

Review Article

9th Review Conference: Strengthening of Biological Weapons Convention

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Pandemics have always appeared in numerous manifestations throughout the history. The devastating COVID-19 outbreak in early 2020 but, the world is still in its clutches. Above two and half million lives have already been lost worldwide. The magnitude of Coronavirus has already produced the effects that fundamentally change the actions of the states on infectious diseases globally. It has also highlighted the power of disease that can be too fatal and widespread to bring life to an abrupt and total standstill. Further, this has exposed the serious weakness of the states in their national preparedness to respond to this global pandemic. It is timely and necessary to address this type of pandemics. The states have already been working hard to control and ease the potential effects of infectious diseases. As part of that work, it should be possible now that the 45 years old Biological and Toxin Weapons Convention stands on a new starting line. It is to be hoped that the international community will bring protracted discussions on the serious working of the Convention to a successful conclusion. This paper will help in identifying the possible options that the State Parties should discuss to strengthen the Convention, enhancement in its potency and implementation at the upcoming 9th Review Conference of BWTC, which is scheduled to be held in November 2021.

Keywords: Covid-19; BWC; 9th review conference; Global governance**Introduction**

The COVID-19 pandemic will certainly mark the history of the 21st century. Terrible consequences, massive deaths and huge financial cost has exposed the weakness of the global health and biosecurity system and overall peace and security architecture of the world. With its substantial impact on the most vulnerable, this pandemic has induced recession, throwing decades of developments into reverse and placed hundreds of millions in distress. So far, the Biological and Toxin Weapons Convention regime (BWTC) has been largely successful at limiting the acquisition, possession and use of biological weapons but, it is also a fact that Coronavirus has struck the first world-originating in Wuhan, China, and spreading across Europe and North America which has been relatively slow in predicting and appreciating the disruptive potential of the virus [1]. So, this pandemic, which appeared as a global threat, has put BWC under tremendous strain. Despite its lofty aims and broad scope since its inception, this regime has often been labeled as little more than a “gentlemen’s agreement”, offering means for underlining the good behavior of parties with little intention of violating its provisions but at the same time providing measures capable of preventing dedicated proliferators from acquiring an offensive biological weapons capability. Besides that, the ongoing advancement in science and technology along with the prevailing threat faced after Coronavirus in the world are visibly highlighting the inadequacies and the menaces, which are not formerly experienced by BWC. This time demands for a global response where efforts are sorely needed to strengthen the regime of the Biological Weapons Convention [2,3].

The first-ever multilateral treaty that has as an international norm to completely ban the whole class of bio-weapons is BWC, which was

signed on April 10, 1972, and went into force on 26, March 1975 known as the Biological and Toxin Weapons Convention (BTWC). Being the pillar of the framework of prohibiting weapons of mass destruction, the BTWC effectively prohibits the development, production, acquisition, transfer, stockpiling, and use of biological and toxin weapons. The Convention has 183 States Parties with four signatories and 10 states having neither signed nor ratified the treaty [4]. Therefore, overall of 14 other states are not a party to the Convention. Even many state parties have not conceded the obligatory legislation to implement the treaty’s provisions at the domestic level [5].

A series of regular Review Conferences took place according to this convention. These will help in enhancing the work of the regime, for the common understanding, effective operations, further developments and promotion on cooperation and assistance, which deals with the national implementation of the BWC. These review conferences consider scientific and technological developments which are relevant to the Convention are also considered in these conferences under the provision of Article XII of BWC which clearly says that regular conference of the States Parties shall be held at Geneva, Switzerland after every five years to review the operation of the convention in an account to any new relevant scientific and technological developments [6]. Therefore, the application of BWC can be scrutinized easily with the help of these conferences. Thus, these conferences play a serious role in revising the treaty and projecting the next steps for the Convention. So far, Eight Review Conferences have been held since the Convention entered into force in 1975. The first BWC Review Conference took place in Geneva in March 1980 and others in 1986, 1991, 1996, 2001/2002, 2006, 2011

and 2016 respectively. However, due to the current pandemic, the Ninth Review conference, which was due in 2020, was postponed for the coming year [7].

At the 2001 Review Conference, the States Parties failed to agree on a legal requirement of supplementary protocol encompassing rules on verification to confirm compliance with the Convention. This conference was only saved from complete failure by a compromise recognized by the States Parties in 2002 following tough discussions. They settled on a substitute to strengthen the BWC. Moreover, no legally binding negotiations would be held between the BWC States Parties until the Review Conference in late 2006. In order to air a set of diplomatic and technical topics before the formal inter-sessional meetings of the State Parties, the Meetings of Experts are held annually. Within, these annual meetings, five other Meetings of Experts with a total duration of eight days and a four-day Meeting of States Parties also take place to reaffirm the norms of the BWC [8].

