the Iran-Iraq War, at his trial in 2006, Saddam Hussein was charged with and convicted of crimes against humanity

including war crimes related to his use of chemical weapons. While eventually entailing severe punishment, the transformation of and delayed nature of the international reaction calls into question both its effectiveness to deter similar behavior in the future and whether the seeming retaliation can be attributed to the norm violation at all. The international community's about-face and delayed response in the Iraq case lend *prima facie* plausibility to the realist's argument that any case of seeming retaliation for the violation of a norm was actually motivated by other factors and merely employing the language of "norms" to increase legitimacy for actions (e.g., the first Gulf War and the Iraq War) that would have been carried out regardless of whether a norm violation occurred.

Enforcement (post-CWC)

Syria's Ghouta attack embodies the only case entailing a swift, clear-cut response aiming to shore up the norm against stigmatized weapons. International pressure moved Syria to join the CWC, declare its stockpiles and surrender them. After talk of potential military action, a diplomatic deal was compelled and an international effort is at the time of this writing underway to dispose of Bashar al-Assad's illegal weapons stockpile, and under the current plan all remaining chemicals are to be destroyed by June 30th of 2014.¹² Prior to the diplomatic deal, President Barack Obama threatened military action against Syria explicitly because of its violation of the norm against chemical weapons. He declared:

So I have said before, and I meant what I said, that the world has an obligation to make sure that we maintain the norm against the use of chemical weapons. Now, I have not made a final decision about various actions that might be taken to help enforce that norm. But as I've already said, I have had my military and our team look at a wide range of options [...] we are looking at the possibility of a limited, narrow act that would help make sure that not only Syria but others around the world understands [sic] that the international community cares about maintaining this chemical weapons ban and norm.¹³

The explicit threat of military action by the U.S. was credible because of the ability rendered that actor by its relative power to carry out such an attack on Syria. The material capability of the

¹²Washington Post. Dec. 20, 2013. "UK to help destroy Syria's chemical stockpile." Accessed at http://www.washingtonpost.com/world/europe/uk-to-help-destroy-syrias-chemical-weapons/2013/12/20/3eb4fd8c-6989-11e3-997b-9213b17dac97_story.html

¹³New York Times. August 30, 2013. "Obama's Remarks on Chemical Weapons in Syria." Accessed at <http://www.nytimes.com/2013/08/31/world/middleeast/obamas-remarks-on-chemical-weapons-in-syria.html>

U.S. to carry out its threat of limited military action coerced a dramatic observable response from the Assad regime that cannot be levelheadedly attributed to random chance. Syria did not join the CWC on a whim, unprovoked, but rather it is *prima facie* most likely that its actions came about in order to save itself from the materialization of the U.S.'s threat, acting on Russia's advice. While it is easier to observe military action than the threat thereof, examination of statements released at the time forces the conclusion that a credible threat occurred, and Syria responded to this threat. Hence this is a case of enforcement. After attending to counter-arguments denying the event of norm enforcement, an attempt will be made to attribute the enforcement that occurred to the CWC.

Counter-Arguments

At least two counter-arguments exist denying the above-described outcome to be a case of enforcement. First, a critic could take issue with the broadness of my definition of enforcement, questioning whether a *mere threat* can ever count as enforcement. Second, even if a threat can be regarded as a possible means of enforcement, a critic could take aim at the motives of the U.S. and Russia and claim that the intentions behind all actions involved were unrelated to the upholding of the norm against chemical weapons.

According to the first criticism, enforcement must entail punishment, which undeniably failed to emerge. Assad remains in power, and no grave consequences intended to dissuade future use of stigmatized weapons were enacted. I argue that in this case the response endorsed the norm against stigmatized weapons without militarily enforcing it, because when a threat is credible it elicits a response as dramatic as the actual implementation of punishment. The goal of enforcement is to dissuade the international community from breaking norms with material incentives. By threatening the costs associated with military action, Obama was able to observably alter behavior. The fact that the threat was able to provoke a response before military action ever materialized should not discount its enforcing role. Enforcement that operates solely through a threat is preferable to enforcement through actualized punishment because it is less costly to all involved while resulting in the same outcome. While timely military retaliation indeed failed to materialize, its failure to do so is attributable solely to the effectiveness of President Obama's threat rendering military action unnecessary.

The other route by which a critic might disclaim Syria as a case of enforcement focuses on the intentions of the U.S. While there are numerous quotes recorded testifying to Obama's use of the norm against chemical weapons as a justification for his threats against Assad, concern for this norm may not have been his main motivator. Regarding Syria, Obama also said,

This kind of attack threatens our national security interests by violating well-established international norms against the use of chemical weapons, by further threatening friends and allies of ours in the region like Israel and Turkey and Jordan, and it increases the risk that chemical weapons will be used in the future and fall into the hands of terrorists who might use them against us.¹⁴

Here he explicitly mentions motives for responding threateningly to Syria unrelated to the chemical weapons norm: danger to strategic allies such as Israel, and danger to the U.S. itself stemming from the possibility of chemical weapons falling into the hands of terrorists. In any case of perceived danger to a state or that state's close allies one would expect a response out of sheer self-interest (the desire for self-preservation), unaffected by relevant norms. At least two factors suggest, however, that the U.S. was motivated in large part by a desire to uphold the norm: (1) frequent explicit invocation of the norm against chemical weapons by U.S. leaders as a justification for threatened action, and (2) the presence of factors dis-incentivizing the U.S.'s threatening response and pushing this response outside the realm of self-interest. A critic could argue the language invoked to be insincere and unrelated to the U.S.'s true motives, but the second factor is harder to dismiss and when taken in combination with the first builds a compelling case that the norm against chemical weapons was a strong factor in the U.S.'s response.

