

The Problematic Legality of Tear Gas Under International Human Rights Law

Natasha Williams,
Maija Fiorante,
Vincent Wong

Edited by: Ashley Major, Petra Molnar



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Authors: Natasha Williams, Maija Fiorante, Vincent Wong

Editors: Ashley Major, Petra Molnar

Design and Illustrations: Azza Abbaro | www.azzaabbaro.com

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The International Human Rights Program (IHRP) at the University of Toronto Faculty of Law addresses the most pressing human rights issues through two avenues: The Program shines a light on egregious human rights abuses through reports, publications, and public outreach activities; and the Program offers students unparalleled opportunities to refine their legal research and advocacy skills through legal clinic projects and global fellowships.

The IHRP's fundamental priority is impact: The Program strives to equip students and recent graduates with the skills, the knowledge, and the professional network to become effective human rights advocates. The Program also seeks to address human rights violations in Canada and abroad by engaging in comprehensive research and advocacy that aims to reform law, policy, and practice.



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1.Introduction

"The use of tear gas is rightfully banned in warfare, and should equally be banned as a riot control agent in domestic contexts."

1. Introduction

The use of tear gas¹ has exploded recently, as people have gathered en masse in the U.S. and around the world to protest racial injustice and police brutality in the wake of the killing of George Floyd at the hands of Minneapolis police. In order to suppress these protests, tear gas has been used in large quantities and in questionable ways by police in Minneapolis, Seattle, Los Angeles, Washington, Philadelphia, and Montreal, among other cities. Globally, tear gas has been a popular law enforcement option to crackdown on protests in many regions, from France to Chile, Turkey to Hong Kong. In one recent high profile deployment, tear gas was used to clear a peaceful crowd outside the White House so U.S. President Donald Trump could take a photo at a church across the street.²

Despite its prohibition in warfare, not all uses of tear gas are illegal under the current state of international human rights law. In fact, the international protocol governing chemical weapons has been explicitly interpreted by many countries to allow for the use of tear gas in law enforcement. However, tear gas *should* be banned under international human rights law.

Used as an area weapon, tear gas is indiscriminate in its effects—it harms everyone in its vicinity regardless of whether one is engaged in militant actions in a demonstration, protesting peacefully, or merely observing. Although international guidance exists, including UN guidelines on the use of less-lethal weapons, these non-binding documents are vague and ineffective in curtailing violations, giving rise to a situation where tear gas is systematically prone to misuse. These factors make tear gas inherently inappropriate and dangerous to use. The use of tear gas is rightfully banned in warfare, and should equally be banned as a riot control agent in domestic contexts.

Historically, tear gas has had a particularly close connection with severe human rights violations and torture.³ Banning tear gas under international human rights law will ensure that tear gas will no longer be deployed inappropriately, causing unnecessary harm and injury, nor will it be further used to unduly extinguish freedom of speech and freedom of assembly.

Tear gas:

The term tear gas refers to a variety of lachrymatory agents that cause irritation to the skin, eyes, mouth, throat and lungs. The most widely used chemical irritant dispersed at a distance is "CS." Under international chemical weapons protocol, it falls under the term riot control agent (RCA).



2.Common Ways Teargas is Abused



"Tear gas has been increasingly used against people exercising their right to peaceful assembly."

2. Common Ways Tear Gas is Abused

The use of tear gas against peaceful protestors in Hong Kong and the United States are perhaps the most comprehensively reported examples of how police are misusing the chemical agent. However, tear gas has been deployed irresponsibly and inappropriately by law enforcement in all regions of the world. Amnesty International has been researching and documenting these incidents and has compiled them in a digital database that contains analysis of over 80 incidents in 22 countries.⁴

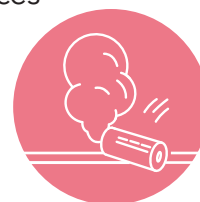
Peaceful Demonstrations

Tear gas has been increasingly used against people exercising their right to peaceful assembly, in situations where there is no threat of violence or injury. Its use to disperse peaceful crowds is illegal, and may even be seen as law enforcement punishing protestors and intentionally repressing their rights.



