

# Syria: Obama Administration Responsible for “Crimes of Aggression” in Violation of Rome Statute and UN Charter

U.S. Double-standards in its Appeals to "Geneva I Convention"

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*“The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State” is a crime of aggression*

On May 23, Secretary of State John Kerry threatened Syrian President Bashar al-Assad with the following statement concerning U.S. military support of Syrian rebels: “In the event that we can’t find that way forward, in the event that the Assad regime is unwilling to negotiate Geneva I in good faith, we will also talk about our continued support and growing support for the opposition in order to permit them to continue to be able to fight for the freedom of their country.” He repeated that threat again yesterday, July 2, using the same appeal to Geneva I.

So the obvious question—one completely unaddressed by mainstream media—is: “What does Geneva I say that Kerry is so resolute in appealing to it?” This article aims only to address this question briefly, and to suggest a few points of discussion for an examination of what the U.S. is doing in Syria that might be applicable to Geneva I, which so animates Kerry’s assertions of Assad’s international legal responsibilities.

As is the case of all U.S. government pronouncements these days, one must examine the consistency, or lack of it, that stands under or behind U.S. decrees. Those seeking consistency from the Obama administration’s policy toward Syria would be disappointed to learn that Geneva I calls for two specific responsibilities of nations involving themselves in military conflicts within other nations. In each of these two cases, the Obama administration outright ignores these laws while holding Assad accountable to the Convention.

Geneva I is entitled “The Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.” Among other things, it contains the following two prescriptions for “outsider” nations involving itself in the internal violence of another nation:

Art. 11.

*“Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend,*

*and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.”*

Art. 50.

*“Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”*

Regarding Article 50, we can begin the discussion by noting two things.

First, we know that the **rebels being supplied by the U.S. have used chemical weapons supplied by the U.S.** Although the U.S. has consistently attempted a propaganda campaign to pin this use on Syrian troops, the fact is the opposite: Last month, Syrian rebels in the Al Nusra Front were arrested on the border of Turkey, literally caught red-handed with chemical weapons materials in their possession—i.e. 4-1/2 pounds of sarin nerve gas. In addition, Carla del Ponte, United Nations Commissioner on the board of inquiry regarding Syria, stated publicly that the bulk of the evidence indicates that the rebels being armed by the U.S. are the ones using chemical weapons.

Second, one need only examine the barrage of news stories that demonstrate the atrocities of the rebel gangs in Syria being militarily supported by the U.S. Even a cursory examination of the stories demonstrates that these gangs are deliberately attacking civilians and causing other injury and destruction “not justified by military necessity” (Article 50). The standard U.S. line in response to this is that President Assad’s army is doing the same thing. However, this excuse is both morally and legally (to say nothing of logically) insufficient to justify one’s own actions.

Regarding Article 11, there likewise are at least two things to be noted to start a discussion about what the U.S. is doing in Syria.

First, even given the vague use of the term “responsible” in the Article, one must ask **how “responsible” it is to deliberately attempt to overthrow another government that is not threatening to the interfering nation**, and which does not have a legitimate internal humanitarian crisis within its borders. The latter is being created by U.S. support of rebel forces, while the former is the fundamental condition for warring against another nation, both in the Rome Statute (see below) and the U.N. Charter.

Second, it is important to underscore the most glaringly obvious point regarding the U.S. ignoring international conventions, and that is in the crime of aggression, by definition (in the Rome Statute in 1998, Article 5), the use of armed force by one State against another State without the justification of self-defense or authorization by the U.N. Security Council. It is based on the dual principles of limiting the power of nations to engage in military aggression, with the sole exception of self-defense, and making that proscription apply equally to all nations. Justice Robert H. Jackson, chief prosecutor in the Nuremberg Trials, made those principles quite clear, and they were used in the U.N. Charter concerning war.

For our purposes here, it is important to highlight Article 8, Section I of the Rome Statute,

which states that the “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.”

Most critically, note Section 2(g) of the Statute, where the crime of aggression is spelled out most clearly regarding the supply of rebels, such as the U.S. is doing in Syria: “The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.”

So once again, we have a United States government making proclamations and threats holding another government to the letter of the law, while it egregiously violates the most important parts of the law to which they are holding another nation; in this case, Syria. It is not too much for us to demand that the Obama administration act consistently within the rule of law if it intends to capture the moral high ground with regard to its actions in Syria. But, then again, with all the duplicity and direct violations of international law coming out of the administration, capturing the legal or moral high ground seems not to be Obama’s real concern at all. This is much to the detriment and safety of the entire world, since the sole world superpower is demonstrating itself to be simply a rogue state.

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