

Uranium Coverup 09/21 - Law violations UN

Evaluating the effects of radiation (DU) weaponry set out in Part I of this paper, it is clear that this weaponry fail all four tests of humanitarian law:

(1) It cannot be "contained" to legal fields of battle and thus fails the territorial test. Evidence is overwhelming that uranium particles in dust or smoke can travel far afield from a legal military target. The particles can reach bordering countries that are not part of the armed conflict. Winds can blow particles into places that are near battlefields, but off-limits of legal military operations. In fact, DU can injure far more due to airborne travel than it does against legal targets. DU can also be transported by surface and underground water, carrying damage far beyond the legal field of battle. DU dust can adhere to military personnel and vehicles and travel as vehicles and personnel move about.

(2) The weaponry continues to act after hostilities are over and thus fails the temporal test. More than a decade after the cessation of hostilities in the Persian Gulf war, uranium from DU weaponry is still excreted from the bodies of contaminated veterans, and will continue to injure their bodies. The bodies of local residents and other persons within the reach of the spreading contamination will continue to be injured for many years to come. The effects of these weapons cannot be turned off when the war is over;

(3) Radiation weaponry is inhumane and thus fails the humaneness test, not only because of how it can kill -- by cancer, kidney disease, and other serious conditions -- but also because these injuries can occur long after the hostilities are over and to persons that are not the "enemy". Uranium from these weapons is also inhumane because it damages the immune system of those exposed, who then suffer from miscellaneous diseases, which, aggravated by harsh war and after-war conditions may lead to death. DU is also inhumane because it causes birth and genetic defects, thus effecting children (who must never be a military target) and who are born years after the war is over. In this sense, the use of DU weapons may be characterized as genocidal because it burdens gene pools of future generations. DU can also be considered "poison" and thus banned by The Hague Convention.

(4) Radiation weapons cannot be used without unduly damaging the natural environment, thus failing the environment test. This aspect of the effects of DU was conceded by several international agencies looking into the DU crisis.

The issue of the incompatibility of DU weapons with existing international norms has been taken up at both the United Nations Commission on Human Rights and its Sub-Commission on Promotion and Protection of Human Rights since 1996. While the Commission has not yet issued a resolution on the matter, the Sub-Commission, in its resolution 1996/16 of 29 August 1996, found that use of such weaponry is "incompatible" with existing humanitarian and human rights law. In the same resolution the Sub-Commission began a process to further elaborate on these weapons in light of existing norms by requesting the Secretary-General to look into the issue and report back to the Sub-Commission in 1997. In reply, the Secretary-General issued his report (UN Doc. E/CN.4/Sub.2/1997/27 and Add.1) containing a number of replies from governments, specialized agencies and non-governmental organizations – all supporting the view of the Sub-Commission on the illegality of these weapons. In its resolution 1997/36 the Sub-Commission continued its investigation of these weapons and appointed one of its members to prepare a paper on the topic. In 2001, following the failure of the first appointed person to submit a paper,

the Sub-Commission authorized Justice Y.K.J. Yeung Sik Yuen (Mauritius) to prepare the paper, submitted as UN Document E/CN.4/Sub.2/2002/38.

The Sik Yuen paper gives a comprehensive overview of the law and facts of a number of troubling weapons. DU weaponry is addressed separately, but Sik Yuen states that all the weapons addressed in the paper can be classified as weaponry of a nature to cause superfluous injury (WSI) and weaponry causing unnecessary suffering (WUS). (Sik Yuen also discusses fission/fusion nuclear weapons, "mini-nukes" such as the B61-11 "bunker busters", fuel-air bombs ("daisy cutters"), cluster bombs, and chemical and biological weapons, and indicates that the current generation of fuel-air bombs use uranium powder). The present authors maintain that DU and other radiation weaponry can be proven to be weaponry of mass destruction (WMD) when used in populated areas or in the presence of large numbers of enemy or friendly troops, a position supported by the fact that an unacceptable percentage the US veterans of the Gulf War have some serious health complication that can be attributed to DU weaponry. In any case, uranium (depleted or not) weaponry is "poison" in terms of The Hague Convention and even that definition is sufficient.

Justice Sik Yuen points out a number of issues surrounding the DU controversy that we take up in this paper: the issue of what Sik Yuen refers to as "secrets", the issue of seriously compromised "research" and the issue of the public outcry against DU in light of the Martens Clause. Regarding secrecy he points out two claims made by critics: (1) that the US purposely tries to cover up the true nature and effects of DU weapons because it does not want to be held liable; and (2) that the US knew of the serious consequences of DU before it was used, but for purposes of military expediency it deliberately sent its own troops into DU-corrupted battlefields (and, of course, injured countless Iraqi soldiers and civilians). Regarding compromised studies, he presents a Rand Corporation report and a report by the Royal Society (UK). The Royal Society was subsequently forced into revising its position on the safety of DU. Regarding the invocation of the Martens Clause, Sik Yuen comments that he was surprised by the number of anti-DU groups and that their actions are an aspect of the Martens Clause.

The 2002 Sub-Commission authorized a second paper by Sik Yuen that is being prepared to submit to the Sub-Commission at its August 2003 session. The fact that the Sub-Commission agrees with the analysis here and has made such a commitment to review of the issue indicates both its understanding that weapons may be banned by operation of existing law, that DU weaponry is that type of weaponry, and that the use of these weapons is very grave. The Sub-Commission also acknowledges that the issue of weapons in light of existing human rights and humanitarian law is an appropriate subject for the UN human rights bodies. It did this because the United States tried to argue that weapons may only be discussed in the "disarmament" forums, where, of course, the focus is on "treaty-drafting" rather than on confirmation that existing law may condemn a weapon.

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