

2ND OPINION by Prof. Nicola Cufaro Petroni Secr. General USPID-Union of Scientists for Disarmament (Italy).

INCENDIARY WEAPONS ON FALLUJA

On November 8, 2005 the Italian TV RaiNews24 broadcast an impressive 27 minutes report with witnesses supporting the hypothesis that the November 2004 US attack on Falluja has been carried out by inhuman, if not apparently criminal, means.

In this report the American military are charged with using incendiary weapons (either White Phosphorus (WP), or Napalm) against civilians. This is a heavy charge since the use of incendiary weapons, albeit not prohibited outright (as chemical weapons subjected to the 1993 CWC - Chemical Weapons Convention), is regulated by the Protocol III of the "UN Convention On Prohibitions Or Restrictions On The Use Of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious Or To Have Indiscriminate Effects" (1980, CCCW). Protocol III states that incendiary weapons can be used neither against the civilian population, nor against "any military objective located within a concentration of civilians". On the other hand exactly that seems to have been done in Falluja, and this is a very serious accusation.

On the other hand the US Administration maintains first of all that WP munitions have been used as "illuminants, tracers, smoke or signalling systems", which are explicitly excluded from the incendiary weapons definition of Protocol III. This is, however, a weak answer given the horrible effects on the civilians documented by the RaiNews24 report. This line of defense, moreover, does not apply to the possible use either of Napalm, or of its more recent form used in the munitions MK77 and similar. The US Administration, moreover, even without acknowledging an illegitimate use of incendiary weapons, deems it self not to be restricted by Protocol III of the CCCW because the US are not a party to this Protocol. But this answer is - if possible - worse than the indictment itself, since it adds to the injury the arrogant mockery of being above the rules with which the others must instead comply. Here we are not interested in determining if a treaty has been formally violated; rather we want to know if a crime against humanity has been perpetrated.

More caution should be used, instead, for the charges (diffused by the press) of a use of chemical weapons in Iraq. The use of chemical weapons is strictly prohibited and even their production and detention is not allowed by the quoted CWC. In fact, however, neither WP munitions, nor Napalm munitions, can be described as chemical weapons. It is true that their effects are produced by chemical reactions (as for conventional explosives), but they are used on behalf of the thermal effects of their agents, not of their toxic effects. Hence the said substances are not mentioned at all in the treaties on chemical weapons, and usually are not employed for their toxic effects. To charge the US with using chemical weapons on the basis of RaiNews24 revelations is wrong, and can have the paradoxical effect of discrediting the - already momentous - indictment of an indiscriminate use of incendiary agents against civilian populations.

Of course this caution will cease to make sense if we were to discover that the US deliberately used either phosphorus for its toxic effects, or true chemical weapons. We are not lacking charges to bring, but these seem not to be substantiated by the kind of testimony given in the RaiNews24 report.

For all these reasons the USPID deems it necessary to demand the establishment of an international Fact-Finding Commission in order to ascertain whether the use of weapons containing white phosphorus against military objectives and the civil population during the Iraqi military campaign can be considered in violation of rules and treaties on the lawful use of weapons.
