

# Dirty Bombs, Undeclared Wars Raise Prospect of US Criminal Culpability

## US Uranium Weapons Used in Syria

In October, the Pentagon admitted it used “depleted” uranium weapons in attacks inside Syria—violating its public promise last year that it would not use DU there, and contradicting the government’s promise that US bombing is done in defense of the Syrian people, according to the International Campaign to Ban Uranium Weapons.

US military officials have repeatedly assured the public that US uranium munitions are not known to cause health problems. Made from waste uranium-238—left from H-bomb and reactor fuel production—the heavy shells are called “depleted uranium” or DU. Ironically, the best evidence that DU weapons are dangerously toxic and radioactive, comes from the Pentagon itself. A June 1995 report to Congress by the Army’s Environmental Policy Institute (AEPI) concluded: “Depleted uranium is a radioactive waste and, as such, should be deposited in a licensed repository.”

Military studies done in 1979, ‘90, ‘93, ‘95 and ‘97, make clear that uranium weapons are chemically toxic, alpha-radiation-emitting poisons that are a danger to target populations and to invading/occupying US forces alike. In spite of this cautionary written record, the military has been shooting its radioactive waste all over the world: into population centers in Iraq in 1991 (380 tons), in Afghanistan in 2001 (amounts unknown); in Bosnia in 1994-‘95 (five tons); in Kosovo in 1999 (10 tons), in Iraq again in 2003 (170 tons); and now in Syria.

The AEPI report above also says that DU has the potential to generate “significant medical consequences” if it enters the body. The Army’s Office of the Surgeon General, in its Aug. 16, 1993 “Depleted Uranium Safety Training Manual,” says that the expected effects of DU exposure include a possible increase of cancer and kidney damage. The manual also warns, “When soldiers inhale or ingest DU dust, they incur a potential increase in cancer risk ... (lung or bone) and kidney damage.”

The Army’s Mobility Equipment, Research & Development Command reported way back in 1979 that, “Not only the people in the immediate vicinity but also people at distances downwind from the fire are faced with potential over exposure to air-borne uranium dust.” This uranium “dust” is generated when DU shells hit and burn through hard targets like tanks or armored vehicles. The uranium is spread for miles by the wind, contaminating everything in its path including food, water, soil, schools, hospitals, etc., and DU is radioactive forever, or ten times 4.5 billion years, whichever comes first.

In 1990, the Army’s Armaments, Munitions and Chemical Command radiological task group said that DU is a “low level alpha radiation emitter ... linked to cancer when exposures are internal, [and] chemical toxicity causing kidney damage.” It added that “there is no dose so low that the probability of effect is zero.”

With evidence of its radio-toxicity so clear and redundant, any use of uranium weapons today appears to flaunt the military’s own Field Manual prohibition—absolute and universal—against the use of poison or poisoned weapons.

### Historical disregard revisited

The military has a long history of deliberately exposing US citizens and others to deadly risks without their knowledge or consent, beginning with the open-air nuclear bomb tests it knew would contaminate vast areas.

The Atomic Energy Commission (AEC) chose not to evacuate or even warn downwind populations it knew would be hard-hit by radioactive fallout. (“Fallout risk near atom tests was known, documents show,” *New York Times*, March 15, 1995.) These bomb tests exposed Nevada Test Site workers to levels of radiation that the AEC knew could cause harm, but the agency chose not to reduce workers’ exposures or to even inform them of the risks because doing so would have scandalized and halted the bombing tests. (“Records say workers faced high radiation: Suit contends US used no safeguards,” *St. Paul Pioneer Press*, Dec. 14, 1989.)

Likewise, the government refused to inform some 600,000 H-bomb factory workers that workplace radiation exposures posed serious health risks, although enough was known about radiation to warn them in 1948. (“N-plant workers not told of risks: Report says US arms program exposed many to radiation,” Associated Press, Dec. 19, 1989.) Between 1944 and 1974, “medicalized” human radiation experiments were even conducted on unwitting US citizens, 16,000 of them. (*The Plutonium Files*, by Eileen Welsome, Delta, 1999.)

Today, the Pentagon extends this ghastly history into Syria where it is deliberately exposing human beings to weapon-

ized radiation that it knows can cause cancer and other diseases. As if the undeclared, unconstitutional war in Syria weren’t unlawful enough, now add the crime of using poison in violation of military law, the Hague Regulations of War on Land, and the Geneva Conventions.

Arguing that uranium weapons are poison, a group of four non-lawyers, myself included, convinced a Minneapolis jury in 2004 that AlliantTechsystems Corporation’s manufacture of the shells is unlawful, and potentially criminal enough to excuse a misdemeanor trespass. We argued our minor offense was justified in order to prevent the greater harm of DU weapons production. The use of poison in war is always prohibited, as is the case with gas warfare and torture. This latest US government crime of war must be condemned in the harshest terms. —*JL*

—For more information on DU weapons and the global effort to have them banned, see [ICBUW.org](http://ICBUW.org).

