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What factors impact the member states' compliance with the chemical weapons convention (CWC)?

Nodari, Emma

Citation

Nodari, E. (2024). *What factors impact the member states' compliance with the chemical weapons convention (CWC)?*.

Version: Not Applicable (or Unknown)

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Note: To cite this publication please use the final published version (if applicable).



**Universiteit
Leiden**
The Netherlands

INSTITUTE OF POLITICAL SCIENCE

MSC POLITICAL SCIENCE

Specialization in International Organizations

***WHAT FACTORS IMPACT THE MEMBER STATES'
COMPLIANCE WITH THE CHEMICAL WEAPONS
CONVENTION (CWC)?***

Thesis Supervisor:

Dr. Müge Kinacioglu

Second Reader:

Dr. Michael Sampson

Student:

Emmanuella Nodari

s3364739

Word Count: 9999 words

Academic Year 2023/2024

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Introduction

The Chemical Weapons Convention (CWC) entered into force in April 1997 and aims to eliminate an entire category of weapons of mass destruction by prohibiting the development, production, acquisition, stockpiling, retention, transfer, or use of chemical weapons by State Parties (Organization for the Prohibition of Chemical Weapons, 2019a). To comply with the CWC, the State Parties should take all the steps necessary to enforce the prohibition of chemical weapons within their national jurisdiction (Organization for the Prohibition of Chemical Weapons, 2019a). Nevertheless, since the entry into force of the Convention, concerns have been raised about the difficulty of incorporating and complying with the CWC according to the Member States' legislation. Therefore, this thesis will aim to answer the following research question: “*What Factors Impact the Member States' Compliance with the Chemical Weapons Convention (CWC)?*”.

The issue of chemical weapons can be categorized as a global issue. Namely, threats related to chemical weapons are dispersed across diverse domains, encompassing not only military but also health. The repercussions of their utilization can transcend the borders of the State of origin and can impact neighboring regions. Furthermore, the use of chemical weapons can escalate rapidly into tensions among Member States, and it can eventually reach a critical threshold, which can culminate in the swift deployment of chemical weapons. Thus, considering the substantial risks that these threats pose to nation-states, countries endeavor to cultivate diplomatic ties with security-oriented organizations and associations. This deliberate effort is directed towards reinforcing global collaboration, implementing collective security measures, and ensuring strict compliance with international agreements, including the CWC.

This research will address the factors that ensure compliance with the chemical weapons regime. According to Stephen D. Krasner, regimes are “sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations” (Stephen D Krasner, 1982, p.43). The answer to the research question of this thesis will contribute to evaluating the CWC normative concerns. First, if Member States are compliant with the CWC, then they are representing their commitment to safeguarding human lives, and human rights and promoting global security. Second, if Member States are compliant with the CWC, then they are reinforcing the importance of committing and respecting international norms, which are the ones established by the CWC.

I. Literature Review

Compliance is a topic that has been broadly researched, covering multiple aspects and effects in the political science field. The literature review in this thesis will elaborate on compliance with international organizations (IO) and regimes in general, with a particular focus on Member State compliance with the CWC. These concepts will be further discussed in this section. Scholars have shifted their focus from identifying and labeling their research with a certain type of approach including realism, constructivism, or liberalism, to elaborating on a coherent argument and testing specific mechanisms to identify modern compliance mechanisms (Simmons, 2010, p.275). Additionally, the creation of different governmental and nongovernmental IOs and government agencies has provided new data that can be assessed when researching compliance (Simmons, 2010, p.275). This literature review will delve into some prominent theories and scholars that are present in the theoretical debate on “compliance” and how the CWC achieves compliance among its Member States.

Firstly, scholars argue that agreeing to a regime means that a state and/or nonstate actor will comply fully with the regime’s specified demands, goals, and expectations (Dobransky, 2014, p. 595). The state and/or nonstate actor’s compliance derives from the fact that international regimes can facilitate cooperation by reducing uncertainty. Thus, in a regime, the chances of getting “double-crossed” are extremely low (Keohane, 1984, p.97). Moreover, a status/reputation is created when a state is part of an international regime. Therefore, governments comply with international rules to protect their reputation. Otherwise, the other Member States “will observe their behavior, evaluate it negatively, and perhaps take retaliatory action” (Keohane, 1984, p.103). In sum, if the international regime will provide positive effects in the long-term future, Member States would like to preserve their reputation, and this interest will result in the Member State’s high degree of compliance (Simmons, 2010, p.275).

Secondly, other scholars state that an effective enforcement mechanism in a treaty will install compliance among the Member States (Jönsson & Tallberg, 1998, p.374). These scholars argue that if Member States need to comply and international cooperation needs to survive, enforcement mechanisms and punishments are required to deter states from ‘shirking’ (Jönsson & Tallberg, 1998, p.374). On the other hand, another group of scholars claim that compliance can be achieved with a great management system rather than with enforcement and punishment mechanisms (Downs et al., 1996, p.379). They argue that non-compliance cases are due to three specific causes: “(1) the ambiguity and indeterminacy of treaties, (2) the capacity limitations of states, and (3) uncontrollable social or economic changes” (Downs et al., 1996, p.381). Moreover, these scholars believe that

punishing a Member State that is not complying with international rules will be “too costly, too political, and too coercive” (Downs et al., 1996, p.381). Thus, the treaties that emphasize enforcement mechanisms as a means of enhancing compliance among its Member States are not used in international society (Young, 1994 in Downs et al., 1996, p.381).