The U.S.'s response to Syria cannot be so easily dismissed as pure self-interest: the danger posed by Assad's chemical weapons to the U.S. itself was not immediate, and this is obviated by the fact that the American public, as well as most of Congress, were overwhelmingly against military action. Obama tried to win Congressional support for a limited strike despite the unpopularity of this action until the proceedings were interrupted by a negotiated agreement entailing Syria's assent to joining the CWC and surrendering its chemical weapons stockpiles.¹⁵ If responding to Syria threateningly were a straightforward matter of basic self-interest, one

¹⁴ Ibid.

¹⁵ Landler, Mark and Megan Thee-Brennan. Sept 9, 2013. "Crisis in Syria." New York Times. Accessed at <http://www.nytimes.com/2013/09/10/world/middleeast/poll-majority-of-americans-oppose-military-strike.html>

would not expect to see such an amount of disagreement within the U.S. over the possibility of military action. Hence this was not a case of clear-cut self-interest, leaving us to take Obama at his word that upholding the norm against chemical weapons was a major factor in the logic of the U.S.'s official reaction to Syria.

Not only did the U.S.'s actions unlikely stem from self-interest, but they were irrational enough from a purely realist standpoint that the U.S. found its incentive to follow through on its threat endangered by a lack of domestic support. The U.S. found itself caught in between the prospect of the costs entailed by a deeply unpopular intervention and that of the reputational costs associated with backing down from a threat. While the U.S.'s technical ability to intervene was not in question, and its threat remained credible insofar as a desire to protect its reputation might have forced its hand, it became clear that it was in this actor's best interest to find a way to deliver itself of the responsibility to actualize its threat. Russia, motivated by a wish to protect its strategic and economic interests in the maintenance of the Assad regime, gave the U.S. a way out, which it gladly accepted, by helping to broker a diplomatic deal with Syria involving the latter's ratification of the CWC and thus the declaration and surrender of its chemical stockpiles. While the U.S. may have acted as a reluctant enforcer, its threat remained credible enough to prompt these actions on the part of the Assad regime. The U.S.'s ambivalence only evidences the lack of pure self-interest behind its response.

If the outcome of Syria's norm violation indeed represents a case of enforcement, while none of the previously mentioned cases of chemical weapons use managed to provoke a response that can be so classified, this begs the question: what accounts for this variation? An impossible-to-overlook change occurred in between the unenforced cases and the sole case of enforcement: the CWC came into being. The sequence of these events alone, of course, does not prove causation. After an attempt to causally link the occurrence of enforcement with the CWC, this paper will go on to ask, if the CWC indeed explains this variation, why was the CWC able to motivate enforcement when previous treaties failed to do so?

Causation

The argument that the CWC accounts for variation in the enforcement of the norm against chemical weapons could be tested in one of two ways: either by observing the outcome of the Syrian sarin attacks in a world lacking the CWC and or by observing the outcome of all prior

cases of chemical weapon norm violation in a world possessing this factor. The latter attempt strains human imagination, as one of the factors critical to the CWC's success, I will argue, is the presence of an actor capable of enforcing it, and imposing unipolarity upon events prior to the Cold War's end requires envisioning an international system differing from the historical record radically. Fortunately, the former counterfactual, reimagining the events of the Assad regime's sarin use had the CWC never come about, is not as difficult to construct. I will explore this hypothetical situation and support my conclusions through analysis of the role the CWC played within the actual negotiations.

In order to see what the outcome of the sarin attacks in Syria would have been without the CWC's presence, one can observe how the international community responded to other norm violations in the Syrian Civil War that lacked such an effective treaty to promote enforcement. Chemical weapon use is far from the only norm violation in this conflict. There is strong evidence of "industrial scale" execution and torture of around 11,000 Syrian detainees, and at least nine civilian massacres in the last year and a half alone (eight perpetrated by the Assad regime, as well as one by the rebel forces).¹⁶ The majority of civilian massacres in the Syrian War have been carried out via conventional weaponry. Despite unacceptable civilian death tolls and other gravely ethically troubling occurrences throughout this conflict, until the violation of the CW norm the international condemnation of Syrian atrocities remained weak and toothless. Without the anti-chemical weapon norm's widespread acceptance manifested in the CWC and proven procedures for verified stockpile destruction it is unlikely that Obama would have seriously threatened military intervention. The other norm violations in the Syrian Civil War unrelated to chemical weapons, which collectively resulted in even greater civilian suffering and death, stirred no statements from him approaching his response to the chemical weapon norm violation. Even in the actual course of events, in a world where the CWC exists, American support for intervention in Syria was low, and Obama's proposal of limited military action unpopular – it follows that without the ability to justify his proposal with reference to the norm enshrined in the CWC, support would likely have been as low or perhaps even lower without the legitimacy carried by referencing the CWC. There is no logical reason to think the CWC's non-

¹⁶ BBC News. January 21, 2014. "Syria accused of torture and 11,000 executions." Accessed online at <http://www.bbc.com/news/world-middle-east-25822571>; Black, Ian. May 22, 2014. "Russia and China veto UN move to refer Syria to international criminal court." The Guardian.

existence might have resulted in a higher level of support within the U.S. for military action against Syria. While it seems less likely that the U.S. would have singled out chemical weapon norm violation as deserving special consideration in a world where this norm had not been appropriated a high status through its codification in a treaty ratified by nearly all states and with a successful record of promoting disarmament, it is still hypothetically possible. It is possible that Obama might have chosen to issue the same statements based on personal moral convictions or a belief in a norm unsupported by the CWC. The fact that he failed to issue any such statement when other norms of war were violated in this conflict, however, suggest otherwise.

