

International Leadership in the Control of Biological Weapons

AMBASSADOR RICHARD BUTLER^a

This discussion focuses on international control of biological weapons. I've spent more than a quarter of a century of my professional career involved in international efforts to control and reduce weapons of mass destruction (WMDs). However, I do have to enter this disclaimer: I am not a biologist. As I glitteringly display to you my ignorance of the subject of which probably 99.9% of you are the experts, please forgive me. My reason for accepting this invitation is because I deeply believe in the business of controlling WMDs, and I know enough about their biological expression to know they constitute the greatest threat to us that is visible today and will be with us for some time. When I was asked, therefore, to come to this truly important conference and talk about the international aspects of controlling biological weapons, my first response was, "Are you sure? Don't you want a real biologist?" They said, "No, we want you to talk about what you've done and where you've been." I said, "Well, because your cause is just and the subject is so crucial, I'll have a shot at it." That's my extended apology and introduction. You're all now suitably primed.

So I'll tell you what I'm going to do. Those are notes. It's not a set speech. I'm going to open my heart to you and tell you some stuff that I believe and know from personal experience to be true, and I'm going to chance it with you. It's my gift and tribute to you because of who you are and what you're doing. I'm going to chance with you for the first time anywhere some ideas that I've been working on regarding how we might try and cut this terrible knot that we face with respect to the biological weapons convention.

I preface this discussion with a true story from my time in Iraq, because this story, apart from being interesting, has some of the key elements and problems with which we are all dealing regarding biological weapons. This story starts in 1991, when, after Iraq's ejection from Kuwait, the Security Council required that any biological weapons Iraq had created and the means with which to make them be taken away. The language in Resolution 687, which is international law under Article 25 of the charter, was that these things must be "destroyed, removed, or rendered harmless." All biological, chemical, and nuclear weapons were specified, but I'm talking about biology, all biological

^aCouncil on Foreign Relations, New York, NY 10021

Address correspondence to: Ambassador Richard Butler, CFR, The Harold Pratt House, 58 East 68th Street, New York, NY 10021; e-mail <rbutler@cfir.org>.

© 2001 Association of Schools of Public Health

weapons, all places where they were made, and all means and materials used in their manufacture.

To make this possible, Iraq was required to give declarations to the Special Commission that the council had created to carry out the work of disarming Iraq, the commission that I came to head. Those declarations were the first step of a three-part process—declarations, verification, and destruction—that was to bring about the destruction, removal, or rendering harmless of Iraq's illegal weapons. The declarations were crucial, and bear this in mind as you consider your wider subject.

Declarations are crucial. Fundamental facts are required. In addition, in this case the cooperation of the state concerned was required because they alone could author those declarations. From the beginning Iraq entered an utterly false declaration. Quite simply, Iraq said, "What biological weapons? We have none." There was one piece of paper with Arabic penciled writing that referred in passing to some relevant research. However, their declared stance was that they had no biological weapons. We pursued them for 4 years, increasingly confronting them with evidence to the contrary, and it took 4 years before they moved to their second position, which was to say, "Oops, we lied. We did have some biological weapons, but we fall on our swords. We put our hand on the Koran and tell you, none of this was offensive. This was an entirely defensive biological weapons program." I want someone to solve a serious problem I've had the last few years. Someone please explain to me what in the name of God is a defensive biological weapons program?

So we said, "Okay, you've got a defensive biological weapons program. Give us a declaration on it." They did. They gave us a document, and in the subsequent 4 years we asked them repeatedly to clarify it, improve it, add to it, make sense of it because it was utterly meaningless. It was internally contradictory. We discovered some documents on a chicken farm in 1995. Believe it or not, they call them the "chicken farm documents." There were 1 million pages to these documents. You know that guy who made that ungifted decision of running away to Jordan? He happened to be married to Saddam's daughter. He ran away to Jordan and after a few months accepted the statement that all is forgiven, come home. He had a chicken farm, and he was also in charge of the WMD program. We took possession of these documents and learned more about their biology program. By this time I was pursuing them vigorously on the biology issue. Mr. Tariq Aziz was Deputy Prime Minister of Iraq, and Saddam had put him in charge of the anti-UNSCOM industry, the second largest ministry in the govern-