Lastly, academics published a general theory of compliance in IO. This was classified as “managerial” and it “rejected sanctions and other ‘hard’ forms of enforcement in favor of collective management of (non)performance” (Raustiala & Slaughter, 2019, p.542). This theory mentions that states will comply with their international commitments because of three main factors: “(1) international legal rules are largely endogenous, (2) compliance is efficient from an internal, decisional perspective; and (3) extant norms induce a sense of obligations in states to comply with legal undertaking” (Raustiala & Slaughter, 2019, p.543). The first factor argues that it is the Member States’ interest in complying with the rules (Raustiala & Slaughter, 2019, p.543). The second factor implies that an agreement’s compliance derives from settling domestic bureaucracies (Raustiala & Slaughter, 2019, p.543). The third and last factor relates to the time, energy, and efforts that a government has made to prepare, negotiate, and monitor its obligations to comply with the treaty or agreement (Raustiala & Slaughter, 2019, p.543).

The scholarly debate on “compliance” has defined compliance from diverse perspectives, each depending on the broader context it applies to. The second part of this literature review will narrow down the scope of research and explore more specifically the literature on compliance with the CWC. The Verification Annex of the CWC, which provides measures to ensure compliance among its Member States, has been analyzed and criticized by many scholars since its entry into force in 1997. For further exploratory purposes, several studies have been conducted regarding the “challenge inspections” of the Verification Annex, which are the determination of whether a violation of the Convention has occurred (Scott & Dorn, 1998, p.88). Thereby, when a challenge inspection is requested, any Member State can use “managed access” to prevent the inspectors from examining the entire inspection site, damaging the efficiency of the CWC compliance mechanism (Scott & Dorn, 1998, p.90).

Additionally, scholars are questioning whether the challenge inspection mechanisms are indeed a form of identifying non-compliance, given that there have been zero requests to verify compliance through this mechanism since 1997. To convey this, these scholars are raising concerns about the efficiency of compliance with the CWC (Abe, 2017, p.168). Tatsuya Abe states that there are political factors contributing to the absence of challenge inspections, since “some states might be concerned that requesting a challenge inspection could incite a retaliatory challenge-inspection request” (Abe, 2017, p.175). Abe argues that, politically, the Member States consider their bilateral

relations and their reputations among the other states more important than CWC compliance (Abe, 2017, p.175). Therefore, a Member State would not request confrontation with non-compliance action to avoid any possible retaliation.

A subsequent scholarly view, proposed by Ash Stanley-Ryan, argues that the CWC's compliance mechanisms need improvement, specifically by encouraging and facilitating diplomatic initiatives (Stanley-Ryan, 2018, p.40). Stanley-Ryan specifically mentions Article XII, which identifies the measures to readdress a situation and ensure compliance (including sanctions), has been called "a keystone of a system of measures designed not only to remedy violations but also to address non-implementation of the CWC" (Stanley-Ryan, 2018, p.47). Further, the author mentions that any measure provided in Article XII needs to be preceded by a consultation-based resolution, thus the nature of these solutions to non-compliance is very limited (Stanley-Ryan, 2018, p.47). Moreover, Stanley-Ryan states that the use of chemical weapons is considered a "fundamental breach" in the CWC, and the compliance mechanisms of the Convention are designed for considered and tiered compliance rather than responding to developing situations such as the use of chemical weapons in the Syrian War (Stanley-Ryan, 2018, p.57). Despite this, the scholar concludes that threat responses against peace and security are the United Nations (UN) Security Council's primary responsibility, thus compliance mechanisms, such as the CWC, encounter serious difficulty when confronted with non-compliance (Stanley-Ryan, 2018, p.57).

The lack of scholarly consensus in this literature can be explained by the different conceptualizations of compliance and the effectiveness of compliance mechanisms stated by the authors. The first group of scholars believes that compliance is determined by the establishment of a regime, thus a government by being part of a regime will automatically comply with its rule. The second group focuses on the enforcement mechanisms, which if implemented correctly by the Member States, will ensure compliance among them. The third group of scholars believes in the "managerial" theory, which states that compliance will derive from the commitment that the Member States have when participating in an IO. Additionally, there are groups of scholars who believe that the CWC with the Verification Annex and the "challenge inspections" mechanism enforces compliance among its Member States. On the other, other scholars agree that Member States prioritize their bilateral relations to their compliance with the Convention, thus most of the governments are not willing to act when breaches occur.

Two main knowledge gaps can be identified within the literature explored. First, no research done by academics and scholars clearly defines why Member States comply with the CWC. Instead, most of the research focuses more on the effectiveness of the chemical weapons regime in preventing the use of chemical weapons. Second, compliance is defined in different contexts, for example,

regimes, agreements, and IOs' compliance, thus the factors that can impact the States Parties' compliance with the CWC cannot be identified. To address this, an in-depth analysis of the different scenarios, definitions, and perspectives proposed by the above-mentioned literature must be conducted. Furthermore, this research contributes to the debate on how the CWC's Verification Annex ensures compliance among its Member States. In doing so, the sources selected for this literature review largely drew attention to the "challenge inspections" mechanism in pursuit of the understanding of enforcing compliance as well as the measures taken into account when dealing with non-compliance activities.

II. Theoretical and Conceptual Framework

To answer the research question of “*What factors impact Member States’ compliance with the Chemical Weapons Convention?*”, it is important to understand the key theoretical and conceptual framework utilized throughout this thesis. This chapter will elaborate on the dynamics of the international regime theory, by providing insight into the mechanisms that shape the Member States’ behavior in a multilateral agreement. Additionally, this chapter will identify and conceptualize two pivotal terms of this research, “compliance” and “effectiveness”, which will enable a comprehensive analysis of the factors impacting the Convention implementation and enforcement among its Member States.

2.1 International Regime Theory

The theoretical analysis of international regimes begins with Realism, which is one of the international relations schools of thought. According to the realist theory, “the existence of many sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actor expectations converge in a variety areas of international relations” (Keohane, 1982, p.325). In this theory, “principles are beliefs of fact, causation, and rectitude; norms are standards of behavior defined in terms of rights and obligations; rules are specific prescriptions or proscriptions for actions; and decision-making procedures are prevailing practices for making and implementing collective choices” (Krasner, 1982, p.186). Additionally, when explaining regime theories, it is important to underline two features of the international context: “world politics lacks authoritative governmental institutions, and it is characterized by pervasive uncertainty” (Keohane, 1982, p.325). Therefore, one of the main objectives of international regimes is to facilitate the making of beneficial agreements among governments in order not to cause a “war of all against all” in the international scenario (Keohane, 1982, p.325).

