

**Twenty-Sixth Session of the Conference of the
States Parties (CSP-26) to the Chemical Weapons Convention
The Hague, The Netherlands
November 29 – December 3, 2021**

NGO Statement 2:
Regulation of Law Enforcement Use of Toxic Chemicals

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Chairperson, Director General, Distinguished Delegates, CWC Coalition Colleagues, Ladies and Gentlemen,

The CWC permits the use of riot control agents (RCAs) – tear gas and pepper spray for “law enforcement including domestic riot control purposes,” but only provided they are used in “types and quantities” consistent with such purposes. However, they have been frequently misused for serious human rights violations, most commonly in non-custodial settings to restrict, intimidate, or punish those participating in public protest the world over; and also in the prisons, detention centres or police stations of certain countries to ill-treat individuals. A recurring medical concern has been their use in excessive quantities in the open air or in confined spaces, including hospitals, prisons and homes where the targeted individuals cannot disperse. In such situations, serious injury or death can result from the toxic properties of the chemical agents or from asphyxiation. This is particularly true for the old, young, or sick. These longstanding concerns have been exacerbated during the continuing COVID-19 pandemic. Medical professionals have highlighted the danger that RCAs could raise COVID-19 risk to individuals by increasing respiratory tract susceptibility to infection. Furthermore, RCA-induced sneezing, coughing and increased mask removal exacerbate the threat of contagion, as does the breakdown of social distancing caused by RCA-induced disorientation and crowd panic. Such effects, clearly relevant to the policing of public assemblies, are exacerbated further if RCAs are used in confined spaces, notably prisons and other places of detention. **CWC States should ensure that RCA law enforcement use is consistent with both the CWC and international human rights standards, cognisant of the increased health risks due to COVID-19.**

The current situation could dramatically worsen as a result of contemporary development, marketing, and subsequent deployment of systems capable of delivering significant amounts of RCAs over wide areas or extended distances. In addition to potential misuse for collective

¹ Please note: the following statement is a reflection of the views and opinions of the authors and the co-signers, and does not necessarily reflect the views of all organizations and individuals within the CWC Coalition.

ill-treatment or punishment of crowds, such ‘wide-area’ RCA delivery mechanisms could be employed as ‘force multipliers’ in conjunction with firearms, making lethal force more deadly on a large scale. Although nominally developed for law enforcement, they may also be incorporated into military arsenals, and subsequently used in armed conflict in contravention of the CWC. In 2018, the OPCW Scientific Advisory Board warned that availability of certain systems “opens up the possibility that they could be filled intentionally with alternate types of chemicals including CWAs [chemical warfare agents] or CNS [central nervous system]-acting compounds.” Civil Society researchers have documented the development and promotion of ‘wide area’ RCA delivery mechanisms, including indoor dispersion devices, external area denial devices, multi-barrel projectile launchers, large calibre projectiles, and delivery mechanisms mounted on remote weapons systems, unmanned ground vehicles, and drones. To date, widespread deployment has not been documented. But we may now be at a tipping point where proliferation, use and misuse may be beginning. For example, in 2018 the security forces of a State in the Middle East used commercially available drones against mass protests. These drones were documented flying above the crowds dropping tear gas projectiles onto people below, in some cases against peaceful protestors, bystanders, journalists and field medical facilities. Subsequently in 2021 human rights organisations documented security forces of a State in the Americas inappropriately using multi-barrel projectile launchers, capable of firing 30 tear gas projectile salvos, against protests in several cities. In May 2021 this system was employed to launch tear gas and stun grenades against peaceful protestors which reportedly “generated chaos” amongst the crowd. **All CWC States Parties should collectively establish an OPCW process to determine those RCA delivery mechanisms that are prohibited under the Chemical Weapons Convention and develop guidance on appropriate use of permitted RCA delivery mechanisms.**

Certain States have explored development and use of other toxic chemicals, specifically central nervous system (CNS)-acting chemicals, purportedly for law enforcement purposes, against individuals and in aerosolised form against groups. Despite grave dangers to health, and risk of employment for human rights violations and in armed conflict, there are indications of continued State interest; and there is growing disquiet that contemporary dual-use chemical and life science research may be harnessed for such CNS-acting weapons. In recent years there have been concerted attempts by civil society and a group of CWC States, led by Australia, Switzerland, and the US, to address these dangerous developments, which resulted in the landmark March 2021 OPCW Executive Council recommendation EC-96/Dec 7. **We now call on All CWC States Parties to follow the Executive Council guidance and for this Conference of States Parties to formally “decide that the aerosolised use of CNS-acting chemicals is understood to be inconsistent with law enforcement purposes as a “purpose not prohibited” under the Convention”, and consequently should be prohibited. In addition, until the OPCW collectively determines the applicability of the CWC with regard to the use of all**

CNS-acting chemicals for law enforcement purposes - regardless of the means of delivery, CWC States Parties should introduce national moratoria on development, manufacture, promotion, transfer, acquisition, stockpiling and use of all weapons employing such agents.

We thank you for your kind attention and request this statement be made part of the official published proceedings of this Conference.

Statement Co-Signers*:

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***Note:** endorsement by these individuals does not represent endorsement by the organization they are affiliated with.