ment of Iraq, the first being the Ministry of Defense. I pursued Aziz about this declaration, saying that it was so unconvincing. He argued by saying we were overly fastidious and that we didn't accept their statement that it was merely a defensive program and it wasn't very sophisticated. He claimed that one of the documents showed that only a small number of Iraqis held doctorates in biology, which proves it wasn't a serious biological weapons program.

So I said, "All right. You don't take my word for it. We'll submit your declaration to study by international experts." We put the Iraqi biological weapons declaration to international study four times, and four times these experts reported to us that it wasn't worth the paper it was written on. Specifically, they said Iraq's declaration on its biological weapons program does not form an acceptable basis for verification. That's the jargon we use. There was no way we could verify in any acceptable way the nature or the size of their biological program. However, through our own resources we were able to establish that they made the whole range of biological warfare agents and that they had weaponized them, including putting them into missile warheads. They had even gone into fields, the rationale for which was inexplicable in battlefield terms, and I'm thinking in particular of aflatoxin. Now, however, I think we have some sense of why they were making aflatoxin. There is evidence of disturbingly high and growing rates of liver cancer among people living in areas in Iraq not supportive of Saddam. So it appears that the aflatoxin was used for genocidal purposes. However, they made the whole range of biological warfare agents, and we have reason to believe, partly based on the work of Dr. Christine Goslin from Liverpool University (she is second to none in studying what Saddam has done in northern Iraq), that they probably used some of them at least internally in Iraq. I presented to Tariq Aziz evidence of human testing of biological weapons, possibly on Iranian prisoners they took after the Iran-Iraq war. Finally, on an exquisite occasion in Baghdad—is that an oxymoron?—Tariq Aziz opened his heart to me, and I'll tell you frankly exactly how it happened. I had become so thoroughly sick and tired of the bullying and the heckling that had taken place at a formal meeting that when he asked me personally, just the two of us, to have coffee afterward, I decided I didn't want any more of that. So I chanced my arm by saying, "Tell me, wise man, tell me, great man, your impressions of the region. How are the politics in the Middle East? Tell me what you think about things?" He loved it. He told me what he thought about all manner of things. Some of it was chilling. I had said to him on one occasion,

“You, Deputy Prime Minister, lied to the Security Council. You lied around the world when you said Iraq had no biological weapons program.” To which, as an aside, he said, “Well, that was a mistake,” meaning not the lie but that they got caught. In private, Aziz said to me, “Of course, we made biological weapons. We made them in order to deal with the Jews.” I know that sounds dreadfully anti-Semitic and, of course, it is. However, for those of you who take that extremely personally, and I certainly took the deepest offense at it, let me also point out that he also used the ethnic name for the Iranians, at all stages called them Persians. You see, Tariq Aziz can’t use the political terminology for the State of Israel. He has to call them the Jews. And he can’t use the term Iranians. He has to call them the Persians. At all times, he was ethnocentric in approach.

After telling me this, I was then supposed to forget it when we went back into formal session, when he would go back to saying, “What biological weapons?” Finally, on August 8, 1998, everything came to an end with UNSCOM after I had made an extraordinary and new offer to Aziz to account for all of the existing WMD systems of Iraq, including biology. The most extraordinary part of my offer had been in biology. I had said to him, “I propose to leap across the place where we’ve been stuck for years trying to work from the bottom up to account for the amount of gross media that you imported from outside and for the manufacturing processes you used, the filling of various munitions, and so on, as we try to bring the period of the disarmament of Iraq to a close. Here’s my deal. Give me the finished weapons. Give me the munitions and the warheads that have been filled with biological agent and the evidence I need that says that’s all there is, and I will destroy, remove, or render harmless those weapons. After all, it’s weapons that we’re principally concerned about, and I will tell the Security Council that we’re done with the weapons of the past. Provided we can then maintain the monitoring system to see that you don’t make more of them in the future, I’ll be prepared to include that in the final disarmament account for Iraq.