Enclosed Spaces

Tear gas is especially dangerous when it is used in confined spaces with little or no ventilation, as people have no way of escaping the agent. The harmful effects of tear gas are exacerbated and can last much longer than they typically would when deployed in open spaces. Examples include using tear gas in buildings, prisons, dead-end streets, underground stations, or where exit routes are otherwise blocked.



Excessive Quantities

Repeated exposure to large quantities of tear gas can cause serious harm and cause or exacerbate severe respiratory problems associated with the agent. Excessive exposure is a particular concern given that multiple volleys of tear gas can be fired from grenade launcher guns. When law enforcement do use excessive quantities of tear gas, there is frequently little accountability, and therefore little incentive to meet legal requirements.



Direct Fire

Typical tear gas guidance includes warnings that projectiles should never be aimed and fired directly at individuals,⁵ but their misuse as direct kinetic projectiles against demonstrators has become more common, with serious consequences. Tear gas canisters are themselves dangerous weapons, and can cause serious injury and even death when launched directly at individuals.



Vulnerable Populations

Given that children, the elderly and those with existing illnesses and mobility restrictions—such as pregnant women and people living with disabilities - are disproportionately at risk from the indiscriminate effects of tear gas, its use near hospitals, seniors homes, or schools is particularly egregious. In Hong Kong, a hospital had to replace the filters in its ventilation system after tear gas was used nearby, and several schools suspended classes to deep-clean their buildings.⁶





3. Serious Health Effects

"Tear gas is not a low-risk weapon; instead, it can cause serious injury and have lasting effects, particularly for more vulnerable groups. This is exacerbated when it is misused by law enforcement officials."

3. Serious Health Effects

While tear gas is often associated with only short-term effects, there are also serious long-term health consequences associated with these agents. Upon initial contact, tear gas can cause breathing difficulties, nausea, vomiting, irritation of the respiratory tract, irritation of the tear ducts and eyes, and chest pains.⁷ It can cause a burning sensation on the skin, redness or itching, and can increase blood pressure and heart rate.⁸

Prolonged exposure, or exposure to a large dose of the agent can lead to more severe injuries and even death: the Centre for Disease Control warns of blindness, chemical burns in the throat and lungs and respiratory failure leading to death.⁹ Those with pre-existing respiratory or heart problems are at an increased risk of respiratory arrest or heart attack. There is a higher risk of these serious injuries when law enforcement use tear gas in enclosed spaces,¹⁰ which occurred during the protests in Hong Kong and in other locales.¹¹ The misuse of tear gas has also caused deaths in incidents in Bahrain,¹² Sudan¹³ and Egypt.¹⁴

Long-term effects can include permanent vision problems, including blindness, and breathing problems, such as asthma. There have also been documented cases of post-traumatic stress disorder after repeated exposure to tear gas.¹⁵ Tear gas can worsen pre-existing conditions, and there is evidence to suggest that exposure can increase the chances of developing acute respiratory illnesses. A 2014 study conducted during U.S. Army training found that soldiers exposed to tear gas were more likely to develop respiratory illnesses, such as the flu or the common cold, in the week after exposure.¹⁶ The results led the U.S. military to limit the amount of the chemical being used and impose more frequent health monitoring after exposure.

More research is needed on the various effects of tear gas, but studies show that children, the elderly, individuals with disabilities, and those with chronic health conditions are more susceptible to serious injury.¹⁷ There have also been reports of miscarriages and fetal abnormalities after pregnant women were exposed to chemical irritants. For example, Physicians for Human Rights documented an increase in miscarriages in villages in Bahrain that had been exposed to high levels of tear gas.¹⁸ Given the indiscriminate nature of tear gas, it often affects those living in the area of the protest, who may be more vulnerable to the effects. Further, the lack of international standards and mechanisms regulating the nature and concentration of these chemicals leaves room for particularly potent formulas or use of expired tear gas to inflict even greater harm on protesters and bystanders.¹⁹



Another serious risk of injury comes from the direct blunt force impact of tear gas canisters shot at or near individuals, which can cause head trauma, bruising and broken bones.²⁰ Canisters launched directly at individuals have resulted in deaths, such as in Iraq, where tear gas grenades were shot at the heads of protestors, piercing their skulls.²¹