Regimes encompass principles and norms; thus, Member States will embody a sense of general obligation by being part of it (Krasner, 1982, p.187). In other words, if a regime has a “governed behavior”, a Member State will sacrifice its short-term interests with the expectation that the other governments will do the same in the future, “even if they are not under a specific obligation to do so” (Krasner, 1982, p.187). Additionally, it is important to note that principles and norms provide the defining characteristics of a regime, which means that if there is a change within the norms and principles, there is a change in the regime itself (Krasner, 1982, p.188). Namely, when norms and principles change or are abandoned, it implies a change into a new regime or a disappearance of the regime from a given issue area (Krasner, 1982, p.188). Moreover, if the principles, norms, rules, and

decision-making procedures of a regime become incoherent with the regime's purpose and scope, then it signifies that the regime has weakened (Krasner, 1982, p.189). In sum, what can affect a regime is "(1) a change within a regime consists of alterations of rules and decision-making procedures, but not of norms or principles; (2) change of a regime consists of alteration of norms and principles; and (3) weakening of a regime consists of incoherence among the components of the regime or inconsistency between the regime and related behavior" (Krasner, 1982, p.189).

The research on regime theory has been done for decades and it has elaborated a differentiation of regimes in the international scenario. Thomas Franck stated that international regime rules "exert a normative pull toward compliance to the extent that they are legitimate" (Levy et al., 1995, p.277). Hence, Franck believes that regimes that possess strong and determined rules would have their Member States comply effectively with the regime. A regime's rules enhance its legitimacy if: (a) they are determined and clear; (b) they are valid within the regime's participants; (c) they are internally coherent with the regime; and (d) they have "vertical links between a primary rule of obligation, which is the system's workhorse, and a hierarchy of secondary rules, which identify the sources of rules and establish normative standards that define how rules are to be made, interpreted and applied" (Levy et al., 1995, p.277). Moreover, with strong compliance mechanisms, a regime can alter the behavior of its Member States considerably (Levy et al., 1995, p.278). However, when a regime has weak compliance mechanisms, such as monitoring, sanctioning, and dispute-resolution procedures mechanisms, it will alter the behavior of its Member States moderately (Levy et al., 1995, 278). Therefore, a regime's rule affects its legitimacy and its Member States' compliance.

The Neorealist school of International Relations strongly believes that international regimes will be abandoned or eliminated when the underlying power distribution changes or when institutional commitments become inconvenient to one or more powerful Member States (Levy et al., 1995, p.287). If under a specific area, an international regime acts according to its prescribed functions, its existence will persist even when confronted with a deterioration of the overall relations among its Member States (Levy et al., 1995, p.288). In other words, the deterioration of the Member States' relations inside a regime generates uncertainty, which derives from a Member State that can pursue any behavior in the future (Levy et al., 1995, p.288). Thus, cooperation in risk areas not governed by an international regime is most likely to be abandoned or eliminated as a consequence of the changes in the overall relations (Levy et al., 1995, p.288). Additionally, an international regime's persistence is demonstrated by its influence on Member States' decisions, where regime rules lack compliance (Levy et al., 1995, p.289). Harald Müller states that non-compliance would put at risk the regime's effectiveness, and it would provoke a negative reaction from those Member States who believed that a regime's efficiency is due to a Member State's national interest in following the international rules

and norms that derive from being part of the regime itself (Levy et al., 1995, p.289). Therefore, the existence and effectiveness of a regime are related to the degree of compliance that its Member States have.

The use of international regime theories will influence the analysis of this thesis by identifying which factors are impacting the Member States' compliance with the CWC. Furthermore, the notions of effectiveness and compliance will be essential criteria for evaluating the legitimacy of the CWC because they will provide information on the conditions that support or impede Member States' compliance with the chemical weapons regime. It is therefore possible to examine the different factors impacting Member States' compliance with the CWC in a more in-depth and nuanced way by incorporating the international regime theoretical framework and the conceptual lenses of compliance and effectiveness into the study.

2.2 The Meaning of “Compliance”

The concept of “compliance” has been used broadly in the Political Science field, and yet there is no agreement on one exclusive definition. In this research, the term “compliance” will be used as “the conformity between behavior and international law” (Wuerth, 2019, p.117). Measuring a Member State's compliance is not an easy task because compliance does not measure the extent to which international law influences a country's behavior inside a regime (Wuerth, 2019, p.117). It is important to note that Member States have internal actors that might gain or lose depending on the compliance behavior the country has with an international agreement (Dai, 2005, p.364). More specifically, “when those [actors] who are victimized by noncompliance have crucial leverage over the government, compliance can be rational even if the country as a whole pays for it more than benefits from it” (Dai, 2005, p.364). In other words, Member States' domestic sources of enforcement determine their compliance with international agreements (Dai, 2005, p.364).

The behavior that a Member State has with international law can define “compliance”, but it can generate the opposite, which is an act of “non-compliance”. Whether a Member State complies with an international agreement or not, is the result of its calculation of costs and benefits (Chayes & Chayes, 1995, p.9). Realism states that the implication of non-compliance is “a premeditated and deliberate violation of a treaty obligation” (Chayes & Chayes, 1995, p.9). For example, a Member State could join an international agreement to please a domestic or international constituency, yet with little intention of complying with it (Chayes & Chayes, 1995, p.9). The research on “non-compliance” argues that for a Member State to commit a non-compliance act (which results in a treaty violation), the following three factors must be identified to allow its behavior: “(1) ambiguity and indeterminacy of treaty language, (2) limitations on the capacity of parties to carry out their

undertakings, and (3) the temporal dimension of the social, economic, and political changes contemplated by regulatory treaties” (Chayes & Chayes, 1995, p.10). The limitation on the capacity of parties to carry out their undertakings occurs when an international agreement involves an affirmative obligation (Chayes & Chayes, 1995, p.13). In the case of developing or emerging countries, their scientific, technical, bureaucratic, and financial capacities generally fail to build an effective domestic enforcement mechanism (Chayes & Chayes, 1995, p.14). Therefore, the Member State’s limitations on technical capabilities and financial resources can affect its compliance.

