

The Drums of War are Beating: Killing Civilians to Protect Civilians in Syria

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The drums of war are beating again. The Obama administration will reportedly launch a military strike to punish Syria's Assad government for its alleged use of chemical weapons. A military attack would invariably kill civilians for the ostensible purpose of showing the Syrian government that killing civilians is wrong. "What we are talking about here is a potential response . . . to this specific violation of international norms," declared White House press secretary Jay Carney. But a military intervention by the United States in Syria to punish the government would violate international law.

For the United States to threaten to and/or launch a military strike as a reprisal is a blatant violation of the United Nations Charter. The Charter requires countries to settle their international disputes peacefully.

Article 2(4) makes it illegal for any country to either use force or threaten to use force against another country. Article 2(7) prohibits intervention in an internal or domestic dispute in another country. The only time military force is lawful under the Charter is when the Security Council approves it, or under Article 51, which allows a country to defend itself if attacked. "The use of chemical weapons within Syria is not an armed attack on the United States," according to Notre Dame law professor Mary Ellen O'Connell.

The United States and the international community have failed to take constructive steps to promote peace-making efforts, which could have brought the crisis in Syria to an end. The big powers instead have waged a proxy war to give their "side" a stronger hand in future negotiations, evaluating the situation only in terms of geopolitical concerns. The result has been to once again demonstrate that military solutions to political and economic problems are no solution at all. In the meantime, the fans of enmity between religious factions have been inflamed to such a degree that the demonization of each by the other has created fertile ground for slaughter and excuses for not negotiating with anyone with "blood on their hands."

Despite U.S. claims of "little doubt that Assad used these weapons," there is significant doubt among the international community about which side employed chemical weapons. Many view the so-called rebels as trying to create a situation to provoke U.S. intervention against Assad. Indeed, in May, Carla del Ponte, former international prosecutor and current UN commissioner on Syria, concluded that opposition forces used sarin gas against civilians.

The use of any type of chemical weapon by any party would constitute a war crime. Chemical weapons that kill and maim people are illegal and their use violates the laws of

war. The illegality of chemical and poisoned weapons was first established by the Hague regulations of 1899 and Hague Convention of 1907. It was reiterated in the Geneva Convention of 1925 and the Chemical Weapons Convention. The Rome Statute for the International Criminal Court specifically states that employing “poison or poisoned weapons” and “asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices” are war crimes, under Article 8. The prohibition on the use of these weapons is an international norm regardless of whether any convention has been ratified. As these weapons do not distinguish between military combatants and civilians, they violate the principle of distinction and the ban on weapons which cause unnecessary suffering and death contained in the Hague Convention. Under the Nuremberg Principles, violations of the laws of war are war crimes.

The self-righteousness of the United States about the alleged use of chemical weapons by Assad is hypocritical. The United States used napalm and employed massive amounts of chemical weapons in the form of Agent Orange in Vietnam, which continues to affect countless people over many generations.

Recently declassified CIA documents reveal U.S. complicity in Saddam Hussein’s use of chemical weapons during the Iran-Iraq war, according to Foreign Policy: “In contrast to today’s wrenching debate over whether the United States should intervene to stop alleged chemical weapons attacks by the Syrian government, the United States applied a cold calculus three decades ago to Hussein’s widespread use of chemical weapons against his enemies and his own people. The Reagan administration decided that it was better to let the attacks continue if they might turn the tide of the war. And even if they were discovered, the CIA wagered that international outrage and condemnation would be muted.”

In Iraq and Afghanistan, the United States used cluster bombs, depleted uranium, and white phosphorous gas. Cluster bomb canisters contain tiny bomblets, which can spread over a vast area. Unexploded cluster bombs are frequently picked up by children and explode, resulting in serious injury or death. Depleted uranium (DU) weapons spread high levels of radiation over vast areas of land. In Iraq, there has been a sharp increase in Leukemia and birth defects, probably due to DU. White phosphorous gas melts the skin and burns to the bone.

The Geneva Convention Relative to the Protection of Civilian Persons in time of War (Geneva IV) classifies “willfully causing great suffering or serious injury to body or health” as a grave breach, which constitutes a war crime.

The use of chemical weapons, regardless of the purpose, is atrocious, no matter the feigned justification. A government’s use of such weapons against its own people is particularly reprehensible. Secretary of State John Kerry said that the purported attack by Assad’s forces “defies any code of morality” and should “shock the conscience of the world.” He went on to say that “there must be accountability for those who would use the world’s most heinous weapons against the world’s most vulnerable people.”

Yet the U.S. militarily occupied over 75% of the Puerto Rican island of Vieques for 60 years, during which time the Navy routinely practiced with, and used, Agent Orange, depleted uranium, napalm and other toxic chemicals and metals such as TNT and mercury. This occurred within a couple of miles of a civilian population that included thousands of U.S. citizens. The people of Vieques have lived under the colonial rule of the United States now

for 115 years and suffer from terminal health conditions such as elevated rates of cancer, hypertension, respiratory and skin illnesses and kidney failure. While Secretary Kerry calls for accountability by the Assad government, the U.S. Navy has yet to admit, much less seek atonement, for decades of bombing and biochemical warfare on Vieques.

The U.S. government's moral outrage at the use of these weapons falls flat as it refuses to take responsibility for its own violations.

President Barack Obama admitted, "If the U.S. goes in and attacks another country without a UN mandate and without clear evidence that can be presented, then there are questions in terms of whether international law supports it . . ." The Obama administration is studying the 1999 "NATO air war in Kosovo as a possible blueprint for acting without a mandate from the United Nations," the New York Times reported. But NATO's Kosovo bombing also violated the UN Charter as the Security Council never approved it, and it was not carried out in self-defense. The UN Charter does not permit the use of military force for "humanitarian interventions." Humanitarian concerns do not constitute self-defense. In fact, humanitarian concerns should spur the international community to seek peace and end the suffering, not increase military attacks, which could endanger peace in the entire region.

Moreover, as Phyllis Bennis of the Institute for Policy Studies and David Wildman of Human Rights & Racial Justice for the Global Ministries of the United Methodist Church wrote, "Does anyone really believe that a military strike on an alleged chemical weapons factory would help the Syrian people, would save any lives, would help bring an end to this horrific civil war"?

Military strikes will likely result in the escalation of Syria's civil war. "Let's be clear," Bennis and Wildman note. "Any U.S. military attack, cruise missiles or anything else, will not be to protect civilians - it will mean taking sides once again in a bloody, complicated civil war." Anthony Cordesman, military analyst from the Center for Strategic and International Studies, asks, "Can you do damage with cruise missiles? Yes. Can you stop them from having chemical weapons capability? I would think the answer would be no."

The United States and its allies must refrain from military intervention in Syria and take affirmative steps to promote a durable ceasefire and a political solution consistent with international law. If the U.S. government were truly interested in fomenting peace and promoting accountability, it should apologize to and compensate the victims of its own use of chemical weapons around the world.

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