Given that tear gas can lead to increased susceptibility to respiratory problems, there have been increasing concerns that its use during the Covid-19 pandemic could lead to higher numbers of cases.²² Tear gas may make individuals more susceptible to developing Covid-19. It also causes people to cough violently, potentially further spreading the disease in areas where tear gas is deployed. An open letter signed by 1,288 American public health professionals published in June 2020 urged law enforcement to stop the use of respiratory irritants that could increase the risk of Covid-19 acquisition and transmission.²³ Therefore, tear gas is not a low-risk weapon; instead, it can cause serious injury and have lasting effects, particularly for more vulnerable groups. This is exacerbated when it is misused by law enforcement officials.

A background image of a person wearing a gas mask, with a red and purple color overlay. The person's face is partially visible through the mask, and their hands are visible near the mask.

4. Tear gas is Banned in Warfare

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*"Tear gas is banned on the battlefield and
should be banned in peacetime as well."*
.....

4. Tear Gas is Banned in Warfare

In the law of war, where far greater leeway is given to the use of deadly force, tear gas is forbidden. Given this, it is illogical to continue to allow for its use by domestic law enforcement as a riot control agent.

The first international attempt at banning tear gas, among other chemical and biological weapons, was convened by the League of Nations and produced the *Geneva Protocol of 1925*.²⁴

The Protocol bans “the use in war of asphyxiating, poisonous or other gases”.²⁵ Tear gas could potentially fall into any of the three impugned categories, but the text itself is not specific and does not spell out exactly which agents are prohibited and which are not. While many countries endorsed the interpretation that tear gas was banned under the Protocol, the U.S. used the vagueness of the text to assert that it was not, leading to its widespread use in the Vietnam War.²⁶

The *Chemical Weapons Convention*,²⁷ an International Humanitarian Law (IHL) agreement binding on 193 states parties,²⁸ was intended to be a stronger treaty than the 1925 Geneva Protocol by banning the use of chemical weapons entirely in war. While it reaffirmed the principles and objectives of the Protocol, the Convention goes much further than its predecessors in prohibiting riot control agents (RCAs).²⁹ However, the Convention carves out exceptions for the use of RCAs by law enforcement. While the use of RCAs as a method of warfare is considered a direct violation,³⁰ the Convention explicitly exempts the use of RCAs, including tear gas, for law enforcement purposes such as domestic riot control.³¹

One rationale for this exception can be traced back to the Convention’s negotiations, which indicate that the terms were deliberately changed in order to achieve a more widespread acceptance of the Convention.³² In particular, the terms governing RCAs were controversial for the United States.³³ Thus, these terms were deliberately broadened to allow for the possibility of domestic and non-domestic use of RCAs by law enforcement.^{34,35}

The Convention remains ambiguous on its definitions of permitted “law enforcement” and prohibited “method of warfare,” raising questions regarding exactly when tear gas use is permitted or banned under the Convention. The Convention is also silent on “types” and “quantities” of RCAs permitted. States parties have consequently interpreted this as they see fit.³⁶ For instance,

the United States, under the Clinton administration, interpreted the Convention's provisions as not prohibiting the use of RCAs in riot control situations in areas under direct U.S. military control, including rioting by prisoners of war, and protecting convoys from terrorists in areas outside the zone of immediate combat.³⁷ For the U.S., the use of RCAs solely against noncombatants for law enforcement, riot control, or other noncombatant purposes would not be considered as a "method of warfare" and therefore would not be prohibited. Furthermore, uses of RCAs outside of international or internal armed conflict were seen as being unaffected by the Convention. The Convention was interpreted as not applying to peacetime uses, such as peacekeeping operations, law enforcement operations, humanitarian and disaster relief operations and noncombatant rescue operations conducted outside of international or internal armed conflicts.³⁸ In contrast to the United States, the United Kingdom considers RCAs a method of warfare and thus prohibited by the Convention.³⁹

Despite the development and the ratification of the Convention, the leading international protocol on chemical weapons, there remain significant gaps in the governance on tear gas, enabling law enforcement bodies to exploit these ambiguities for their own interests. A complete ban on tear gas would resolve these discrepancies in the interpretation of the Convention.