2.3 The Meaning of “Effectiveness”

The concept of “effectiveness”, generally, relates to the “measurement of the role of social institutions in shaping or molding behavior in international society” (Young, 1992, p.161). An international institution is considered “effective” when “its operation impels actors to behave differently than they would if the institution did not exist or if some other institutional arrangements were put in its place” (Young, 1992, p.161). In this research, to assess effectiveness of an IO, the Member States’ behavior with the regime’s norms and their effort in implementing those norms inside its domestic jurisdiction will be analyzed (Young, 1992, p.161). The effectiveness of IOs is measured by their success in the areas of implementation, compliance, and persistence (Young, 1992, p.163). Therefore, the concept of “effectiveness” is related to the roles that IOs play in shaping the Member States’ individual and collective behavior, which is their compliance with international norms and rules (Young, 1992, p.164).

It is important to note, that effectiveness within IOs originates from different factors. First, “the effectiveness of IOs varies directly with the ease of monitoring or verifying compliance with their principal behavioral prescriptions” (Young, 1992, p.176). In this sense, an IO is considered effective only when its Member States comply with the institution’s requirements embedded in their rights and rules (Young, 1992, p.176). Second, the effectiveness of an IO comes from its ability to alleviate the problem for which it was established or given a specific mandate (Hegemann, 2013, p.67). In order to be able to verify an IO’s effectiveness, there is the need to analyze its legal compliance and practical implementation concerning the international agreement that shapes the organization itself (Hegemann, 2013, p.68). Therefore, to verify how the chemical weapons control regime has been effective against non-compliance with the CWC, there will be an analysis of the Organization for the Prohibition of Chemical Weapons’ (OPCW) effectiveness in making its Member States comply with the rules and obligations that come from the Convention itself.

III. Methodology & Case Selection

3.1 Methodological Approach

The research methodology will be qualitative, and rigorously confined to desk research and content analysis (Robson & McCartan, 2016). Additionally, the research will use the case studies strategy, which involves “an empirical investigation of a particular contemporary phenomenon within its real-life context using multiple sources of evidence” (Robson & McCartan, 2016, p.150). More specifically, this thesis will focus on a small-n observational study, which involves a comparison of a small number of cases, known as a comparative case study (Barakso et al., 2013, p.177). It is an “observational study” because it will focus on an observation of a political phenomenon, such as regime change, that occurs in the real world (Barakso et al., 2013, p.177). Moreover, the “n” refers to the sample size of the study, and for this analysis, it will be composed of only two case studies due to the limitation of the word count imposed by the master’s degree. Lastly, the selection of the comparative case study as a methodological approach for this thesis is because it is an approach that explores complex macro-level phenomena, such as regime change (Barakso et al., 2013, p.177).

3.2 Independent and Dependent Variables

The *independent variable* of interest that will be considered in this research is the CWC. In order to comply with the CWC, the State Parties should take all the steps necessary to enforce the prohibition of chemical weapons within their national jurisdiction (Organization for the Prohibition of Chemical Weapons, 2019). Therefore, the *dependent variable* that will be considered is the level of compliance that the CWC’s Member States have, which is dependent on the domestic factors that influence the states. It is imperative to acknowledge that the two Member States selected for the case selection, the United States of America (US) and the Syrian Arab Republic (Syria), may diverge in their approaches to and interpretations of CWC. This variance arises primarily from the context, which dictates the degree to which specific categories of chemical weapons pose a threat to national security and shapes the corresponding responses of national governments.

3.3 Operationalization of Variables and Concepts

One limitation in the study of how to measure “compliance” is that there is no standard procedure or method to measure it (Simmons, 1998, p.89). Namely, understanding and studying under which conditions Member States behave under international norms and rules to which they have committed themselves is ambiguous (Simmons, 1998, p.89). Nevertheless, in this research compliance will be measured by analyzing domestic factors, namely the regime of the CWC’s

Member States. It is widely known that democracies are most likely to comply with international legal obligations (Simmons, 1998, p.83). This is because democratic regimes are “more willing to depend on the rule of law” both within their internal and external affairs (Simmons, 1998, p.83). Moreover, democratic Member States with “independent judiciaries are more likely to trust and respect international judiciary processes” (Simmons, 1998, p.83). However, it is important to note that compliance with international rules and agreements does not come from simply implementing those into a Member State’s domestic law (Simmons, 1998, p.84). This is because it is the weight of an international obligation, norm, or rule that plays an active role in enforcing compliance with a Member State’s domestic law. Additionally, a Member State’s compliance can derive from the “influence of international legal obligations on domestic groups, who are likely to cite such rules or ruling to influence their own government’s policy” (Simmons, 1998, p.84). Therefore, the analysis of this thesis will illustrate how the US regime and the Syrian regime differ from one another and how that difference among them impacts their compliance with the CWC.

3.4 Case Selection

This thesis will explore the case studies of the US and Syria by conducting an in-depth analysis of their use and elimination of chemical weapons. The first case illustrates the US’ elimination process of the stockpiles of chemical weapons since the entry into force of the CWC. Namely, the selection and relevance of the US case study is due to its compliance in eliminating 40.000 tons of stockpiled chemical weapons since 1997 (U.S. Department of Health & Human Services, 2023). In contrast, the second case illustrates a violation of the CWC using chemical weapons in the Syrian civil war by the Syrian government. Specifically, during the Syrian civil war, a Syrian government warplane attacked Khan Sheikhoun, a town in the northwest governorate of Idlib, with a nerve agent, which killed at least 90 people (Human Rights Watch, 2017). Nevertheless, the two case studies will be further explained, analyzed, and compared in the analysis section of this thesis.

