

## 5 Things You Should Know About Chemical Weapons and International Law

Syrian rebels have accused the Assad regime of perpetrating a chemical weapons attack on civilians in a village outside Damascus. This attack - which is said to have killed upwards of 1,300 people, including women and children - was committed as U.N. researchers arrived in the country to investigate the suspected use of chemical weapons.

A year ago President Obama called the use of chemical weapons in Syria a “red line.” The most recent attacks have renewed calls for the administration, as well as the United Nations, to become more involved in quelling the violence in Syria. Even Russia is urging the Assad regime to cooperate with a U.N. investigation into the alleged chemical weapons attack.

As the debate continues over the level of involvement the United States and the international community should have in the Syrian civil war, here are five things you should know about the use of chemical weapons in international law.

1. **The use of chemical weapons is a war crime and is prohibited in a series of international treaties.** These include: the Hague Declaration concerning Asphyxiating Gases, the Geneva Gas Protocol, the Chemical Weapons Convention (CWC) and the Statute of the International Criminal Court (ICC). Syria is party to the Geneva Gas Protocol, but not the CWC. Syria is not party to the ICC. The use of chemical weapons is also a violation of international humanitarian law reflected in the Geneva Conventions, their Additional Protocols, the Hague Regulations, and in customary international humanitarian law. Such violations include the prohibition against targeting civilians, indiscriminate attacks and the infliction of unnecessary suffering.
2. **The use of chemical weapons is a violation of international criminal law.** The Rome Statute of the International Criminal Court criminalizes the use of chemical weapons as a war crime in both international and non-international armed conflict. (The ICC also criminalizes the targeting of civilians, indiscriminate attacks, and disproportionate attacks regardless of the method.)
3. **The use of chemical weapons in a widespread and systematic attack against a civilian population is a crime against humanity. If done with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, it is genocide.** A single attack may be sufficient to constitute a crime against humanity or genocide. Crimes against humanity and genocide are subject to universal jurisdiction, meaning they may be prosecuted by any State, regardless of the location of the crime or nationality of perpetrators or victims. The rationale for universal jurisdiction over crimes against humanity and genocide is that such crimes are an affront to the entire international community and that the perpetrators must not enjoy impunity.
4. **Because Syria is not a party to the ICC, the ICC prosecutor is unable to take up the matter without a resolution by the Security Council.** Were the Security Council to authorize the ICC to take up the matter of Syria, an investigation by the Court could lead to the prosecution of individuals responsible for the use of chemical weapons. The ICC has the power to charge war crimes, crimes against humanity and genocide. If tried and found guilty, these individuals could receive sentences up to life imprisonment, but not the death penalty.
5. **Parties to the Geneva Conventions and their Additional Protocols are explicitly obligated not only to respect their treaty obligations, but also to ensure respect for them.** While the specific actions that satisfy this obligation are left unstated in the Conventions and Protocols, there is growing international consensus that States have a “Responsibility to Protect” (R2P) their civilian populations and that other States must act affirmatively when a State is unwilling or unable to meet this responsibility. R2P may include the use of force, but may also involve measures short of that, including targeted sanctions, international condemnation, diplomatic efforts, referral to the ICC, etc. Resort to force by one State on the territory of another, even for the purpose of protecting a civilian population against war crimes, crimes against humanity and genocide, may be unlawful absent Security Council authorization, unless also justifiable as self-defense.