Another rationale offered for the disparity between legal treatment within and outside zones of conflict suggests that tear gas and other RCAs are banned in warfare because they don't discriminate between combatants and noncombatants.⁴⁰ However, according to this line of reasoning, tear gas should also be banned for use by domestic law enforcement. Tear gas cannot distinguish between the young and the elderly, the healthy and the sick, the peaceful and the violent. It causes myriad health harms regardless of whether someone is a rally goer or a bystander.

The legal exception for use of RCAs in domestic law enforcement can therefore best be explained as a matter of political expediency during treaty negotiations. There is little in the way of a principled human rights rationale to support the domestic use of RCAs against one's own citizens. Moreover, the prohibition of tear gas in warfare establishes the norm that tear gas is a harmful weapon whose use is not even acceptable during war. This norm is reaffirmed by Article 8 of the *Rome Statute of the International Criminal Court*⁴¹, which includes several provisions governing the use of chemical weapons in armed conflict. Specifically, Articles 8(2)(b) and 8(2)(e) provide that the employment of "poisoned weapons" and "asphyxiating poisonous or other gases, and all analogous liquids, materials or devices" constitute war crimes, both in international and non-international armed conflict. Although the Statute does not explicitly mention tear gas, it is likely that these provisions encompass tear gas, as the agent would fall under "other" or "analogous" poison gas. Tear gas is banned on the battlefield and should be banned in peacetime as well.

A photograph of a protest scene, heavily overlaid with a red tint. In the background, a building with several windows is visible. The wall in front of the building is covered in graffiti, including the words "CHILE", "ASESINOS", "MUEVELO", "POLITICA", "VIOLENCIA", "SANGRE", and "DE". Several people are running through a cloud of white tear gas that is being deployed from the right side of the frame. The ground is paved with cobblestones. The overall atmosphere is one of chaos and conflict.

5. Ineffective International Human Rights Guidance

"As has become abundantly clear in recent years, tear gas is hardly ever used in a legal, necessary and proportionate manner by law enforcement at demonstrations."

5. Ineffective International Human Rights Guidance

International human rights guidance on the use of tear gas has existed for decades, yet instances of misuse have only increased, demonstrating the ineffectiveness of current guidelines. The UN has recently published its *Guidance on Less-Lethal Weapons in Law Enforcement* (UN Guidance),⁴² based on the *Code of Conduct for Law Enforcement*⁴³ and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (BPUFF).⁴⁴ Under these two soft law agreements, any use of force by law enforcement must abide by the principles of legality, necessity and proportionality. However, UN Guidance for use of these weapons in specific situations is vague. Further, most of the guidelines use advisory “should” or “may” language, rather than language that imposes specific legal obligations.

According to the UN Guidance, the use of less-lethal force should be a measure of last resort in any protest. Tear gas may be used if targeted interventions against violent individuals are ineffective, after protestors have been warned and given a chance to disperse. However, the guidelines also note that a warning does not need to be given if a delay would risk causing serious injury or be futile in the circumstances.⁴⁵ This leaves law enforcement officials with wide discretion to transgress necessity and last-resort principles.

Furthermore, the provisions specific to tear gas use contain no reference to necessity or proportionality. While the sections on other weapons contain guidelines on circumstances of potentially lawful use, there is no such section for tear gas. The Guidance does not prohibit the use of tear gas to disperse peaceful protests, which is never necessary or proportionate, and there is little discussion of how the weapon can be used appropriately, given the many potential risks and harms.

While the UN Guidance was only published this year, other organizations, including the Organization for Security and Cooperation in Europe and Amnesty International, have previously published their own guidelines.⁴⁶ Their guidelines were based on the UN’s BPUFF and the Code of Conduct and have been cited by the UN as best practice over the last decade.⁴⁷ Despite the widespread availability of these standards and best practices, law enforcement has actually increased its use and misuse of tear gas in the years since their release. It is clear that the existing guidance and best practices are not effective in compelling law enforcement to act in an appropriate manner.