3.5 Relevance of Sources & Limitations

Furthermore, this research will use primary sources, such as Member States’ national security priorities and policies, OPCW’s legal text, OPCW’s policy decisions, and OPCW’s Member States’ declarations. By analyzing these sources, the author will provide a comprehensive overview of both the domestic and international political arenas. Additionally, as secondary sources, this research design will use articles from different scholars’ perspectives and opinions gathered on Google Scholar, Taylor & Francis Online, Research Gate, and Leiden University Library. The data gathered from these sources will provide the information necessary to test the following hypotheses: (1)

Member States' compliance is determined by domestic factors, and (2) *Member States' comply due to CWC's inspection mechanism*. To address the primary research question, an investigation into the potential causes, determinants, and factors that have shaped the states' behavior regarding the use of chemical weapons and their compliance with the CWC is imperative. Lastly, it is important to note that this data gathering has some limitations. As mentioned previously, there has not been any academic research on "why member states comply with the CWC", thus most data will be gathered from primary sources. Nevertheless, the data gathered as empirical evidence will contribute to providing an answer to the research question of this thesis and it could be useful to other scholars or researchers who would like to investigate why state parties comply with the CWC.

3.6 Hypotheses

To answer the research question of this thesis, two hypotheses will be tested: (1) *Member States' compliance is determined by domestic factors*, and (2) *Member States' comply due to CWC's inspection mechanism*.

The first hypothesis is linked to Krasner's theory, which states that Member States will embody a sense of obligation by being part of a regime (Krasner, 1982, p.187). Thus, the domestic factors that will be tested with this first hypothesis are the Member States' government behavior with complying, cooperating, and adhering to an international treaty's obligations. As previously mentioned, the domestic factors that will be analyzed are the types of regimes that the CWC's Member States have. Moreover, the causal mechanism that can be inferred from this hypothesis is a country's policy choice according to its domestic political actors, namely government officials and societal interest groups, which can influence a Member State's compliance with an international norm based on its national interests and objectives (Cortell & Davis, 1996, p.451). Therefore, Member States' compliance with the CWC highly depends on their domestic regimes.

The second hypothesis is linked to Levy et al. theory, which states that when a regime presents weak compliance mechanisms, such as monitoring, sanctioning, and dispute-resolution procedures mechanisms, it will alter the behavior of its Member States (Levy et al., 1995, 278). The CWC's inspection mechanism is one of the most effective compliance mechanisms that have been added to an international treaty. Thus, it should ensure that all the CWC's Member States comply with the Convention, without any case of non-compliance with the norms and rules. Moreover, the causal mechanism that can be inferred from this hypothesis is the sanctions and consequences that derive from acts of non-compliance. For example, non-compliance with the CWC can result in diplomatic, economic, or legal consequences imposed by the Executive Council and by the Conference of the

State Parties of the OPCW. Therefore, the inspection mechanism ensures compliance among the CWC's Member States.

IV. Analysis

4.1 The United States of America

4.1.1 The Liberal Democracy Regime

The US is one of the longest-lived democracies (Korotayev & Zhdanov, 2022, p.1). More specifically, the US can be defined as a “consolidated democracy”, because it is characterized by “robust political institutions that are designed in such way as to reduce fragmentation and the likelihood of political crises” (Korotayev & Zhdanov, 2022, p.3). Moreover, consolidated democracies have effective and responsible decision-making procedures that ensure political inclusiveness among citizens (Korotayev & Zhdanov, 2022, p.3). This is the case in the US, which is a presidential democracy and a federal republic, which Constitution was drafted in 1787 and became effective in 1789 (Hague et al., 2016). The US regime is a liberal democracy. A liberal democracy is “a form of indirect democracy in which the scope of democracy is limited by constitutional protection of individual rights, including freedom of assembly, property, religion, and speech” (Hague et al., 2016, p.54). Therefore, the goal is to “secure individual liberty, including freedom from unwarranted demands by the state” (Hague et al., 2016, p.58).

4.1.2 The US and the Implementation of the CWC

The US has been one of the principal proponents of the creation and implementation of the CWC (Vogel, 1997, p.1). In April 1997, the US ratified the Convention by fulfilling its commitment to destroying its stockpiles of chemical weapons and supporting international efforts to verify their continued non-production (Kellman, 1999, p.117). The following year, the US Congress approved the “Omnibus Appropriations Acts of 1998” which contained the legislation called “The Chemical Weapons Convention Implementation Act”, which instructed the country on how to approve and implement the Convention within its domestic laws and regulations (Kellman, 1999, p.117). It is important to note that the CWC is the first international agreement that “propounds obligations on consenting states, but measures to compel reporting of industrial information or acceptance of inspections can only be legally effective (...) through the enactment of domestic legislations whereby the government, in compliance with its treaty obligations, extends those obligations to entities within its jurisdiction” (Kellman, 1999, p.124). The US adheres to the doctrine of dualism in order to implement international obligations, which means that it is a country that “believes on the supremacy of the national constitution and the independence of national governmental entities in relation to international law and intergovernmental institutions” (Henkin, 1997, p.515).

Therefore, due to the dualism doctrine above mentioned, it can be derived that the US Congress has a decisive influence over the implementation of the foreign and defense policies of the US (Vogel, 1997, p.15). Namely, it could be implied that the US's domestic courts could refuse to implement international law and would leave the international agreement's enforcement to the American diplomacy field (Henkin, 1997, p.515). Nevertheless, "The Chemical Weapons Convention Implementation Act" of the US Congress specifically states that: "(...) (2) the Chemical Weapons Convention is the best means of ensuring the non-proliferation of chemical weapons and their eventual destruction and forswearing by all nations; (3) the verification procedures contained in the Chemical Weapons Convention and the Faithful adherence of nations to them, including the United States, are crucial to the success of the Convention; (4) the declarations and inspections required by the Chemical Weapons Convention are essential for the effectiveness of the verification regime" (Chemical Weapons Convention Implementation Act, 1997, section III). Thus, the American Congress agreed to adopt the international laws and obligations that derived from the CWC inside the US domestic laws.