The yearly Meetings of Experts and Meetings of States Parties from 2003 to 2005 instituted the first "Inter-Sessional Process (ISP)". Three inter-sessional periods have now been accomplished - from 2003 to 2005, then 2007-2010, 2012-2015 and most recently 2018 to 2020. In November 2016, the eighth Review Conference was held with higher expectations. With its enhanced and extended Preparatory Committee, this conference was undoubtedly the best prepared of all the Review Conferences. However, they have been less fruitful in producing tangible results. States Parties had clearly shown their determination to strengthen the efficacy of the Convention [9,10]. Further, the Meeting of States Parties in December 2017 also decided on a program of work up to 2020, foreseeing the continuation of annual Meetings of Experts on specific topics combined with the annual Meetings of States Parties. However, characterized on issues regarding the implementation of the Convention that ended with full disappointment. Now, the current ISP 2017-2021 is focusing on five thematic areas, which include cooperation and assistance for endorsing the peaceful use of the life sciences, review of scientific and technological advances, national implementation, preparedness and support in case of an alleged use of biological weapons, and institutional strengthening [11].

The BWC had already accomplished 45 years of its existence in the year 2020. On this occasion, Russia, India and European Union (EU) being BWC contracting states, have issued statements, which refer to the existing coronavirus and emphasize the efforts to pawn the global spread of the virus [12]. These statements have also brought into consideration the Ninth Review Conference of the Convention, which is expected to be held in 2021, at five-yearly intervals [13,14]. The 2020 meetings were overdue because of the pandemic, but before that a series of five informal webinars were held during November and December that reviewed various topics amongst States Parties. There is no misperception that this conference will be of distinct standing due to the coronavirus outbreak, which will emphasize more on strengthening of BWC in the light of the existing pandemic efficiently. It will also provide a good opportunity for conferring all the developments, its full and effective implementation, compliance and ways to strengthen the BWC [15].

Suggestive Role of BWC

In order to suggest the BWC of its constructive role, through its

coming the Ninth Review Conference to realize that every element of the Convention needs to receive attention to achieve a more effective convention. It includes the following suggestions:

First, the issue of Article I of the BWC should be needed to be reviewed which describes that the states should never develop, produce, stock, acquire or hold the biological weapons. This article specifies that members of the treaty accept never to develop or acquire biological agents, weapons, equipment or means of delivery for hostile purposes. However, there is no clear definition of weapons, equipment, or means of delivery and dual-use dilemma, where the results of well-intentioned scientific research can be used for both good and harmful purposes in this Article. Presently, BWC very occasionally addresses to new technologies [16]. Further progressions in science and technology have made viruses and bacteria a very real threat in the present world as the Parties at BWC may conduct research of any kind and may conduct experiments on hazardous pathogens for permitted purposes. The swift progress of life sciences and related fields over the past few decades elevates multifaceted security challenges to the operation of the Convention. This is so because the same advances that contribute to combatting new infectious diseases might also enable the expansion of sophisticated biological and toxin weapons. But, in order to link the roles and responsibilities of national authorities with explicit obligations, States should review this Article of the BWC. Another imperative obligation is set forth in the Article II of the Convention, which needs that the States Parties should divert or destroy all the agents, toxins, weapons, equipment and means of delivery to the peaceful purpose only. In executing the provisions of this Article all obligatory safety precautions shall be observed to protect populations and the environment. Similarly, Article III of the BWC forbids the transfer of agents, toxins, weapons, equipment or means of delivery detailed in Article I to any recipient whatsoever, also need the attention of the participants [17]. Furthermore, Article IV of the Convention demands from States Parties that in order to prohibit and thwart the activities banned by the Convention from taking place within its territory and under its jurisdiction or control anywhere, each state party is obliged to take measures within its constitutional processes. These national implementation measures will also be needed that not only prevent States Parties to develop biological weapons, but also aim to prevent terrorists from getting hold of biological weapons [18].

Second, in order to achieve universal devotion, it is imperative that all the States Parties should recognize the Convention of Biological Weapons (BWC). Universality combines the international norm prohibiting biological weapons, reinforces the Convention as Confidence Building Measures (CBM's) and prevents proliferation. So far, 177 states have joined the Convention, but still, there are 18 states left that have not yet done so, and 14 states have still not ratified the BWC, counting states in regions of major tension. Over 100 States parties have provided information through the CBM process and more than 70 States parties participate annually. Weak participation of the states brings diminutive legitimacy and importance to its obligations [19]. Meanwhile, states like Israel, Egypt and Syria, are not bound by the International Law prohibiting the development of biological weapons, as they are the non-member states of BWC. In this favor, the member states should undertake greater diplomatic efforts to encourage other states to the emblem and ratify the BWC. Numerous

States Parties even have not paid their contributions to the BWC budget. In this regard, the United Nations Office for Disarmament Affairs (UNODA) has to take action by asking the member states to contribute to the financial conditions of the Convention [20].