He was very interested in that. However, on August 8, 1998, they put their final demand on me to declare Iraq disarmed or else, and I utterly refused. I said, “I cannot because you haven’t given me the materials I need to do so.” The key thing that he had not given me was an answer to that proposal. The key weapons category that I discerned by their level of deception that they wanted to retain was biology. They retained their know-how in the nuclear field. They retained a certain quantum of chemical weapons, and they were

already beginning to rebuild their missile capability. I took that up with them, and they told me to get lost. That’s all now established, absent inspection for the last 2 years. They’re back on track in all weapons areas. However, if you judge a person by their behavior, rather than their language, and if I look very carefully at what Iraq did in those closing, difficult days of 1998, I am bound in logic to conclude that the area of weaponry Saddam Hussein was most desperate to protect was his biological weapons, that this is his weapon of choice. His retention of that capability is what he was prepared to trade off against the welfare of 22 million ordinary Iraqis, that is, the lifting of sanctions, which would have followed had I been able to do what I proposed (i.e., get the extant biological weapons from them and destroy them). The evidence of their behavior shows a deep attachment to biological weapons.

The Iraq case is important because Saddam Hussein’s persistent addiction to WMDs, his track record of using them, makes him a singular character in the contemporary world. I must emphasize that he has done what he has done in the development of WMDs from within the arms control regimes. He was a few months away from—and some now say he indeed already had—an atomic, nuclear explosive device. However, I believe he was a few months away from successfully completing a nuclear explosive device when we intervened. This was done while Iraq was a member of the Nuclear Nonproliferation Treaty. He developed his biological weapons capacity while a signatory to the Biological Weapons Convention. Because it’s more recent in time, Iraq is not a party to the Chemical Weapons Convention, but it was a party to the 1925 Geneva Protocol and was instructed by the Security Council, under law, to join the Chemical Weapons Convention. Yet Iraq developed chemical weapons. This case is, therefore, serious because of its special features, which I’ve just enumerated as we look at international control on biological weapons. There are lessons to be learned.

Regarding international control, I envisage two approaches toward control of biological weapons. One is from the top down; the other, from the ground up. The top down is actually almost exclusively international, and it certainly is substantially in the public sector. The bottom-up approach is much more significantly national but can be the subject of international standards, and it is very substantially carried out in the private sector. The top-down approach is what we have on the whole today with one notable exception, that of enforcement. This approach is the classic way in which, for the last almost half century, WMDs are

controlled. Remember, the Alamogordo atomic bomb was exploded in June 1945, marking the beginning of the modern period of WMDs. In January 1946, the United States made the first proposals, the Baruch Plan to the United Nations, for the control of atomic weapons. Top-down approaches have these characteristics:

1. The establishment of a global norm that says this weapon is inadmissible in civilized society. It is expressed in various ways but essentially states that the creation, use, deployment, transfer to others, and so on of the weapon in question is inadmissible. That's the norm you find in the NPT, the CWC, and the BWC.
2. The creation of a commitment, typically in the form of a treaty or a convention. It is a political commitment to give effect to that norm. Once a norm is established, how do you give effect to that norm? You invite nation states to sign up, to sign the treaty, and say they will never possess, make, use, or transfer to others this inadmissible weapon. However, how will we know if everyone is keeping that commitment? By what means will we verify that commitment made in a treaty to the norm that is the fundament of that treaty?

So it's a three-legged stool: norm, commitment, verification. Typically, a means of verification involves an organization, inspectors, reports, declarations, and so on. So the treaty partners can see that those who have entered into this commitment are keeping it, and it is believed that when all see that this is happening a climate of confidence will be established and will grow as reports indicate nothing is happening. That's the toughest business about being in disarmament. The best news is no news, and you can't get anyone to write about it or talk about it on television to say that, "Guess what? Nothing happened under the NPT this year!" No one is going to write that story, but that's the best news. As Hauer mentioned earlier regarding possible biological terrorism at the Sydney Olympics, nothing happened. Everyone involved deserves applause for that, but no one was told that because that's the nature of arms control verification and measures.