If Syria's sarin use had been strongly condemned by the U.S. in a world without the CWC, and the U.S. found itself unlikely to be able to back up its threat because of a lack of domestic support, Russia would have attempted to broker negotiations, all just as in the actual sequence of events (perhaps with even lower popular support for military intervention within the U.S.). However, the deal reached would likely not have involved any sacrifice of CWs on the part of the Assad regime. Recently, Russia and China vetoed a resolution to refer Syrian war criminals on both sides of the conflict to the International Criminal Court.¹⁷ (This would have included those accused of torture and perpetrating civilian massacres using conventional weaponry). Both states justified their vetoes with the rationale that the ICC's involvement would only serve to further complicate and prolong the Syrian Civil War. In the hypothetical scenario proposed, Russia would likely have utilized a similar justification in negotiations, claiming that any involvement of outside actors or institutions would only further conflict. Indeed, Putin made this argument against the proposed U.S. strike:

The potential strike by the United States against Syria [...] will result in more innocent victims and escalation, potentially spreading the conflict far beyond Syria's borders. A strike would increase violence and unleash a new wave of terrorism [...] It could throw the entire system of international law and order out of balance.¹⁸

As in the course of events, no military action would have occurred. Realizing the political cost of any such action, the Obama administration would have transformed its rhetoric to something along the lines of Putin's logic above, claiming that upon deeper analysis the potential that any

¹⁷ Ibid.

¹⁸ Putin, Vladimir V. September, 11, 2014. "A Plea for Caution from Russia." The New York Times.

outside intervention might further prolong the conflict was sufficiently high to absolve the U.S. of any previously verbalized responsibility to intervene. As in reality, the U.S. would have allowed Russia to provide a way out of the threatened intervention, because this would be in the former actor's best interest and because it seems reasonable to assume all events in this scenario would mirror reality as closely as would be possible given the CWC's absence. The international community would thus have ultimately avoided enforcement as in the case of all other non-CW-related norm violations that have occurred in the Syrian Civil War. The likelihood that any diplomatic deal reached in a world without the CWC would have amounted to little more than empty promises from the Assad regime, without any declaration of his chemical weapon stockpiles or plan for their destruction, will now be further supported by a close look at the role the CWC played in the negotiations. The sheer extent of norm violations in this conflict and lack of response to all but the use of sarin gas strongly suggest that there is something unusually compelling about the CW norm in this case, and examining how the CWC shaped negotiations sheds some light on this difference.

The actions of the state actors most involved in the aftermath of Syria's sarin use were influenced by international law. The U.S.'s original threat and Russia's counterargument to it both were clothed in and relied upon the language of international law. Regardless of the actual motivations involved, all actors at the time came to the decision that conforming to this standard would best serve their interests and lend legitimacy to their goals. Had the CWC not existed, under international law, Russia's veto power in the U.N. Security Council would have been sufficient to provide the U.S. an excuse to back down from its domestically unpopular threat of intervening in Syria, and the previously cited Russian rationale of intervention potentially prolonging conflict would have provided an additional justification for such a turnaround. This would have occurred without any real cost to Syria – at most, an empty diplomatic deal to soothe the sting of perceived reputation costs endured by the U.S. for backing out of a threat – as all parties would have been able to achieve their objectives without any further action. Russia would have been able to protect the Assad regime and the U.S. would have been able to escape the consequences of following through on its threat, all without any need to enforce the norm against chemical weapons. Because the CWC exists, however, and because all actors were pursuing their interests through appeals to international law, the diplomatic solution reached involved Syria's ratification of the CWC, declaration of weapon stockpiles and a plan for the destruction of these

stockpiles with the aid of the OPCW. It would have been difficult for the relevant actors to avoid enforcement of the norm against chemical weapons while claiming to uphold international law in a world where the CWC is widely accepted. While it is impossible to provide perfect proof of causation, I have attempted to demonstrate the high probability that the CWC was instrumental in bringing about this instance of norm enforcement.

Part Two: the Chemical Weapons Convention

Introduction

Why has the CWC managed to successfully enforce the norm against chemical weapons, unlike its predecessor treaties? What makes the CWC different from previous treaties? The CWC's effectiveness was made evident in Part One of this thesis, which contrasted the CWC's triumph with the failure of previous treaties to enforce the norm against chemical weapons upon violators, and showed that successful enforcement of the norm against chemical weapons in the case of Syria can probably be attributed to the CWC. The CWC's success will undergo explanation in the remainder of this thesis.

Explanation of the riddle of the CWC's success lies in unipolarity mitigating systemic anarchy to guarantee enforcement of the treaty against violators, the specificity and, perhaps, scope of the CWC, and the U.S.'s choice to constrain itself. Of the three facets of this explanation – unipolarity, the CWC's specificity and scope, and the U.S.'s tying of its own hands – the last is most needing of further clarification and the vast majority of this section will be devoted to untangling the factors accounting for the U.S.'s constraining choice through historical scrutiny.

This section will proceed by first reaffirming the widely hailed achievements of the CWC and then overviewing some criticisms tempering those achievements. After reestablishing the CWC's overall success through this summary, explanation of that success will ensue by detailing why the backing of an enforcer is essential to the CWC's success, and then the same for the specifics of the CWC. This account of the CWC's success will lastly, and most thoroughly, delve into the history of the U.S.'s relationship with the CWC, and how the norm against chemical weapons, through the channel of popular support fueled in part by the experience of the Gulf War, in conjunction with several lesser factors, caused the U.S. to elect to constrain itself via the CWC.

Success of the CWC

The CWC's success far outshines its predecessors, the 1899 and 1907 Hague Conventions and the 1925 Geneva Protocol, and this success can be measured in its near universal adoption as well as the robustness of its effects in the diminishing of chemical warfare. The CWC's 190 member states represent over 98% of the world population and landmass as well as, critically, 98% of the global chemical industry.¹⁹ The CWC's adoption is so widespread that as of 2014 only four states remain non-parties (Angola, North Korea, South Sudan and Egypt) and only two parties have yet failed to ratify (Israel and Burma). The CWC accumulated this membership rapidly, qualifying as the "fastest growing international disarmament organization in history."²⁰ The CWC's success depends fundamentally upon the achievement of universality, which it has all but accomplished, and the OPCW seeks to achieve the aim of universal membership before long by attaching priority "to the attainment of the universality of the Convention" through its Universality Action Plan.²¹ The CWC's rapid and pervasive adoption cannot but be recognized as impressive.