Third, another major problem of BWC is its verification for the reason that of the dual-use nature of the resources, equipment and technical know-how required for a biological weapon program. It is one of the essential elements of any arms control agreement. State Parties magnificently negotiated on the verification mechanisms bringing strength through compliance monitoring to each convention. Actually, BWC has neither any verification regime that can govern if the State Parties are complying with its provisions nor any effective means to detect and prevent the states from the production of biological weapons. Moreover, there is no external monitoring, safeguarding key facilities, laboratories, factories or military bases, no oversight of any kind. The Ad Hoc Group of Governmental Experts, which came to be known as Verification Measures from a Scientific and Technical Standpoint (VEREX), was directed to study possible verification measures after a proper discussion on verification mechanism at the Third Review Conference in 1991 [21]. VEREX laid the groundwork for the Ad Hoc Group (AHG), with a decree to consider appropriate measures, including “possible verification measures”, and to draft proposals to strengthen the BWC to be included in a legally binding instrument. Hence, it has become the negotiating body assigned to produce a legally binding instrument. Only according to Article VI of the BWC, any State Party to this Convention may complain to the Security Council of the UN if it finds that any other State Party is acting in breach of obligations initiating from the provisions of the Convention. However, this mechanism has never been enacted [22].

Fourth, the 1972 Convention is based on good faith implementation by States Parties. In this regard, ‘Article X’ of BWC is important to be considered which occupies a special place in the structure of the convention. According to this Article, the states will facilitate each other to its fullest possible ways by exchanging equipment, materials, and information for peaceful purposes and improvements of Confidence Building Measures (CMBs). However, this Article neither has a structured mechanism for cooperation nor has a body for its implementation. Although, States Parties have settled on the exchange of CBMs to endorse transparency and reduce doubts and ambiguities under the Convention [22]. The CBM’s are submitted annually and deal with six thematic areas, including current biodefence activities, disease outbreaks, key life sciences publications, national biosecurity legislation and other measures, past offensive activities, and vaccine production facilities. Yet, a detailed review of the CMB’s is long overdue. There is no external monitoring and no oversight of any kind, in fact, it is left to the national intelligence in the States Parties themselves. Since, CBM’s were not legally binding, therefore most of the state parties did not participate in them at all. Even the Implementation Support Unit (ISU) has been poorly operated against the emerging trends and growing expectations of the member states [23]. Hence, the ISU needs to be recalled which was recognized after the Sixth BWC Review Conference. A cooperation officer in this Unit will help in actively looking for the identification, collation and circulation of prospects for relevant cooperation and capacity building of the states with each other. In fact, there is a prerequisite for a body to coordinate technical

assistance to states parties to help them in executing their various treaty obligations as provided by a range of actors, including other states parties and international and regional organizations. In the current Intersessional Process 2017-2021, approaches and concepts for strengthening Article X of the Convention are considered under the topic of Cooperation and Assistance, with a precise focus on Strengthening Cooperation and Assistance under this Article. The States Parties on the Ninth Review Conference need to take further steps to safeguard the submission of annual CBM’s returns of a majority of all States Parties and make them publicly available. There is a need to publicly declare the research centers and the laboratories that are working relevant to the BWC by the states. In this leu, all the publications would be made public as open literature/co-authored by each declared research centers or laboratories; a step towards the improvement in Confidence Building Measurement.

Fifth, there is no accountability framework in BWC, which State Parties observe with uniformity or on regular basis. Thus, an accountability framework within the annual meeting could be endorsed that will help in clarifying the ambiguities, reservations and scrutinize over a four-year cycle of the Convention. It will also endorse a developing sense of common purpose and common experience within the BWC. A standing secretariat is required to be discussed in the meeting to carry out the unusual functions of a treaty secretariat for the BWC. So far, UN Secretariat hires the assistance of a small number of personnel and staff to help and organize BWC treaty meetings. There is a need of an eternal body, supported by the state parties, to accomplish standard secretariat functions, promoting the universality of the treaty along with the confidence-building measures of BWC.

Lastly, a working ‘Secretariat’ is required in the meeting to carry out the unusual functions for the treaty of BWC. So far, United Nations Secretariat hires the assistance of a small amount of personnel and staff to help organize the treaty meetings. There is a need of a permanent body, supported by the State parties, to achieve standard secretariat functions that can promote the universality of the treaty along with the Confidence Building Measures of BWC. Furthermore, only a well-structured yearly meeting, dealing expansively with the enduring life of the BWC, would help forthcoming review conferences by providing a sharper focus for their longer-term review. It is also important to distinguish the annual meetings for what it is and allow it to make decisions across a varied agenda.

