

Why Boris Johnson must support continued criminal investigations into the use of chemical weapons in Syria

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The recent video showing a young Syrian boy [rescued from rubble](#) after airstrikes in Aleppo has again highlighted the scale of violence in the Syrian civil war. Here, [Brett Edwards](#) and [Mattia Cacciatori](#) outline the current state of affairs regarding chemical weapons attacks in the country, and the best way that UK Foreign Secretary Boris Johnson can support the legal and criminal investigations into these attacks.



Last month, one of Boris Johnson's first tasks as Foreign Secretary was to vote through a British motion at the UN Security Council which will see the destruction of the remnants of Libya's chemical weapon programme. He stated:

'In doing so, we have reduced the risk of these weapons falling into the hands of terrorists and fanatics.....Together, we have shown our collective commitment to the people and authorities of Libya, and, ultimately, to all of us who want to live in a world free from chemical weapons.'



The Libyan situation currently feels far removed from the ongoing Syrian crisis, where, so terrible are ongoing war-crimes that international responses to chemical weapon use have even been framed as a distraction from broader state sanctioned atrocities and UN impotence.

More depressing still, chemical weapon attacks have continued since Syria's shotgun wedding to the Organization for the Prohibition of Chemical Weapon (OPCW) regime, which followed the [Ghouta chemical weapon attacks of 2013](#). This membership, based on a US-Russia led agreement, saw Syria stripped of its capabilities to produce mustard and nerve agent weapons – but chlorine gas use has continued since the agreement, with well over 100 accusations acknowledged by the OPCW since Syria joined. This month saw further deaths linked to chlorine attacks, in [Aleppo](#) and [Idlib](#).

The regime is also prime suspect in many of these reported attacks; yet any progress on this issue has been hamstrung by broader political concerns [time and time again](#). Clearly then, international action on chemical weapons (supposedly a universal concern) makes for a far from perfect poster-child for international co-operation over Syria, reflecting the hypocrisy and stunning duplicity which has been exhibited in a conflict which will likely kill thousands more before stability is regained.

Pursuit of criminal justice for these specific crimes is seen at best a secondary contemporary priority, and at worst a distraction from more pressing issues – such as the humanitarian disaster which continues in Aleppo, as Russia and Syria intensify bombing – 300,000 civilians are under siege and the consequences of the continued bombardment have been [sickening](#); so terrible in fact that most of the world appears to have stopped watching. However, criminal prosecution for chemical weapon use still needs to be considered now, not only because it is right, but also because it will likely be given increased importance in later stages of any peace process – and this is something that the UK needs to support.

Mr Johnson supported the failed government proposal for UK military action against the Assad regime back in the summer of 2013. There were a wide range of reasons that MPs backed the government on that vote, including the need to protect the chemical weapon norm, to punish the regime, as well as the need for regime change. But these

justifications didn't fit neatly into the narrow humanitarian intervention narrative crafted by the Prime Minister, David Cameron. Indeed, this ambiguity actually lent purchase to the arguments of those who questioned the rationale for action as well as the ulterior motives of the government. In particular, it was clear that many MPs felt that the government should work through the UN system; this was despite the ongoing deadlock over Syria in the Security Council. [As one MP noted](#):

'We should send a message to President Assad, if we are convinced that he and his regime are responsible for the chemical attacks, to say, "Identify those who are responsible. Make them come before the criminal courts," so that they can be punished in the best way possible, through due process of law.'

It was obvious even at the point however that Russia would seek to block UN Security Council referral of Syria to the International Criminal Court (ICC), the only route through which an ICC investigation could be launched. And veto they did, along with China, in [May 2014](#). Despite this situation, there have been [continued calls](#) for an ICC referral, something which seems unlikely while Assad is a sitting head of state. This, coupled with the fact that the current UN and OPCW [Joint Investigation](#) into culpability for chemical weapon use in Syria excludes the largest and most well-documented attack in Ghouta which killed hundreds and injured thousands, reminds us of the centrality of state interests in the interpretation and execution of international law; as well as the way in which states navigate the landscape of international institutions.

However, Syrian membership to the OPCW should not be seen as entirely antithetical to the pursuit of justice. The Joint Investigation is currently investigating 9 out of at least 116 chemical weapon allegations of which it is aware at the time of writing – which occurred between April 2014 and August 2015. Nobody is suggesting this process is perfect – but it is building an evidence base for future trials which we would not otherwise have.

At the end of September the UN- OPCW Joint Investigation team will reach the end of its current official mandate. This has been a closed process and so there have been no provisional findings released. However, it seems unlikely that this team will be in a position to present findings about culpability as conclusive. Indeed, progress reports released so far [have not been optimistic in tone](#). Yet it has, we must remember, operated not only in the context of negotiated limitations, but also the realities of investigating politically sensitive issues which have occurred in a conflict zone.

Any absence of smoking guns and accusations in the final report will undoubtedly be interpreted as further evidence of how our governments and international institutions continue to fail Syrians. This is certainly the case. However, this international channel of evidence gathering is currently unparalleled in relation to the Syrian conflict – in terms of its mandate to gather evidence and attribute responsibilities for war crimes. Mr Johnson should remember this and continue to lend the various forms of support that the UK can offer. This will likely require a tough line, and dependent on the political weather, involve lending support for the extension of the mandate of the current investigation, or else the establishment of any further investigatory processes which the expected report calls for. This alone isn't enough, and it remains just one issue in a broader landscape, but right now it is one of the few official processes we have and an opportunity which could easily be missed.

About the Authors

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