The CWC has managed to enforce the norm against chemical weapons by destroying the majority of chemical weapons known to exist thanks in part to its above-described universality. In compliance with the CWC, to date 80.69% of state parties' declared chemical weapon stockpiles have been destroyed.²² Three states have completed destruction of their stockpiles: India, Albania, and an anonymous state party commonly suspected to be South Korea.²³ Japan has destroyed 50,000 CW items it abandoned in China.²⁴ The CWC has steered the two leading holders of chemical weapons by far, Russia and the U.S. well on their way to total chemical disarmament. As of this writing Russia has done away with over 75% of its chemical weapon

¹⁹ OPCW Official Website. Status of Participation in the CWC. Accessed at <http://www.opcw.org/about-opcw/member-states/status-of-participation-in-the-cwc/>

²⁰ Ibid.

²¹ OPCW Conference of the State Parties, fourteenth session. December, 2009. Universality of the Chemical Weapons Convention and the further Implementation of the Universality Action Plan. Accessed at <http://www.opcw.org/documents-reports/conference-states-parties/fourteenth-session/>

²² OPCW Official Website. "Demilitarization: Latest Facts and Figures." Accessed at <http://www.opcw.org/our-work/demilitarisation/>

²³ Ibid.

²⁴ OPCW Report of the Executive Council. October 2013. Accessed at http://www.opcw.org/index.php?eID=dam_frontend_push&docID=16846

stores, and the U.S. has demolished around 90% of its own stockpiles.²⁵ The CWC's ability to successfully uphold the norm against chemical weapons can be seen perhaps nowhere better than in the resolution of the 2013 Ghouta sarin attack in Syria, when its power to enforce the norm against violators became evident. The norm against CWs enshrined in the CWC prompted the international community to quickly respond to the only case of CW utilization to occur since the CWC came into effect, pressuring Syria to become party to and ratify the treaty in order to avoid punishment for its norm violation via military action, forcing Syria to surrender its stockpiles. The OPCW has since been overseeing the destruction of Syria's CW supply, and as of April 4, 2014 over 53% of stockpiles have been removed or destroyed, on schedule to meet the June deadline for their complete annihilation.²⁶ A detailed account of the CWC's victory in the Syrian case of successful norm enforcement, the only clear case throughout history of enforcement of the anti-CW norm following a violation, can be found in the first half of this thesis. In 2013, the OPCW was recognized with the Nobel Peace Prize for its role in reestablishing the norm against CWs in Syria and for having conclusively "defined the use of chemical weapons as a taboo under international law."²⁷

Critiques of the CWC

Critiques of the CWC remain even though the treaty has been predominantly lauded as successful. One criticism of the CWC calls attention to the need to update the language to reflect technological changes and speak more to the dangers of dual-use technology.²⁸ A more esoteric criticism lies in some feminist scholars' worry that the CWC extends structural gender inequalities by failing to adequately address gender, bodily experience and the environmental health effects associated with the destruction of chemical weapons.²⁹ Yet another criticism is the state-centric nature of the CWC in light of the threat of chemical weapon use by terrorist

²⁵ RIA Novosti. Russia Destroys Over 75% of Its Chemical Weapons Stockpile. August 8, 2013. Accessed at http://en.ria.ru/military_news/20130808/182657926/Russia-Destroys-Over-75-of-Its-Chemical-Weapons-Stockpile.html; U.S. Army Chemical Materials Activity Website. Destruction Status. Accessed at <http://www.cma.army.mil/verticalmetricswindow.aspx?graph=Agent&desc=Agent%20Destruction%20Status>

²⁶ Al Jazeera. "Syria 'can meet' chemical weapons deadline." April 4, 2014. Accessed at <http://www.aljazeera.com/news/middleeast/2014/04/syria-can-meet-chemical-weapons-deadline-201444134226938708.html>.

²⁷ Nobel Prize Organization. October, 2013. Official press release from Nobel Prize Committee. Accessed at http://www.nobelprize.org/nobel_prizes/peace/laureates/2013/press.html

²⁸ J. P. Perry Robinson. 2008. "Difficulties Facing the Chemical Weapons Convention." *International Affairs* 84:2.

²⁹ Monica J. Casper and Lisa Jean Moore. 2011. "Dirty Work and Deadly Agents: A (Dis)Embodied Weapons Treaty and the Illusion of Safety." *Women's Studies Quarterly* 39:1/2.

organizations, such as the 1995 deployment of sarin gas in a Tokyo subway by the apocalyptic cult Aum Shinrikyo. Some of these critiques were discussed at the Third Review Conference of the CWC in April of 2013, with incremental changes promised to tackle those concerns by having the OPCW gradually take on additional tasks regarding terrorism, safety and security.³⁰ Criticisms of the CWC point out areas for improvement and the OPCW is slowly evolving to meet some of these challenges, but ultimately these critiques are outweighed by the hard-to-deny general success of the CWC, and even critics qualify their arguments by conceding the CWC's overall quality. The inadequacy of the CWC's provisions regarding dual-use technology represents its greatest flaw, and this thesis will deal more thoroughly with this fault in its conclusion. While flawlessness eludes the CWC, its ability to promote enforcement when previous treaties against chemical weapons have failed to do so remains an impressive achievement worthy of explanation.