## War Crimes Charges Against US Citizens Viewed by ICC

“U.S. Drones Hit Civilians, U.N. Says”  
— *New York Times*, Sept. 30, 2016

“NATO and government forces are increasingly responsible for Afghan civilian deaths”  
— *Washington Post*, Nov. 3, 2016

US armed forces and the CIA may have committed war crimes by torturing detainees in Afghanistan and elsewhere, the International Criminal Court’s (ICC) chief prosecutor says in a preliminary report, raising the possibility that US citizens could be indicted.

“Members of US armed forces appear to have subjected at least 61 detained persons to torture, cruel treatment, outrages upon personal dignity on the territory of Afghanistan between 1 May 2003 and 31 December 2014,” according to the November 14th ICC report issued by Chief Prosecutor Fatou Bensouda’s office in The Hague.

The report says that between December 2002 and March 2008, CIA operatives may have subjected at least 27 detainees at its secret prisons in Afghanistan, Poland, Romania and Lithuania to “torture, cruel treatment, [and] outrages upon personal dignity” including rape. Individuals captured by US forces in Afghanistan were transferred to



secret CIA prisons, sometimes referred to as “black sites.” Prisoners were chained to ceilings, “chained to walls and forgotten [one of them for 17 days] froze to death on concrete floors, and were waterboarded until they lost consciousness” according to the 2014 Senate Intelligence Committee Report on the torture program.

On Dec. 9, 2005, the State Department’s deputy spokesman Adam Ereli, said the United States would continue to deny the Red Cross access to prisoners it was holding secretly around the world, claiming they were terrorists who were not guaranteed any rights under the Geneva Conventions. The Red Cross complained that its central purpose is to protect the human rights of prisoners, all of whom deserve protection under international humanitarian law—binding treaty laws that include an absolute, unambiguous prohibition against torture under all circumstances.

Over 120 countries are members of the ICC, but the US is not. Although the US refused to join the 2002 Rome Statute that created the ICC and established its authority, US military personnel and CIA agents could still face prosecution because their crimes were allegedly committed within Afghanistan, Poland, Romania and Lithuania, all members of the ICC.



US military shoots uranium shells with the A10 Warthog jet aircraft, which is built around this Gatling gun with seven barrels that fires 4,200 heavy uranium projectiles a minute, or 70 rounds a second.

The ICC’s jurisdiction can be invoked when allegations of war crimes are not investigated and prosecuted by the home governments of the accused. The *Guardian* reported that the “ICC is a court of last resort that takes on cases only when other countries are unable or unwilling to prosecute.” Writing in *Foreign Policy* magazine last October, David Bosco noted, “The [ICC] prosecutor’s office has repeatedly called attention to alleged abuses of detainees by US personnel between 2003 and 2005 that it believes have not been adequately addressed by the United States.”

### “Committed with particular cruelty”

Bensouda’s report about alleged US war crimes says they, “were not the abuses of a few isolated individuals. Rather, they appear to have been committed as part of approved interrogation techniques in an attempt to extract ‘actionable intelligence’ from detainees. The information available suggests that victims were deliberately subjected to physical and psychological violence, and that crimes were allegedly committed with particular cruelty and in a manner that debased the basic human dignity of the victims.”

Reuters noted that the Senate committee released 500 pages of excerpts from its report which found that torture was committed. Official photographs of the abuse are evidently so incriminating that the military, as recently as February 9, 2016, refused to release 1,800 photos never seen by the public.

The Bush/Cheney administration, which authorized and implemented a torture program in Iraq, Afghanistan, secret sites, and the offshore prison at Guantanamo Bay, was fiercely opposed to the ICC, but Afghanistan, Lithuania, Poland and Romania are all members, giving the court jurisdiction over crimes committed within those territories. In 2002, Bush signed into law the American Servicemembers Protection Act which authorizes the use of military force to liberate any American or citizen of a US-allied country being held by the court.

Both President Bush and Vice President Dick Cheney have boasted in public about waterboarding which was sanctioned, “legalized,” and practiced widely under their command authority. Asked during a televised interview about what he called this “enhanced interrogation technique” Mr. Cheney said, “I’d do it again in a heartbeat.”

During a Republican primary debate Donald Trump said, “I would bring back waterboarding and I’d bring back a hell of a lot worse than waterboarding,” a statement he often repeated. Gen. Michael Hayden, a former director of both the CIA and the NSA, reacted in a televised interview: “If he [Trump] were to order that, once in government, the American armed forces would refuse to act. You are required to not follow an unlawful order. That would be in violation of all the international laws of armed conflict.” President-elect Trump also repeatedly called for targeted assassinations of children and family members of suspected terrorists. Both actions are prohibited by US military service manuals and by international treaty law, crimes ultimately prosecuted by the ICC. —*JL*

—Sources: AP; *the Guardian*, Democracy Now, & Al Jazeera, Nov. 15, 2016; Reuters, Nov. 14, 2016; *Foreign Policy*, Oct. 31, 2016; “‘Hague Invasion Act’ becomes law,” Human Rights Watch, Aug. 3, 2002