The Code of Conduct for Law Enforcement specifies that law enforcement officials shall maintain and uphold the human rights of all persons,⁴⁸ and that no official shall inflict any act of torture, cruel, inhuman or degrading treatment or punishment.⁴⁹ Excessive use of force by the police, including when dispersing a public gathering, is an example of cruel or inhuman treatment.⁵⁰ The UN Committee Against Torture states that use of tear gas in confined spaces is unacceptable and could constitute torture and cruel or degrading treatment.⁵¹ Nevertheless, tear gas is still regularly used as a means to subdue prisoners and detainees in correctional centres, prisons, police stations, and other places of detention.⁵² During anti-government protests in Bahrain in 2011-2012, Physicians for Human Rights concluded that the use of tear gas in people's homes constituted torture or cruel, inhuman or degrading treatment as defined by international law.⁵³ Yet despite these risks, the UN Guidance fails to mention how the misuse of tear gas can violate fundamental human rights, including freedom from torture, and offers no guidance on how to best protect basic rights, especially during an assembly.

Just as the principle of distinction makes the use of tear gas unacceptable in war, the principle of proportionality makes its use illegal in nearly all other contexts. Tear gas has the ability to infringe many basic human rights, from the right to life to the protection from cruel treatment. Its indiscriminate use cannot be said to be proportional, especially when it violates these rights or when it is used against the vulnerable.

As has become abundantly clear in recent years, tear gas is hardly ever used in a legal, necessary and proportionate manner by law enforcement at demonstrations. Instead, it is used to indiscriminately disperse largely peaceful crowds, preventing people from exercising their fundamental rights to freedom of opinion and expression, association and assembly.⁵⁴ The existing guidance, including the most recent UN document, fails to provide cogent instruction. Banning tear gas altogether in international human rights law will put an end to its rampant misuse and will help protect fundamental human rights by outlawing the use of a dangerous and indiscriminate chemical weapon by domestic law enforcement.



6. Shifting International Human Rights Norms

"Banning tear gas under international human rights law would align with this shift in international human rights norms."

6. Shifting International Human Rights Norms

Despite the risks and human rights violations associated with tear gas, there are no international agreements governing the trade and manufacture of this chemical weapon. Consequently, the global market for tear gas is largely unregulated and outside the scope of accountability.⁵⁵

Tear gas is manufactured around the world, by predominantly unregulated corporations, some with scant trade data and no published policies on ethics or human rights.⁵⁶ There are no common standards for the composition of tear gas. Tear gas canisters come in different shapes and sizes and contain an array of toxic chemicals. In many cases, it is difficult to know what combination of chemicals is inside a canister, its level of toxicity, and whether its safety has been tested prior to sale.⁵⁷

Companies benefit from—and capitalize on—this regulatory disarray and the failure of governments to hold manufacturers accountable for complicity in human rights violations. In effect, this business environment allows them to directly profiteer from repression of rights and protests.⁵⁸ Further, the global market for tear gas is expected to grow. A report by Mordor Intelligence estimates that the riot control equipment market will experience a 4 percent compound annual growth rate in the next 5 years, as demand for these weapons by local law enforcement surges.⁵⁹ In light of this, the need for stringent international regulation of tear gas is more urgent than ever.

Despite the current state of the industry, there exists a growing shift in international norms towards restricting the use and trade of tear gas. This is signalled by the efforts of international rights groups and the UN, tear gas bans by a growing number of domestic governments, and jurisprudential trends. Banning tear gas under international human rights law would align with this shift in international human rights norms.



For over two decades, Amnesty International and the Omega Research Foundation have campaigned for greater controls on the global production, use and trade of tear gas. Their efforts, along with those of the Alliance for Torture-Free Trade, have resulted in the UN, the European Union and the Council of Europe recognizing the need for regulation of less lethal weapons.⁶⁰ These organizations are now advocating for such measures to include tear gas and other RCAs.