Suggestive Role of State Parties to BWC

COVID-19 has shown that a proper investigation mechanism is needed to overwhelm the viability of the disease. For this, it is observed that the BWC has no more devotion as an international organization because of not having instruments for verification and proper investigation. For the improvement, it is very important to mention that advancements in BWC is required. In this regard, the approach of adoption of a number of voluntary, politically- binding measures, as well as the pursuit of measures, will aim at enhancing the institutional capacity of BWC. For the effectiveness of the prohibitions of the BWC, it is important to fully implement the Convention nationally through proper national legislation, regulations and enactment of panel legislation. Article IV of the BTWC entails that the States Parties should take any kind of important measures,

which ensures full and effective national implementation of all the provisions of the Convention. This approach of transparency is considered by the Annual Meetings of Experts on Strengthening National Implementation in the current Intersessional Process 2017-2021. Likewise, Security Council Resolution 1540 entails that all states shall 'adopt and enforce appropriate effective laws which prohibit any non-state actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons or their means of delivery and 'enforce effective measures to establish domestic controls' to prevent their proliferation. This system could help in coordinating and implementing support and assistance in a better way.

By far, the most generous and consistent contributor to crisis response and humanitarian action is the United States through international organizations, such as United Nations (UN) and World Health Organization (WHO). In almost every international crisis, the world has looked towards the US for guidance and assistance. Unfortunately, COVID-19 signifies the first major global crisis where the world has not sought US leadership. This pandemic has explicitly verified the vulnerability of US and other states to the biological threats shambolic and largely uncoordinated. Moreover, the international community has failed to cooperatively handle and to deal with the consequences of this virus. Under Trump's administration, it had become deeply cynical of all international agreements, especially the arms control and disarmament. His past belligerence, incompetence and remarks to the UN in which he held responsible both China and the World Health Organization (WHO) for the spread of the virus and withdrew from the global vaccine initiative are exceptional. Thus, cooperation is needed at a global level. We hope that the new US administration under Joe Biden will take a more serious and responsible view. This entails the work of the WHO and full support of its member states especially US under the impending Biden administration to prepare all the states with the capacity to handle diseases. They also need to consider the scope of BWC as a monitoring regime on biological weapons. As far as UN is concerned, the message from UN Secretary General on the 45th anniversary of BWC clarifies that he will call on States parties to directly update the mechanisms within the Convention for reviewing advances in science and technology and to work together to advance biosecurity and bio preparedness so that all states are fortified to prevent and respond to the possible use of biological weapons. Moreover, he will also call upon the remaining 14 governments that have not yet joined the Convention to do without adjournment. Hence, the member states have to formulate specific policies on the BWC verification protocol, which can be achieved through working on Article X of the convention especially. Due to the complexity in the task of verification and implementation of BWC, the international community has never put an effort into it. The new monitoring techniques will be needed by the Ad Hoc Group in Geneva. In order to strengthen the BWC, senior decision makers in US and elsewhere must move with a meaningful and effective verification protocol [21].

In the end, it can be concluded that the smooth international order operates on the basis of cooperation, agreement and consent of states with each other. No one state can control the problem of the spread of biological materials alone. The threat of biological weapons becomes more distressing after COVID-19 due to the

catastrophic repercussions. Therefore, it is important to have a convention such as BWC to control the usage of biological weapons. Measures are required to be taken on both national and international levels for its true effectiveness. Improvement in the national surveillance and extension in a number of diagnostic laboratories are the key requirements. With particular consideration to positive implications, all the developments relevant to the convention in science and technology are needed to be reviewed for the enhanced implementation of all the articles of the convention. The international community needs to look at alternative ways of furthering the original ideas of the protocol in a different context. The existing UN machinery along with WHO and International Health Regulations (IHR) should track the diseases, identify new disease threats, design effective vaccines, spot serious outbreaks and monitor the control measures openness. The International Atomic Energy Agency (IAEA) also has to play a strong role in the future as well, as it provided guidance on COVID-19 detection to 253 laboratory professionals from 119 states in association with the Food and Agriculture Organization of the United Nations [22,23].

Now, there is much more acceptance of openness needed by the states in verifying arms control agreements than there when BWC was established. This factor of openness creates a stable environment of cooperation between states. Since the inception of BWC, the financial issues have been least addressed in any BWC's Review conferences. In the upcoming BWC meetings and conferences, the financial support to the states should be an important agenda at the very least by all member states. Since BWC is the only treaty that deals with biological weapons specifically, it is still considered as the foundation of the biological weapons non-proliferation regime. It also has to provide a framework and focus for coordination to close the gaps in existing measures on its own and these should be discussed in length, in the 9th Review Conference by all state parties. The US as a global leader in non-proliferation and arms control matters should play a key role in all these international organizations technically and financially and be prepared to execute strong Defense against the pandemics. It should also strongly urge all States, which are not a party to the BWC yet, to join the Convention without delay for its maximum effectiveness.

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