Unipolarity

The CWC succeeded at least in part because it was backed by unipolarity (or to use a more controversial term, hegemonic might), which was made possible by the timing of the CWC's genesis. Without enforcement any agreement against chemical weapons was futile, and enforcement entails the existence of an enforcer. Enforcement of international law is typically complicated by the lack of a clear enforcer because of systemic anarchy. The CWC, fortuitously, arose as a single state gained military supremacy within the international system, and then, despite challenges, gained the support of that state actor (as well as all the most powerful state actors beneath it), thereby acquiring an enforcer. When negotiations to create the CWC first began, the international system was bipolar. The CWC's origins in the climate of the Cold War were in some ways beneficial: the struggle of two great powers with massive stockpiles of chemical weapons to find a way to prevent chemical warfare (occurring alongside the more urgent struggle to prevent nuclear war) provided much of the impetus for negotiations to create the CWC. As U.S.-Soviet tensions eased the international environment became more amenable to cooperation on arms control, but at the same time the tension motivating the need for such agreements dissipated, stealing urgency from the negotiations. By the time the CWC came into

³⁰ Alexander Kelle. 2013. "The Third Review Conference of the Chemical Weapons Convention and beyond: key themes and the prospects of incremental change." *International Affairs* (Royal Institute of International Affairs 1944-). 89:1.

effect the international system existed in a condition of unipolarity, taking on the role of enforcer that was so necessary for the CWC's success. The CWC's relationship to the U.S. is illustrated in the response to the Syrian sarin attacks, when the U.S.'s contemplation of military force pressured Syria into joining the CWC. Unlike its predecessor treaties, the CWC is in possession of a potent champion ready to impose its aims. While being backed by unipolarity explains the CWC's influence over most state actors, it cannot explain how the CWC constrains the unipole itself, a void that the following passages seek to fill.

Specificity and Scope

The CWC evolved over a 12-year negotiation process to surmount the main difficulties that plagued its predecessor treaties via enhanced specificity by creating a strict system of verification, as well as gaining the legitimacy to attract a large number of parties by uniformly subjecting each state to that verification system in an egalitarian manner. In addition to this verification regime, the CWC expanded in scope to provide for a ban against retaliatory use, against intrastate use, and against possession in addition to use – all of which, arguably aid in its ability to promote enforcement, although this reason is somewhat more problematic. Studies on the effectiveness of treaties put great emphasis on proper diagnosis of the problem, which the CWC achieved through its broader ban, and proper prescriptions to address the problem, which the CWC also fulfilled via its detailed verification regime.³¹ “In providing for routine verification measures and challenge inspections it surpassed the BWC [Biological Weapons Convention]; by imposing the same rights and obligations on all state parties, it avoided the two-tier system (or, in the eyes of some, the double standard) of the NPT [Treaty on the Non-Proliferation of Nuclear Weapons].”³²

The final draft of the CWC came about through a process that stretched out from March 18, 1980 when the Ad Hoc Working group on Chemical Weapons was established in the United Nations' Committee on Disarmament, until 1992 when the text was finalized. The settled version of the

³¹ Lakshman Guruswamy. 2007. “Judging Treaties.” Proceedings of the Annual Meeting (American Society of International Law). 101. 176.

³² Fiona Simpson. 2009. “The Chemical Weapons Convention” in Cooperating for Peace and Security: Evolving Institutions and Arrangements in a Context of Changing U.S. Security Policy. Cambridge: Cambridge University Press. 177.

CWC was opened for signature in Paris on January 13th, 1993.³³ The CWC overcame obstacles over this extended gestation period to reach three goals that defined its eventual success. First, the CWC needed a trustworthy verification system, which became possible thanks in part to the rise of a unipole, as shown in the previous section, but also entailed the creation of a neutral organization for that express purpose and the elucidation of a detailed procedure. Second, to aid in the enforcement of norm violations by creating effective disarmament procedures the CWC needed to ban chemical weapon possession in addition to use, and almost failed to accomplish that goal. Despite the CWC's shift at the Paris Conference on Chemical Weapons in 1989, when the U.S. State Department tried to refocus the treaty onto chemical weapon use rather than possession, the final text of the CWC banned possession and production of CWs as well as use.³⁴ Third, the CWC needed to gain international legitimacy by subjecting all parties equally to its verification regime, as legitimacy was necessary to maximize the number of state parties. The egalitarian nature of the text was imperiled at various times throughout the negotiation process. The CWC's objective underwent "a shift from a universal to a discriminatory approach" during 1989 Paris conference at the behest of the Reagan administration, which wished to create a prohibition it could use to target chemical weapons facilities in Libya while overlooking suspected chemical weapon possession by Israel and documented chemical weapon use by Iraq.³⁵ The CWC was able to attain its winning attributes of specificity through a strict verification regime and egalitarian application of that verification regime, as well as an enhanced scope (banning possession in addition to use, banning retaliatory use, etc.), thanks to a number of factors – most crucially the changing political environment at the end of the Cold War, the emergence of a unipole to enable enforcement, and the U.S.'s change of heart on egalitarian subjection of all states to inspections.

The traits of specificity and broad scope both strengthen the CWC in different ways, the former more convincingly. Norms are more robust when the institutions supporting them have a high degree of specificity, a trait referring to "how well the guidelines [of the norm] are defined and

³³Organization for the Prohibition of Chemical Weapons Official Website. "Genesis and Historical Development." Accessed at <http://www.opcw.org/chemical-weapons-convention/about-the-convention/genesis-and-historical-development/>

³⁴ Preview of Paris Conference on Chemical Weapons: U.S. State Department News Briefing. C-SPAN, Washington, D.C. January 4, 1989.

³⁵ Diana Johnstone. 1989. "Behind the Chemical Weapons Campaign." Middle East Report. 158.

understood.”³⁶ The strict verification regime of the CWC fulfills this rather self-explanatory criterion of success, providing clear procedures for the norm’s fulfilment and enforcement. The scope of the CWC, on the other hand, aids its success in a more indirect and problematic matter. While it is true that banning possession in addition to use provides a surer way to lessen use than banning use alone, expanding a ban, arguably, will increase enforcement simply by providing more opportunities for enforcement, and herein lies the problem with this reasoning.

The CWC contains highly specific verification provisions, allowing any party state to request an inspection of public or private chemical weapons facilities in any other party state, as well as a broad scope. The CWC’s reach is so great that after the CWC’s ratification legal scholars in the U.S. questioned whether it threatened the Fourth Amendment’s provision against unreasonable searches because of the lack of a warrant requirement for inspections, including searches of private facilities.³⁷ The scope is arguably invasive not only towards the rights of private citizens, but to the rights of states. “Challenge inspection, without the right of refusal, goes to the heart of national sovereignty,” as one legal scholar put it.³⁸ Given the CWC’s arguable incursions on privacy and sovereignty, why did the U.S. choose to constrain itself by proposing and supporting such highly specific, egalitarian and intrusive language in the treaty? The remainder of this section will explore just that question.