The shift in international human rights norms has also been signalled by the conduct of an increasing number of governments through their restrictions on exports and law enforcement use of tear gas. In 2014, South Korea suspended the export of tear gas to Bahrain, where Bahraini authorities repeatedly—and sometimes fatally—misused tear gas against peaceful protesters.⁶¹ In June 2019, Britain banned exports of crowd control equipment such as tear gas to Hong Kong after police had used violence against pro-democracy demonstrators.⁶² Scottish Parliament recently voted to suspend exports of tear gas and riot control equipment to the U.S. and there are calls for the U.K. government to do the same.⁶³ In the United States, there have been similar efforts to ban the export of tear gas to Hong Kong: in October 2019, the *PROTECT Hong Kong Act* was passed by Congress and signed into law by President Trump in November. The Act bans the export of tear gas and other crowd-control equipment to Hong Kong police.⁶⁴ Another group of congressional lawmakers want to ban the use of tear gas nationwide and recently introduced a bill that would deny federal funding to police agencies that refuse to comply with the ban.⁶⁵ At a local level, some American cities such as Denver and Portland have instituted temporary bans on its use.⁶⁶

Regional courts have also indicated a shift in international norms by ruling that use of tear gas against protestors violated their fundamental human rights. For instance, the European Court of Human Rights (ECtHR) has made several rulings on cases, finding that the use of RCAs unjustifiably violated fundamental human rights such as the prohibition on torture (Article 3 of the European Convention) and the right to freedom of peaceful assembly (Article 11).⁶⁷ For instance, in *Abdullah Yasa*,⁶⁸ the Court held that the direct firing of tear gas at protestors to disperse a non-peaceful gathering was both unnecessary and disproportionate and as such, violated Article 3 of the Convention. In *Oya Ataman v Turkey*⁶⁹, the ECtHR found that although a peaceful protest had been unlawful, police use of pepper spray to disperse the group was a violation of Article 11.

The growing recognition by states, courts and international organizations that the design, production and trade of tear gas should be regulated indicate that the international norms surrounding RCAs are shifting. With many U.S. cities now taking the unprecedented step of banning the use of tear gas by police departments altogether, it is time for the dangers of this agent to be fully recognized in international human rights law and the very legality of its use entirely reconsidered.



7. Conclusion

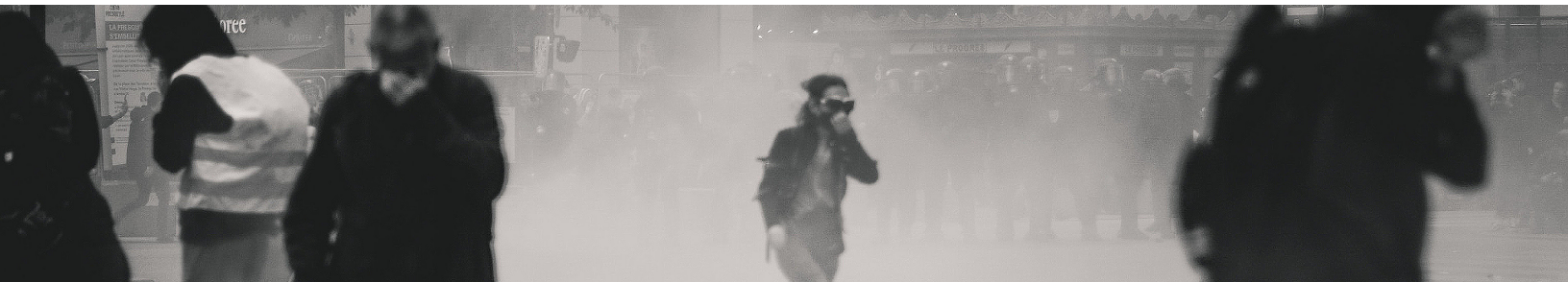
"Banning tear gas under international human rights law will force police to redouble their efforts on de-escalation tactics and less harmful crowd control strategies."

7. Conclusion

Tear gas is a dangerous and indiscriminate chemical agent that is chronically abused and weaponized by law enforcement against those trying to exercise their freedoms of expression and assembly. As is being made clear around the world, the use of tear gas is leading to rampant human rights violations and serious health consequences, while suppressing legitimate political activity.

Banning tear gas under international human rights law will force police to redouble their efforts on de-escalation tactics and less harmful crowd control strategies. By removing access to tear gas, police and lawmakers will have to reckon with techniques to de-escalate protests and peaceful gatherings, encourage other non-violent strategies, and give priority to freedom of expression and assembly - primary considerations in a free and democratic society.

Banning tear gas is consistent with both the law of war and shifting international human rights norms. It is a necessary step towards changing the culture within law enforcement agencies, in turn encouraging states to truly respect and fulfill their human rights obligations and ultimately better protect the fundamental rights of individuals worldwide.