Lastly, it is known that the CWC has the most intrusive verification regime that an international agreement ever had, and this was the issue concerning the US Congress (Vogel, 1997, p.18). Despite this concern, the US Congress proceeded to implement the CWC into the US Constitution, due to the "challenge inspections" provided in the Verification Annex of the CWC (Vogel, 1997, p.18). The US Arms Control and Disarmament Agency mentioned to Congress that the CWC's verification procedures "increased the chances of detecting clandestine activities, by doing so, the financial and political costs of acquiring or retaining chemical weapons will increase, and this will establish a reward to those countries who comply with the Convention and will punish those who do not" (Vogel, 1997, p.18). Therefore, in Section IV of the Act, the US Congress finally approved the implementation of the CWC and it stated that "it shall be the policy of the United States, during the implementation of its obligations under the Chemical Weapons Convention, to assign the highest priority to ensuring the safety of people and to protecting the environment, and to cooperate as appropriate with other States Parties to the Convention in this regard" (Chemical Weapons Convention Implementation Act, 1997, section IV).

4.1.3 The US and the Challenge Inspections

The challenge inspections are an intrusive mechanism of the CWC, however, recently, several Member States, including the US, have discussed the possibility of using this enforcement mechanism to ensure compliance (U.S. Department of Justice, 2002, p.1). More specifically, the US Under Secretary of State for Arms Controls and International Security stated that "the United States believes

that challenge inspections may in some cases be the most appropriate mechanism for resolving compliance concerns. (...) [the challenge mechanisms] are a flexible and indispensable tool that, if viewed realistically and used judiciously, can be instrumental in achieving the goals of the Chemical Weapons Convention” (U.S. Department of Justice, 2002, p.2). Nevertheless, no Member State has ever called for a challenge inspection since the establishment of the OPCW in 1997.

When the US Congress implemented the CWC into the Constitution, the Clinton administration included three unilateral exemptions for the US (Tucker, 2000). These unilateral exemptions are: “(1) allows a U.S. president to refuse an on-site inspection by the OPCW on the grounds that it could pose a threat to national security; (2) prohibits the removal of chemical samples from U.S. territory for detailed analysis at independent laboratories overseas; and (3) sharply limits the number of U.S. chemical facilities subject to declaration and routine inspections” (Tucker, 2000). Thus, this request of Congress made the CWC’s challenge inspections in the US difficult to happen and this exemption imposed by the US was followed also by other Member States. Due to the difficulty of calling for challenge inspections, in July 2001, a team of OPCW inspectors conducted a “trial challenge inspection” in the US (Organization for the Prohibition of Chemical Weapons, 2001). This is a type of exercise conducted periodically by the OPCW inspectors in order to be prepared in the event of a call for a real request for a challenge inspection (Organization for the Prohibition of Chemical Weapons, 2001). However, when hosting this exercise, the US specifically delineated the perimeter of the laboratory site and restricted the access of the OPCW inspectors so that they were not able to verify the absence of chemical weapons (Tucker, 2000).

The US’ distrust of the CWC’s challenge inspections is because American citizens would like to preserve their national secrets, and they believe that no justification is considerable to gain access to all parts of their laboratories or to “visit undeclared chemical plants on the same site without specifying a particular ‘ambiguity’ or compliance concern” (Tucker, 2000). Even though the US distrusts the challenge inspections, in July 2023, the US destroyed its last chemical munition stockpile (Organization for the Prohibition of Chemical Weapons, 2023b). Moreover, the Director-General of the OPCW, Fernando Arias, stated that “this milestone archived by the US, marked the destruction of all declared stockpiles worldwide, by all former possessor States, fulfilling one of the main goals of the Chemical Weapons Convention” (Organization for the Prohibition of Chemical Weapons, 2023c). Therefore, the destruction of the US’s chemical weapons and stockpiles happened without any Member States calling for a challenge inspection.

4.2 The Syrian Arab Republic

4.2.1 The Authoritarian Regime

Syria is officially classified as a parliamentary republic, however, since the entry into power of the Baath Party in 2000, it has become an authoritarian regime (Zirulnick, 2011). The Syrian Constitution mandates the primacy of Baath Party leaders in state institutions and society; thus Bashar Assad and his political party dominate all three powers: executive, legislative, and judiciary (U.S. Department of State, 2023). An authoritarian regime is based on “submissions to authority, characterized by ruling elites, limited political pluralism, centralized political control, intolerance of opposition, and human rights abuses” (Hague et al., 2016, p.71). The Assad leadership can be classified as an authoritarian regime because it “prohibits genuine political opposition and harshly suppresses freedoms of speech and assembly” (Freedom House, 2024). In fact, in 2011, a decree allowed new political parties to register as opposition to the Assad leadership, however, these new political parties were supposed to be either part of, allied with, or heavily vetted by the Assad regime (Freedom House, 2024).

The Baath Party has been governing Syria without interruption since 1960, thus the Assad government possesses a powerful security apparatus that can monitor and repress any new movement or party that could pose a threat to the Assad regime (Freedom House, 2024). Nevertheless, in March 2011, the Assad leadership faced for the first time a challenge within its regime: pro-democracy peaceful protests due to the event of the Arab Spring (Britannica, 2018). The Assad regime violently suppressed these protests by using its police, military, and paramilitary forces (Britannica, 2018). These peaceful protests and violent regime responses turned into the Syrian Civil War, which is an ongoing conflict between pro-democracy insurgents and the Assad regime (Britannica, 2018). Therefore, it can be stated that Syria is under an authoritarian regime.