U.S. Restraint

Why did the U.S., after gaining the position of greatest relative power, choose to back this treaty, enforcing it upon others? More interestingly, why did it choose to constrain itself? Why deny itself the option of chemical warfare, sign on to destroy its stockpiles of chemical weapons, and submit its chemical industry to arguably invasive inspections? Understanding the success of the CWC requires understanding the story of how the most powerful state in the international system came to be the enforcer of this arms control agreement, and also to submit itself to this agreement. The U.S.’s lengthy relationship with the CWC has “run the gamut from constructive

³⁶ Jeffrey Legro. Winter, 1997. “Which Norms Matter? Revisiting the “Failure” of Internationalism.” *International Organization* 51:1, 34.

³⁷ Robert F. Greenlee. 1998. “The Fourth Amendment and Facilities Inspections under the Chemical Weapons Convention.” *The University of Chicago Law Review*. 65:3.

³⁸ Terence Taylor. 1993. “The Chemical Weapons Convention and Prospects for Implementation.” *The International and Comparative Law Quarterly* 42:4. 195.

to ambivalent to thorny.”³⁹ Unraveling why the U.S. came to support the CWC necessitates often breaking the unitary state actor assumption and diving beneath the state level of analysis to see how different interests in the U.S. influenced the negotiations leading to the CWC over the course of the Reagan, Bush (Sr.) and Clinton administrations. The following section explores at length how the U.S.’s initial reluctance gave way to full support for and eventual ratification of the CWC. This historical background is necessary to explain an aspect of the CWC’s success, U.S. self-restraint, which is irreducible to a single factor.

The Cold War’s End

The origins of the CWC are entangled with Cold War politics and U.S. foreign policy, promoting a desire to maintain the strategic option of chemical weapon use amongst some U.S. leaders and a wish to promote arms control as a means of deescalating the war amongst others. Ronald Reagan fell into the first camp. “Many officials in the Reagan administration contended that arms control was more of a problem than a solution,” as any treaty would be unenforceable while having the negative effect of providing a false sense of security.⁴⁰ Despite pressure to act after Saddam Hussein’s attack upon the Kurds in Halabja, which new media like television made particularly vivid to the public, the Reagan administration maintained its skeptical position regarding chemical arms control. “While the pressure of public opinion brought the administration back to arms control negotiations within its first year, little was accomplished until 1986.”⁴¹ George H.W. Bush fell into the other camp, supportive of arms control in the name of deescalation.

The ardent support of Bush and likeminded political leaders was instrumental in bringing about the CWC’s egalitarian applicability and the U.S.’s choice to constrain itself. Bush’s enthusiasm for chemical arms control, according to his advisers, amounted to “a fixation.”⁴² Bush’s commitment to eradicating chemical weapons began in 1984 when as Vice President he personally presented a plan for global elimination of chemical weapons to the Conference on

³⁹ Amy Smithson. 2001. “Chemical Weapons Convention” in *Multilateralism and U.S. Foreign Policy: Ambivalent Engagement*. Boulder: Lynne Rienner Publishers. 177.

⁴⁰ Joseph S. Nye Jr. 1989. “Arms Control after the Cold War.” *Foreign Affairs*, 68:5. 42.

⁴¹ Nye. 42.

⁴² Maureen Dowd. Sept 28, 1989. “End the Scourge of Chemical Arms, Bush says at U.N.” *New York Times*.

Disarmament in Geneva.⁴³ Bush there tabled a draft treaty “that stunned the international community with its scope and intrusiveness.”⁴⁴ Bush’s draft called for a ban on a broader class of chemical weapons than previous proposals, and allowed for challenge inspections to occur anytime and anywhere without warning or regard for sovereignty. “I want to be the one to banish chemical and biological weapons from the face of the earth [...] We’ve achieved an arms control agreement that our critics thought was never possible and I want to build on it [...] I want to be the one to finally lead the world to banishing chemical and biological weapons,” Bush later said during his first presidential debate in September, 1988.⁴⁵ Bush’s support was further evidenced in 1989 when he declared that the world “has lived too long in the shadow of chemical warfare. Let us act together – beginning today – to rid the earth of this scourge,” and offered to slash the U. S.’s chemical weapons stockpiles by 80 percent, if the Soviet Union would reduce to an equal level.⁴⁶ The resulting bilateral agreement saw both superpowers retaining only a small portion of their chemical arsenals. Bush’s efforts towards making chemical arms reductions a reality are difficult to deny.

Bush’s support for the elimination of chemical weapons was real but pragmatic rather than rooted in idealism, as it was limited to multilateral agreements, the U.S.’s concessions were partially symbolic, and his ultimate aim was limited to further deescalating the Cold War instead of enacting a universal norm (despite occasional rhetoric to the contrary, as seen in the previous paragraph). Because of the pragmatic, and thus at times superficially inconsistent, nature of Bush’s support for chemical arms reductions, his support for the elimination of chemical weapons was called into doubt by his opponent in his first presidential run, Michael Dukakis, who suggested according to one questioner in their first debate that Bush had “never met a weapons system that [he] didn’t like or want.”⁴⁷ That Bush’s support was limited to a multilateral deal requiring Soviet concessions can be seen in his voting record: twice when he was vice president Bush actively obstructed legislation to unilaterally destroy U.S. chemical weapons

⁴³ Burrus M. Carnahan. 1991. “Chemical Arms Control, Trade Secrets, and the Constitution: Facing the Unresolved Issues.” *The International Lawyer*. 25:1. 167.

⁴⁴ *Smithson*. 249.