The most important question that follows from this three-legged structure involves enforcement. It would turn this three-legged stool into a much more solid four-legged table of norm, commitment, verification, and, if verification shows that a treaty partner is breaking the law, enforcement. It is the absence of enforcement that, in my opinion, is one of the most serious deficiencies in today's structure of control of WMDs. In the case of the Biological Weapons Convention, we

don't have either that fourth leg or the third leg. We don't yet have an adequate means of verifying the commitments that some 140 states have now made under that convention, let alone any reliable, predictable means of enforcement in the event of an infraction such as that which has been committed for more than a decade now by Iraq.

The bottom-up approach is necessary to future biological weapons control. These are the factors that are largely in the private sector, largely within nations. Control needs to be developed and maintained in four key areas. The first involves access to the knowledge of constructing biological weapons, whether in universities, in research establishments, or over the Internet. One of the key barriers to making any WMDs is that without manufacturing knowledge, there can be no weapon. There are key places in domestic society here and abroad where decisions are made as to who will have access to the knowledge.

The second principle applies to materials access. There are key places where the materials required exist and decisions are made as to who has access to them. This is a significant problem because one can even order dried anthrax spores on the Internet today.

The third principle involves key decisions, and this is really tough. Key decisions are made by people in the economy with bearing on who has access to the relevant materials and knowledge. Their decisions could well be taken solely on that ground, that if we sell this process or this technology, there will be significant temptation to simply sell the process to make money.

Finally, decisions are made by politicians or leading decision makers in the military on whether biological weapons should be created or held in reserve or transferred to others and so on. Those decisions lie far beneath the overarching norm in international structure that I just described. With the possible exception of the last category of decisions by politicians and leaders of the military, they're all largely in private hands. This is something that challenges us more deeply with biological weapons than with any other field. The order of difficulty involved here makes nuclear weapons control seem like a piece of cake in comparison to biological weapons control. However, any serious system of control of the proliferation of biological weapons within a given country and, therefore, under the purview of any compliance system under a treaty, and thus internationally, would actually have to include control at those points in decision with respect to knowledge, materials, economy, and national, political and defense-related decisions. These facts require us to completely abandon the line of

distinction that has previously existed between what is the duty and role of the public sector, the government, through treaties and so on with respect to controlling a dangerous substance, in this case, biological weapons. They cannot be as conveniently compartmentalized as they were in the past with respect to some other weapons. Any sensible regimen of control will have to see virtually coequal participation by government and private sector if we're going to have a snowball's chance in hell of getting this difficult job done.

International control has bearing on domestic control, and now I'm going to put to you my new thoughts, seven key requirements for even a chance of defeating the potential spread of biological weapons, both in state and in nonstate, in other words, terrorist, hands.