4.2.2 Syria and the Implementation of the CWC

Syria became an official member of the OPCW and implemented the CWC in October 2013, which meant that Syria had to fully comply with the CWC by removing and destroying all chemical weapons (Organization for the Prohibition of Chemical Weapons, 2023a). However, since the beginning of the Civil War, there have been multiple cases of Syrian civilian deaths caused by chemical weapons. Due to these instances and the unwillingness of the Assad regime to cooperate, the OPCW and the UN decided to create an international project to destroy all chemical weapons in Syria (Trapp, 2014, p.8). In 2013, a joint UN-OPCW mission was created, whose scope was to “implement the measures related to the verified elimination of Syria’s chemical weapons program” (Trapp, 2014, p.10).

When Syria implemented the CWC, the Executive Council's decision emphasized that they recognized "the extraordinary character of the situation posed by Syrian chemical weapons" and determined to ensure that "all the activities necessary for the destruction of the Syrian chemical weapons program start immediately" (OPCW Executive Council, 2013). Moreover, the decision mentioned that "the provisional application of the Convention gives immediate effect to its Convention provisions with respect to the Syrian Arab Republic" (OPCW Executive Council, 2013). It is important to note, that the UN Security Council established Resolution number 2118, which placed a binding obligation on Syria to comply with all aspects of the decision of the OPCW's Executive Council decision (Trapp, 2014, p.11). Therefore, Syria had to comply with the CWC, even if the Assad regime was "secretly" using chemical weapons in the Syrian Civil War.

Notably, when Syria submitted its request to adhere to the CWC, it stated that it was applying the Convention's rules and obligations on a provisional basis (Trapp, 2014, p.12). However, once a Member State joins the CWC, all the "subsequent allegations of chemical weapons use fell under the jurisdiction of the OPCW" (Koblentz, 2019, p.576). In fact, even though Syria was supposed to destroy all its stockpiles of chemical weapons, in April 2014, a report emerged stating that a Syrian government warplane attacked Khan Sheikhoun with a nerve agent, which killed at least 90 people (Human Right Watch, 2017). As a result of this violation, the OPCW created the Fact-Finding Mission (FFM), which was responsible for deciding if Syria used chemical weapons (Organization for the Prohibition of Chemical Weapons, 2019b). Nevertheless, due to the Syrian Civil War and the authoritative regime, the FFM team was not allowed to visit the locations in which the chemical weapons were used. Thus, establishing the use of chemical weapons inside the Syrian territory was extremely difficult, and due to the OPCW's diplomatic concerns, the FFM's mandate "does not include identifying who is responsible for any alleged attacks" (Organization for the Prohibition of Chemical Weapons, 2019b). Therefore, the duty to implement the rules and obligations of the CWC into the Syrian regime was delegated to the OPCW and its Member State.

4.2.3 Syria and the Challenge Inspection

The OPCW's Technical Secretariat, up to date, has never been requested to pursue a challenge inspection by any of the CWC's Member States (Manley, 2002, p.2238). The verification of the Syrian chemical weapons stockpile and use was done by the OPCW's Investigation and Identification Team (IIT). The IIT was created in June 2018, and it is responsible for investigating once FFM has established the potential use of chemical weapons in Syria (Organization for the Prohibition of Chemical Weapons, 2023b). The IIT has identified five instances where the use of chemical weapons in Syria was certified: three cases in Ltamenah in March 2017; one case in Saragib in February 2018;

and one case in Douma in April 2018 (Organization for the Prohibition of Chemical Weapons, 2023b). There was suspicion that the government was behind the attack in Douma, where chemical munitions were dropped from two helicopters (Koblentz, 2019, p.586). Once the FFM gained access to the place where the munitions were dropped, they were able to analyze samples from the cylinders, and the results showed high levels of chlorine (Koblentz, 2019, p.586). After reviewing the analysis that the FFM conducted in Douma, the IIT was able to determine that the Syrian Arab Air Forces (the official government air forces) were the perpetrators behind the chemical weapons attack (Organization for the Prohibition of Chemical Weapons, 2023b).

The twenty-eight session of the Conference of the State Parties (CSP) held on November 2023, adopted a decision entitled “Addressing the Threat from Chemical Weapons Use and the Threat of Future Use”, which regarded the use of chemical weapons by Syria (Organization for the Prohibition of Chemical Weapons, 2023e). The CSP decided that the continued possession and use of chemical weapons by Syria, and its failures to submit an accurate and complete declaration of its chemical weapons and to destroy all its undeclared chemical weapons and production have caused serious damage to the object and purpose of the CWC (Organization for the Prohibition of Chemical Weapons, 2023e). Thus, the CWC’s Member States adopted collective measures, according to their domestic regulations, to prevent the direct or indirect transfer to Syria of certain types of chemical precursors, dual-use chemical manufacturing facilities, and equipment (Organization for the Prohibition of Chemical Weapons, 2023e). Lastly, the CSP’s decision requests the OPCW Member States to reinforce their national capabilities in addressing the threat of chemical weapons not only in Syria but elsewhere (Organization for the Prohibition of Chemical Weapons, 2023e).

4.3 Case Studies Comparison

4.3.1 Regime Types

In the theoretical framework of this thesis, it was mentioned that a regime can alter the behavior of its Member States depending on the compliance mechanisms (Levy et al., 1995, p.278). The CWC needs to be implemented within its Member States’ regime, however, as the case studies illustrated, the Member States’ regime plays a significant role in making the Convention effective. The case study of the US illustrated a liberal democracy regime, in which the goal is to secure individual liberty. Thus, it is most likely to comply with international agreements, such as the CWC, which establish a prohibition regime from the use of chemical weapons. Instead, the case of Syria describes an authoritarian regime, where the ruling elites centralize their political control and are most likely to commit human rights abuses. Apart from the authoritarian regime, Syria is facing a Civil War, in which the main political leader is actively making use of chemical weapons to fight the

opposition forces. Even though Syria signed and ratified the CWC in 2013, its government is still being investigated for conducting chemical attacks in various Syrian cities. Therefore, an authoritative regime and an unstable State facing a Civil War, are most likely to non-comply with international agreements that are part of.