⁴⁵ Miller Center at the University of Virginia. Official Transcript of George H.W. Bush’s Debate with Michael Dukakis on September 25, 1988. Accessed at <http://millercenter.org/president/speeches/detail/5527>

⁴⁶ Dowd.

⁴⁷ Miller Center at the University of Virginia. Official Transcript of George H.W. Bush’s Debate with Michael Dukakis on September 25, 1988. Accessed at <http://millercenter.org/president/speeches/detail/5527>

stockpiles by breaking a tie vote.⁴⁸ The pragmatism of his support for chemical weapons decreases is also suggested by the fact that many of the U.S.'s chemical weapons were outdated by 1989 and scheduled to be destroyed to make way for newer, deadlier chemical weapons.⁴⁹ Hence Bush was “making a virtue of necessity,” as the White House put it, when he offered a multilateral reductions deal to the Soviet Union that year, as Congress had actually already passed a legal mandate to destroy many of the weapons Bush was offering to abolish in exchange for Soviet concessions.⁵⁰

Bush's focus on chemical weapons reductions as a pragmatic means to further deescalate the Cold War culminated when Bush and Gorbachev signed the 1990 Chemical Weapons Accord (CWA), and with this limited goal in hand urgency to ratify the CWC dissolved, as Bush was more interested in alleviating tensions between the U.S. and the Soviet Union than in forever banishing chemical weapons from the face of the earth despite his rhetoric. As the Cold War drew to an end, even as the climate for arms control negotiations advanced in some ways, “improved U.S.-Soviet relations also reduce[d] anxiety [...] and urgency about arms control initiatives.”⁵¹ Thus the pragmatic nature of Bush's support for CW reductions might even have slowed the ratification and realization of the CWC even as his support was instrumental in bringing about the highly specific and sweeping nature of its final incarnation.

Australia's Assistance

Australia's efforts acted as another factor that made the CWC possible and palatable to the U.S. Australia was highly involved in injecting energy into the CWC negotiations when it seemed the U.S. and Soviet Union had reached an impasse and later when they had lost a sense of urgency because of the CWA. Australia's motivations for playing this role were twofold, having roots both in a national fear of chemical weapons dating to World War II and in the state's ambition for greater diplomatic influence on the world stage. Australia's first motivation for promoting the CWC lay in the state's geopolitical vulnerability to Japan during WWII, when Australia so feared a chemical attack by the Japanese that the day after Singapore fell Australia made

⁴⁸ Barry Schweid. Sep. 25, 1989. Associated Press News Archive.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Nye. 42.

arrangements to stockpile chemical weapons of its own, manufactured in the U.K. and U.S.⁵² Australia's distaste for chemical weapons originates from the experience of importing about a million chemical weapons in the 1940s, hiding them throughout the country, and conducting "live trials," with timeworn drums of mustard gas still being discovered in the rainforests even as recently as 1990.⁵³ Australia took from this experience not only a dislike of chemical weapons but an optimism about the possibility of their eradication. Australia destroyed all of its stockpiles that it could locate after WWII, and channeled its aversion towards chemical weapons towards support for a global chemical arms control regime.

The second motivation that prompted Australia to support the CWC, beyond the experience of WWII, was its desire for a place of global diplomatic influence. Australia positioned itself as a leader in the worldwide battle for chemical arms control when, in 1985, noting a lack of uniformity amongst chemical export restrictions around the world, Australia called together a meeting of states with such restrictions and formed the Australia Group.⁵⁴ The Australia Group created an innovative "system of export licensing and inspections" that standardized global chemical export restrictions "to prevent the proliferation of dual-use goods associated with chemical and biological weapons" and remains active to this day.⁵⁵ Australia, having invested significant international political capital on the issue of chemical arms control, sought to "exploit the post-Cold War international climate of security cooperation" to advance an agenda associated with its growing diplomatic influence through the Australia Group. In 1989, Australia initiated and hosted the first meeting of states that would eventually become party to the CWC to insightfully include representatives of the chemical industry, understanding that this industry's cooperation was key to the creation of any global chemical arms control treaty.⁵⁶ Australia further contributed by offering a compromise draft treaty text in 1992 that re-ignited the sluggish negotiations. Australia's role in facilitating the CWC negotiations, motivated by its experience in

⁵² Geoff Plunckett and the Army History Unit. 2013. *Chemical Warfare in Australia: Australia's Involvement in Chemical Warfare 1914 – Today*. Leech Cup Books.

⁵³ *Ibid*; Federation of American Scientists. September 2002. "Australia: Chemical Weapons." Accessed at <http://www.fas.org/nuke/guide/australia/cw.html>

⁵⁴ The Australia Group Official Website. "Origins of the Australia Group." Accessed online at [://www.australiagroup.net/en/origins.html](http://www.australiagroup.net/en/origins.html)

⁵⁵ Simpson. 179.

⁵⁶ *Ibid*.

WWII as well as a desire for greater diplomatic prestige, was vital to the CWC's formation and the U.S.'s eventual adoption of the treaty.

The People's Will

The U.S.'s ratification of the treaty met with challenges before finally coming to fruition in April, 1997. The ratification process was stalled for four years and almost prevented by the conservative isolationist wing of the Republican Party, led by then Senate Foreign Relations Committee Chair Jesse Helms of North Carolina. The prospect of ratification met with skepticism from this segment of Republicans for two main reasons: the danger ratification would allegedly pose to the American chemical industry, and what then-former Secretary of Defense Dick Cheney called the treaty's "ineffective, unverifiable, unenforceable" nature.⁵⁷ The first concern blocking ratification, potential damage to the chemical industry, originated in economic liberalism's ubiquitous skepticism of government involvement in private industry. This first concern questioned whether inspections might expose the trade secrets of the U.S.'s chemical industry, and this concern was shared to some extent by the Chemical Manufacturers Association.⁵⁸ The second concern delaying ratification was an echo of earlier concerns on enforceability that plagued the CWC from its conception. This second concern asserts that verification would be impossible and that "a ban that can be violated without fear of detection enhances the security of none but those who cheat."⁵⁹ In short, ratification of the CWC was nearly halted by a group of Republicans who feared ratification could harm the chemical industry and national security.

