

Syria, chemical weapons and the limits of international law

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Useful thinkpiece arguing why, despite predictable Russian veto moves, military intervention in Syria should still go down the UN Security Council route – and how to fix the current lack of international legal provision for chemical weapons assaults.

[Andrew Bell ,The Conversation, 16 April 2018](#)

Consider this shocking fact: Despite horrific images of [yet another chemical weapons attack](#) in Syria, the U.S.-led humanitarian [intervention](#) to protect civilians on April 13 was fundamentally illegal. Under current international law, President Trump lacks the authorization to launch a single missile to stop future attacks, even for the clear and just purpose of saving civilian lives.

No matter how wise you consider this intervention, [legal scholars](#) generally agree that the United Nations Charter doesn't allow the use of military force to prevent chemical weapons attacks – no matter how evil – without U.N. Security Council approval. This fact seems both [morally wrong](#) and harmful to the goals of [opposing "rogue" regimes](#) and protecting [human rights](#).

My [research into the Syrian crisis](#) highlights the fact that when it comes to protecting the innocent from atrocities, international law is fundamentally broken.

Before the next horrific round of attacks on civilians begins – in Syria or elsewhere – it is important to improve the U.N.'s flawed legal framework for authorizing the use of force in response to chemical weapons attacks on civilians.

But how?

Rules from the past

Let's start by considering the process that's in place today.

Under the U.N. Charter, states can use force against other states only for self-defense or when authorized by the U.N. Security Council. The council includes five permanent members with veto powers: the United States, the United Kingdom, France, China and Russia.

These rules were created following World War II and were designed to enhance global stability. By giving a veto to the five major powers, the Charter ensured that no Security Council decision would lead to conflict between these major powers.



British Prime Minister Winston Churchill, U.S. President Franklin Roosevelt, and Soviet leader Joseph Stalin met at Yalta in February 1945 and agreed to veto power by the 'big five.' [National Archives and Records Administration](#)

In our era, however, they allow a single state to paralyze any Security Council decision, including action to prevent mass atrocities against civilians.

Russia, in support of the Bashar al-Assad regime, has [repeatedly vetoed](#) any proposal to act forcefully against Syria. This leaves the U.S. few options to legally use force against the regime, even to prevent further chemical attacks.

Such prohibitions haven't prevented the U.S., the U.K., France and other countries from acting to save civilians. In cases such as NATO's 1999 humanitarian intervention in [Kosovo](#) and Trump's [April 2017 missile strikes](#) in Syria, military force

has been used in violation of international law to protect civilians.

Tellingly, global public [opinion](#) has tacitly [accepted](#) – or even [cheered](#) – such “illegal” strikes. Indeed, a day after the bombing, [12 of 15 members of the U.N. Security Council](#) voted against or abstained from voting on a Russian proposal to condemn the strikes on Syria. Such a vote indicates widespread support or acceptance for the intervention.

Despite this confusion, the current crisis shows that there are decisive ways the U.S. can act to improve international law and limit such violence against civilians in the future.

Positive steps

First, the U.S. should formally seek approval from the U.N. Security Council for the intervention in Syria. By presenting a clearly humanitarian purpose and incurring a likely Russian veto, the U.S. will starkly highlight, once again, the disjuncture between justice and legality in the current framework. Such votes further show the world how broken international law currently is.

Second, the U.S. should work to stop future chemical weapon attacks against civilians by sponsoring an international initiative to update the U.N. Charter framework. Such an initiative, similar to [one Canada sponsored in 2001](#), can develop proposals to authorize legitimate humanitarian interventions even in cases of Security Council deadlock. As I have argued [elsewhere](#), intervention against chemical weapons use offers a limited, qualitative threshold that would gain greater support than current proposals for humanitarian intervention.

Third, the U.S. should use diplomacy to mobilize a global coalition supporting the adoption of such proposals in the U.N. That won't be easy. The U.N. has adopted few changes to

its governing principles in its 72-year history, and current Security Council members have little incentive to reduce their influence.

Despite this fact, the ultimate goals of these initiatives – the promotion of the principles of humanity, legitimacy and coherence in international law – make such efforts worth the effort. While the successful adoption of such changes may be distant, the conversation associated with this debate could have lasting effects in shaping a currently broken system. Such developments would, in the long run, help to promote human rights, deter future chemical attacks on civilians, and ultimately strengthen the law's ability to promote humanity and justice in the international system.