4.3.2 Domestic Factors

The hypothesis that “*Member States’ compliance is determined by domestic factors*”, draws from Krasner’s theory, suggesting that Member States feel obligated to adhere to a regime (Krasner, 1982, p.187). To test this, government behavior regarding compliance with international treaty obligations was examined. The first case study illustrated the American “Chemical Weapons Convention Implementation Act”, in which the US Congress specifically mentioned that the CWC was the best means of ensuring the non-proliferation of chemical weapons by all nations. Moreover, despite the US Congress’ skepticism about the verification mechanisms, it approved the challenge inspections by stating that it would increase the chances of detecting clandestine activities and would enforce compliance with the Convention. Therefore, the causal mechanism in the US case study was the US Congress, which influenced US compliance and ensured the implementation of the Convention norms and obligations within the American domestic legislation based on the US national interest and objectives.

The second case study illustrated the attempt of Syria to implement the CWC within its domestic legislation, which was flawed by the Assad regime and its willingness to attack the opposition forces in the Civil War. Due to this “exceptional” case, the OPCW and the UN decided to join forces and create an international project to destroy all chemical weapons in Syria. Due to the authoritarian regime and the leadership of Assad, the use of chemical weapons in the Syrian Civil War continued to happen, violating once again the CWC. Therefore, the causal mechanism in the Syrian case study was the Baath Party, which is currently enforcing its own rules and obligations to the Syrian population by being an authoritarian regime that is following its national interest and objectives.

4.3.3 Challenge Inspections

The second hypothesis, “*Member States’ comply due to CWC’s inspection mechanism*”, is rooted in Levy et al.’s theory, suggesting that weak compliance mechanisms influence Member State behavior (Levy et al., 1995, 278). To test this, the use of challenge inspections by OPCW Member States was analyzed. The first case study illustrated the US unilateral exemptions, imposed by the Clinton administration, in implementing the challenge inspections mechanism within the US

jurisdiction since it could pose a threat to American national security. The US's distrust of the challenge inspection mechanism did not stop the Member State from complying with the CWC, because it made the American country destroy all its chemical weapons stockpiles without having any "surprise" inspection inside its territory. Therefore, the causal mechanism in the US case study was the consequences of the diplomatic relations between the US and the OPCW, which made the US comply with the CWC without enforcing the challenge inspection mechanism inside its domestic legislation.

The second case study illustrated how a case of non-compliance by a Member State of the CWC did not escalate into a call for the challenge inspection mechanism. Syria was accused of using chemical weapons in the Syrian Civil War, however, the OPCW and its Member States decided to not use the challenge inspection mechanism, but to create two "external" bodies, FFM and IIT, to address this issue of non-compliance. The FFM and the IIT of the OPCW analyzed samples and identified the use of chemical weapons by the Syrian government, however, the two teams are not entitled to give responsibilities to the perpetrators, because that is the duty of the OPCW Executive Council and CSP. Thus, after certifying the guilt of the Syrian government in using chemical weapons with its population, the CSP decided to impose sanctions as a form of "punishment" for Syrian non-compliance with the CWC. Therefore, the causal mechanism in the Syria case study was the sanctions derived from its acts of non-compliance with the CWC.

Conclusion

The research question of this thesis is “*What Factors Impact the Member States’ Compliance with the Chemical Weapons Convention (CWC)?*” with two hypotheses to test: (1) *Member States’ compliance is determined by domestic factors*, and (2) *Member States’ comply due to CWC’s inspection mechanism*. To answer these, two case studies of OPCW Member States were selected: the US and Syria.

Results Hypothesis 1

The result of hypothesis 2 for both case studies was *true*. In the US, the analysis revealed how Congress integrates international agreements into domestic law to safeguard national security, exemplified by the Chemical Weapons Implementation Act prioritizing chemical weapons eradication. Accessible academic resources underscored the transparency of US domestic processes. Conversely, in Syria, efforts to implement the CWC amid the civil war were hindered by authoritarian governance, leading to ongoing chemical weapons use despite joint OPCW and UN initiatives. Academic research was limited due to regime secrecy, reflecting the regime's reluctance to align with CWC obligations. Thus, both cases underscored the pivotal role of domestic regimes in Member States' compliance with the CWC.

Results Hypothesis 2

The result of hypothesis 2 for both case studies was *false*. The challenge inspection mechanisms were never called into action by the OPCW Member States since the establishment of the Convention and the Organization. In both the US and Syrian cases, challenge inspections, the most enforceable compliance mechanism of the CWC, were never utilized by OPCW Member States. American domestic regulations and Congressional distrust hindered their implementation, while in Syria, “external” bodies were established to address non-compliance, bypassing the challenge inspection mechanism. Despite this, diplomatic relations aided US compliance, leading to the complete elimination of chemical weapons stockpiles without undergoing a challenge inspection. Conversely, in Syria, the OPCW, along with the CSP and the Executive Council, resorted to Article IX sanctions for enforcement, highlighting the ineffectiveness of the CWC’s inspection mechanism in enforcing compliance or addressing non-compliance.

Final Remarks

In conclusion, the factors that impact the Member States' compliance are the domestic factors. This research presented some weaknesses, especially when analyzing Syria because there has been no research regarding its implementation of the CWC within its domestic jurisdiction. Furthermore, the US analysis presented many strengths. The US case study revealed how a Member State implements the CWC's norms and how the country can negotiate its obligations that derive from participation in it. Additionally, both case studies evidenced that the "challenge inspections" mechanism does not enforce compliance among the OPCW Member States, and it is not used by the Organization itself. The OPCW, the Executive Council, and the CSP prefer to create external bodies, rather than activating the challenge inspections, which could imply that the enforcement mechanisms of the CWC are not effective when ensuring compliance. Lastly, this thesis can be a starting point for other scholars who would like to investigate other factors that impact the Member States' compliance with the CWC.

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