Ultimately, ratification of the CWC won out against the isolationist conservatives' skepticism because of the treaty's overwhelming attractiveness to every other group, including the chemical industry and defense community who rebuffed the isolationists' allegations that ratification would be against the U.S.'s industrial and security interests. Ratification garnered widespread bipartisan popularity amongst the general public, but received its strongest support from private industry, scientists, and the military and intelligence communities, including traditionally Republican constituencies.

⁵⁷ Simpson. 182.

⁵⁸ Carnahan. 168.

⁵⁹ David G. Gray. 1994. "Then the Dogs Died": The Fourth Amendment and Verification of the Chemical Weapons Convention." *Columbia Law Review* 24:2.

Support for ratification of the CWC from the general public and defense community was strong, because, at least in part, of the recent experience of the 1991 Gulf War. The popularity of ratifying the CWC was interconnected to public consciousness of chemical weapons and beliefs about these weapons. The Gulf War triggered a deep aversion to chemical weapons that created a favorable climate for ratification of the CWC. The war associated chemical weapons with “the enemy” in the minds of many Americans. Even though the Gulf War saw no actual CW use against U.S. soldiers, the threat and expectation of CW use combined with the experience of going into battle in gas suits and often suffering heat exhaustion within them was sufficient to cause those within the military to wish to prevent the possibility of ever again fighting an opponent potentially possessing chemical weapons. The Gulf War played a persuasive role in affecting public opinion on chemical weapons.

Perhaps most crucial to the CWC’s ratification was support from the chemical industry, an industry that volunteered for heavier regulation in exchange for reputational profit and trade advantages. Ratification was urged “as a matter of national urgency” by The American Chemical Society, the American Physical Society, leading chemists and biochemists from the US Academy of Sciences, Nobel-prize winners from the Federation of American Scientists, lobbyists for the Chemical Manufacturers’ Association and “virtually every affected industry and scientific group.”⁶⁰ Support for the CWC by the chemical industry extended beyond the U.S.: the principal trade organizations for the chemical industry in Europe, Japan, Canada and Australia also urged their respective governments to ratify the CWC.⁶¹ Universal support for the CWC by the chemical industry can be explained in part by a desire to repair reputational damage, as “the industry sought to distinguish its own legitimate commercial activities from the odious business of making poison gas.”⁶² Another reason the chemical industry of each nation desired ratification lay in the detail that failure to ratify would “constrain some aspects of chemical trade with international partners who are member states,” restricting access to key materials and hindering the work of “the scientific community, as well as major domestic industries” that make use of restricted chemicals in any non-ratifying state.⁶³ Members of the chemical industry likely

⁶⁰ Tony Reichhardt. 1997. “Chemists urge US to ratify weapons pact.” *Nature*. 385:664.

⁶¹ *Smithson*. 250.

⁶² *Ibid*.

⁶³ Floyd E. Bloom. 1997. “Editorial: Ratify the Chemical Weapons Convention.” *Science*. 276:5310.

supported the CWC in part because they had imbibed the general public's distaste for chemical warfare. Ratification received unanimous advocacy from the chemical industry, which was motivated by a desire to repair and legitimize the industry's image as well as secure trade access to restricted materials.

Caveat

Despite the enforcement that occurred after the Ghouta sarin attacks, and the on-schedule elimination of Syria's declared chemical arms stockpile, another chemical attack recently occurred in Syria, in April of 2014, involving chlorine gas. This was not declared because it is made from common ingredients with legitimate industrial uses. The CWC's scope must be made more comprehensive still to handle cases of dual-use technology, and whether Syria faces enforcement again for this new violation will test whether the CWC's presence acts as a sufficient condition for the prompting of norm enforcement or merely a necessary one.

Conclusion and Summary

This thesis sought to explain variation in the enforcement of the norm against chemical weapons. Violations of the norm against chemical weapon use since the twentieth century have failed to prompt enforcement – the imposition of grave material cost or the credible threat thereof – upon the violator, except in one case: the 2013 Syrian sarin attacks. The chronological position of these attacks after the CWC's emergence explains why this case was met with enforcement while previous cases of norm violation did not. Exploring why the CWC was able to promote enforcement unlike its predecessor treaties yields insights into the components of an effective treaty, which may be generalizable to the enforcement of other norms.

The CWC differs from previous treaties in two important respects, explaining its effectiveness. First, its scope far more comprehensive. Its comprehensiveness is defined by its expansion of the norm to prohibit retaliatory use, intrastate use, and possession, as well as its creation of a strict verification regime and egalitarian application to all states. Second, it is backed by the state actor of greatest relative power. A comprehensive treaty unbacked by muscle would be irrelevant, and the existence of a great military power alone without a comprehensive treaty to enforce will likewise fail to result in norm enforcement. When taken together, though, the facts of the CWC's

comprehensive scope and powerful backer account for the ability of this treaty to promote enforcement, unlike its predecessors.

The U.S.'s decisions to support the CWC as an enforcer and to practice self-restraint is irreducible to a single explanation, necessitating an extensive historical analysis to contextualize its emergence. The Cold War provided the impetus for chemical arms control, winning support for the norm against chemical weapons amongst individuals like Bush sr. on pragmatic grounds, and the Cold War's end created an international environment more amenable to such negotiations. Australia's push to include the chemical industry in the discussion reinvigorated negotiations. Ratification ultimately came about because of the policy's popularity, particularly amongst the scientific and defense communities, and this popularity in turn stems in part from the then recent experience of the Gulf War. This confluence of factors generated the U.S.'s choice to take on a role of enforcement and to restrain itself, which were necessary to the CWC's success. While the contribution offered by this thesis is minor, the broader issue of norm enforcement remains an understudied area suitable for further investigation.