1. The norm that these weapons should exist nowhere needs to be strengthened. It is stated fairly unambiguously in the Biological Weapons Convention and elsewhere, but I believe it needs to be strengthened and stated more sharply. I specifically propose that the possession of biological weapons or action unambiguously designed to produce them should be categorized as a crime against humanity.
 2. The presence of these weapons would grant the community of nations the right to conduct themselves accordingly. What conceivable human purpose can biological weapons serve? By saying that biological weapons should be considered as crimes against humanity, of which genocide is one, there would be complete justification for nations to take whatever action is necessary to remove those weapons.
 3. There must be developed consistent, credible, reliable enforcement of the norm that says no person should have biological weapons. If necessary, military means of enforcement should be used. If all of these points were established norms, I doubt there would ever have to be military action, but it should be there if required.
 4. The means of verification must be strengthened. I've discussed credible reports of infractions of this norm, this crime against humanity, and that requires urgent action better than it's been taken up to now. It's currently under way in Geneva, I gather. It requires the United States, because we are the only ones who can do it, to take up this challenge, first with the Russians and then with others, to insist that this is serious. This is a crime against humanity. This norm
- in the treaty is real, and it is a great priority to develop the means of verification to show whether or not a crime is being committed or compliance is being maintained.
5. There should be a place where these reports are judged to take the heat off an individual country like the United States. I propose that there should be a council such as the Security Council but in which there are no vetoes, a council of nations. The business of selecting who they are would not be difficult. Members would sit ad hoc to receive the reports of the verifying agencies that all is sound under any given WMD treaty. However, in the case of biology, the council would convene in the area where reports and verification of compliance with the biological weapons convention are received. If, like the Sydney Olympics, the reports are all good, fine. Occasionally, when they're not, the discussion and decision making could take place in that council, the Council on Biological Weapons, the Council on WMDs, for example, responsible for decision making, including authorization of the use of force to squelch the infraction.
 6. The private sector must be engaged in the biological weapons area more than any other to assist in maintaining the norm and providing reports to the authorities of attempts to acquire criminally prohibited substances.
 7. Relevant national law needs to be made in each case to give effect to this international obligation. Thus, in the United States, relevant national law with respect to the biological crimes against humanity convention would be made in Congress requiring companies dealing in substances or knowledge related to biological weapons to behave in accordance with the crimes against humanity law and report regularly to the US authorities on attempts made to acquire weapons from prohibited substances or processes. Under the means of verification of the treaty—the Biological Warfare Crimes against Humanity Treaty, of course—some of these organizations would be subject periodically to an enhanced verification system of challenge inspection or regular inspection.
- Is this all very heavy? You bet. Is it pie in the sky? Absolutely not. Ask yourself what's at stake here, and it's a piece of cake. I'm mixing up my pies, obviously. It's easy. It's easy in comparison with the downside. We have it in the pharmaceutical industry, an industry

replete with poisons that we dish out in small doses because then they're good for you. However, it's controlled adequately. I believe it can be done, but I believe, above all, that any sensible analysis of the costs and deficits means that we must assume, as part of our national and international life, that, as we move ahead into the wonders of biology and biotechnology, we take with us this small additional cost, this small addition that will keep us safe. If anyone says to me that it's too complex—these tiny little kitchen-size laboratories that are going to spring up all over the world doing all kinds of extraordinary things . . . that, therefore, we should walk away, we can't do it, we just have to see where it all lands—will get robust disagreement from me. I will never agree to that solution. It is better to try to get this done, even though there will be failures, than to simply walk away. I think failing to do something that is right simply because it's hard is the lousiest possible excuse. The other difficulties are well known to you, and they are immensely difficult because of the ubiquitous nature of the technologies involved.

The other significant difficulty in taking the high road in arms control is that it always involves some self-denial. If we were to push others to do this, we will have to do it ourselves. Talk about maintaining a capability as a deterrent needs to be addressed. If we push

others to do these things, they will extract a price from us, whether it's financial (e.g., the North Koreans charging us for not making missiles and a bomb; the Russians clearly wanting compensation), political, or economic in other ways. There is some self-denial involved, but the benefits of going this route exceed the cost.

The ultimate self-denial is to throw away the over-used idea—and I've heard it all my life in arms control—that arms control is absolutely great, a terrific idea, as long as it's for the other fellow.

So my answer to the problem of international control of biological weapons involves refusing to give up on something that is immensely complex and insisting on doing something that is right, because to do otherwise could be a complete disaster. In considering the idea of going the whole distance and calling biological weapons by their proper name—crimes against humanity—I ask that we take the high road, set the bar higher, leap over all those crummy arguments that we used to have with the Iraqis about barrels of growth media. As I said to Tariq Aziz, "Forget that. Just show us the weapons. That's what we want." Take that approach. Leap over, not ignore, but set a whole new context for managing the detail by going to the top and saying these things are utterly inadmissible; they constitute a crime against humanity and we will, therefore, do all the things that flow from that.