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29. *Supra* note 26 at 498.
30. Article I (5) of the Convention states that "Each State Party undertakes not to use riot control agents as a method of warfare."
31. *Convention*, *supra* note 27 at Article II (9).
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33. Sean P Giovanello, "Riot Control Agents and Chemical Weapons Arms Control in the United States" (2012) 5:4 *JSS* at 7-8.
34. Under Article II (9), "Purposes not Prohibited Under this Convention" includes "Law enforcement including domestic riot control purposes." Article II (7) defines "riot control agent" as "any chemical not listed in a Schedule, which can produce rapidly in humans a sensory irritation or disabling physical effects which disappear within a short time following termination of exposure." There are no further definitions to assist states in interpreting these provisions.
35. A review of all fourteen of the *Reports of the Ad Hoc Committee on Chemical Weapons to the Conference on Disarmament* from 1984 to 1992 that deal with the definition of chemical weapons reveals a consistent emphasis on exempting "domestic law enforcement and domestic riot control purposes," although the final version of the Convention was changed to simply "law enforcement including domestic riot control purposes". See *supra* note 26 at 504.

36. Canada, for example, explicitly prohibits the use of riot control agents as a method of warfare in the Chemical Weapons Convention Implementation Act, SC 1995, c 25. Canada has not used tear gas in warfare, but has employed it domestically for riot control purposes, as early as 1935. In May 2020, police in Montreal used tear gas against protestors demonstrating against police brutality and the killing of George Floyd. China is a state party to the Convention and has reiterated its support for the complete prohibition and destruction of chemical weapons (see "China: Chemical" (November 2014), online: Nuclear Threat Initiative [perma.cc/QB6Y-EUPY]). However, Chinese produced tear gas is being employed by the Hong Kong police force against pro-democracy demonstrators (see George Colclough, "Explainer: Why China-made tear gas is more dangerous", Hong Kong Free Press (1 May 2020), online: [perma.cc/7S4L-TNB3]). Chinese law enforcement has also used tear gas against protestors.
37. Giovannello, *supra* note 33 at 12.
38. *Ibid.*
39. Kyle M Ballard, "Convention in Peril? Riot Control Agents and the Chemical Weapons Ban" *Arms Control Today* (September 2007).
40. Kelsey Davenport, "Tear Gas is Banned in War. It is Time to Ban its Domestic Use" (5 June 2020), online (blog): *Arms Control Now* [perma.cc/62SL-9RRV].
41. *Rome Statute of the International Criminal Court*, 17 July 1998, 2187 UNTS 38544 art 8 (entered into force on 1 July 2002).
42. UN Guidance, *supra* note 5.
43. *Code of Conduct for Law Enforcement Officials*, UNGA, 106 sess, UN Doc A/RES/34/169, (1979) online: [perma.cc/Z64R-X4AR] [Code of Conduct].
44. *Commission on Crime Prevention and Criminal Justice, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, UNODC (1990) online: [perma.cc/XSG6-S3JQ] [BPUFF].
45. UN Guidance, *supra* note 5 at para 6.3.3.
46. Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE), *Guidelines on Freedom of Peaceful Assembly*, (2010) online: [perma.cc/PT9P-KKHC]; Amnesty International, *Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, (2015) online: [perma.cc/9D6F-ZQP5].
47. See *Joint Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and of the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies*, UNHRC, 31 Sess, UN Doc A/HRC/31/66, (2016).
48. *Code of Conduct*, *supra* note 43 at art 2.
49. *Ibid* at art 5.
50. Manfred Nowak, "Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" in Andrew Clapham and Paola Gaeta, *The Oxford Handbook of International Law in Armed Conflict* (Oxford, UK: Oxford University Press, 2014) 387 at 393.
51. See Committee against Torture, "Concluding observations on the second and third periodic reports of Bahrain" (29 May 2017), CAT/C/BHR/CO/2-3 at paras 24-25.

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Made x Made Mete Eraydin

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FACULTY OF LAW

INTERNATIONAL
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Natasha Williams, Maija Fiorante, Vincent Wong

Edited by: Ashley Major, Petra Molnar

Report layout by: azzaabbaro.com