

Time to root out loopholes in Canada's cluster munitions laws

By Earl Turcotte

Bravo Canada, for speaking out forcefully against the use of cluster munitions in the wake of the U.S. decision to provide Ukraine with these horrible weapons. In a recent statement, Minister Joly said "Building on the trailblazing work of Lloyd Axworthy on the Ottawa Treaty to ban anti-personnel landmines, Canada championed the adoption of the Convention on Cluster Munitions which is now ratified by more than 100 countries. We do not support the use of cluster munitions and are committed to putting an end to the effect cluster munitions have on civilians – particularly children".

There are 112 State Parties and an additional 11 signatories to the *Convention on Cluster Munitions* that categorically prohibits the use, and in any way facilitating the use of cluster munitions under any circumstances. State Parties are also legally obliged to discourage the use of the weapon by all others. Regrettably, the United States has not joined the Convention. But 22 of its NATO allies have, including Canada, the U.K. France and Germany that are providing significant support to Ukraine.

Ironically, the US has accused Russia of war crimes for its extensive use of cluster munitions, often in populated areas, which contravenes a primary tenet of the laws of war – that distinction be made between combatants and non-combatants and every effort made to avoid harming non-combatants.

The US and Ukraine claim that they will take measures to ensure that civilians are not harmed. Problem is, this is patently impossible with cluster munitions which, in addition to being the most indiscriminate conventional weapon ever conceived, have a notoriously high dud rate in battlefield conditions. Clearance is dangerous and painstakingly slow, and unexploded sub-munitions can pose a lethal threat for decades after conflict has ended. Case in point – Southeast Asia. More than half a century after the Vietnam War ended, and despite extensive clearance operations, vast regions remain contaminated and civilians continue to be killed or maimed on a regular basis. Victims are usually small farmers forced by poverty to cultivate contaminated land, and children who are often attracted to the toy-like appearance of cluster sub-munitions.

One can only hope that the 22 NATO Parties to the Convention and like-minded states press the US and Ukraine hard, to reconsider using this weapon.

And here at home, now would be the time to finally amend Canada's domestic law on Cluster Munitions so it conforms to the standards established in the Convention itself. In 2011, despite powerful opposition by all other political Parties, the Harper government rammed through legislation that allows Canadian forces to aid and abet in the use of cluster munitions in significant ways. And, if you can believe it, that allows a Canadian commander of a multinational force to direct the use of cluster munitions by non-party state armed forces. Canada is the only country to introduce such 'exceptions' in its law. Please, Mme. Joly, fix this. Then, we can call ourselves 'champions' on this life or death issue.

Earl Turcotte

(Earl Turcotte led the Canadian delegation throughout negotiation of the Convention on Cluster Munitions and served two terms as Senior UN Advisor to the Government of Laos in its ongoing national program to clear unexploded ordnance.)

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