

# Will the Cluster Munitions Convention prove ineffective?

Written by Daniel Gray

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DANIEL GRAY, JUN 16 2010

The Convention on Cluster Munitions 2008 (CCM) is set to come in to force on the 1<sup>st</sup> of August 2010; hailed as an historic addition to International Humanitarian Law (IHL) by human rights groups it seeks to prohibit to use, production, stockpiling and transfer of cluster munitions. Not everyone is in favour of the Convention however. This essay seeks to outline the issues and factors that will affect the efficacy of the CCM; bringing both its supporters and opponent's points together it will analyse the issues from the initial case for banning cluster munitions, the history of the CCM and the arguments from both sides of the debate surrounding the future efficacy of the Convention.

### Introduction to cluster munitions[i]

Cluster munitions are weapons that can be deployed by aircraft, or by land and sea-based artillery and missile systems. They consist of a 'container' that contains a number of smaller sub-munitions or 'bomblets'; the desired effect of the weapon is that whilst in the air, the container opens and releases the 'bomblets', that then scatter over a large area and explode on impact. Their designed purpose was to combat advancing armed ground forces by destroying military targets that were dispersed over a wide area, such as 'tank or infantry formations'. [1]

### The case for banning cluster munitions

Human rights groups, such as Human Rights Watch (HRW), who participated in the drafting and promotion of the CCM, have long argued for the prohibition of the use of cluster munitions; in doing so they have not been alone, as a number of states have called for their regulation. The arguments supporting the ban on cluster munitions can be divided in to two categories; firstly there are the arguments with roots in the promotion and protection of human rights, and secondly are the arguments from the perspective of military effectiveness.

Cluster munitions often pose a greater risk to human life and property than other types of attack, due mainly to the wide dispersal area of the 'bomblets'; ironically it for this same reason that they are so highly valued by military forces worldwide. The likelihood of civilian harm resulting from a cluster munition is vastly increased if they are deployed in densely populated areas, such as towns and cities, and as I will outline later, this kind of deployment is becoming more common. [2] To date, most deployments of these munitions have been unguided or 'dumb'[3], therefore they are not guaranteed to hit *any* legitimate targets and as such their ability to discriminate between civilian and military targets is poor[ii].

Furthermore, given their indiscriminate nature detailed above, one might conclude that the use of cluster munitions in civilian areas, seen recently in Iraq by US and UK forces, is a contravention of Article 51(5a) of Additional Protocol I which prohibits indiscriminate attacks, defining them as

*an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects*[4]

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The particular use of the word 'bombardment' is, one could argue, wholly relevant to the multiple attack capability of cluster munitions. Thus, deployments of cluster munitions not only have devastating effects on human life when used in civilian areas, but when used in this manner during an international armed conflict, their use is arguably illegal.

Cluster munitions pose serious risk to civilians, even after their initial deployment and after a conflict has ceased. The main post-conflict risk posed is by unexploded ordnances left behind after the deployment of a cluster munition. HRW have documented how the sub-munitions from cluster bombs remain a threat, with specific reference to their use by the IDF in southern Lebanon in 2006, HRW notes that nearly 200 casualties have resulted from unexploded ordnances in the region, as of January 2008, 61 of which were children.[5] Unexploded sub-munitions that land in fields or farmland can seriously affect the livelihood of the local population; rendering farmland unusable for example, leaving people without jobs and income.[6]

Aside from the serious threat they present to the lives of innocent civilians, cluster munitions are arguably counterproductive to military effectiveness. They make poor defensive weapons as they leave behind the problems discussed above when used on a state's own soil as a means of defending territory. Furthermore, the nature of modern warfare is such that it is often fought in an urban setting in densely populated areas, and the modern trend in armed conflict signals a change from inter-state to intra-state violence[7]; as with the recent intra-state conflict in Sri Lanka and ongoing violence in Somalia. This switch from conventional 'state v. state' wars, that defined international relations up to the end of the Cold War, to wars which require more precise and highly defined capabilities render cluster munitions, according to proponents of the CCM, outmoded relics of the Cold War era.[8] This claim is disputed by, among others, the US Department of Defense [sic] who claim that cluster munitions remain a 'legitimate and useful weapon' and that they actually 'reduce unintended harm to civilians.'[9]

Of the 91 countries who are not signatories to the CCM, 19 have produced the weapons, 49 have stockpiles of which 11 have used them in past. They continue to be manufactured in a number of states, most notably the US, Russia, and Israel.[10] They are not limited to states however; HRW has documented their transfer to a number of non-state armed groups (NSAG), the most recent use by a NSAG is that of Hezbollah during the Israel-Lebanon war 2006.[11]

### History of the Convention on Cluster Munitions

Attempts to address the use of these weapons are not new; for decades people have been calling for a ban or regulation of the use of cluster munitions. At the Conference of Government Experts on Weapons that May cause Unnecessary Suffering or Have Indiscriminate Effect in 1974, a number of states called for a ban of the weapons, a call that was renewed in 1976.[12] In 1983 the United Nations Environment Programme (UNEP) called for their regulation due to their adverse environmental effects.[13] Despite this, it was the movement to ban anti-personnel landmines that gained momentum whilst the efforts to introduce a ban on cluster munitions 'stalled'; with their use continuing in Iraq during the first Gulf War, and in the subsequent wars in Kosovo and Afghanistan by NATO and the US.[14]

Their use in the above wars, however, served to highlight the inhumane nature of the weapon and thus drew negative public attention to their usage. Along with this attention came calls from HRW and the International Committee of the Red Cross (ICRC) as well as other international NGOs, to introduce stronger regulations regarding the usage of cluster munitions during armed conflict. At the UN Convention on Conventional Weapons (CCW) meeting several civil society groups proposed a new protocol to deal with cluster munitions. However, due not least to this requirement, larger military powers[iii] rejected the proposed protocol; just as they did at the following third review meeting even though on this occasion it was proposed by Sweden and backed by twenty four other states.[15]

These constant rejections of an additional protocol through the CCW framework led the group of states who supported the ban, headed by Norway, to organise outside of the UN structure; these negotiations towards an international banning of cluster munitions became known as the 'Oslo Process'. Fewer than two years later, these negotiations had led to an international conference in Dublin in May 2008; the result of which was the Convention on

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Cluster Munitions 2008.[16] A total of 111 states signed up to the draft treaty, including Britain which was seen as a major victory for advocates of the ban as it signalled a reversal of policy to Britain's longstanding opposition to a ban.[17]

To date, 106 states have officially signed the final official treaty, 36 of which have ratified the Convention which is set to enter in to force on 1 August 2010 (six months after the 30<sup>th</sup> state, Moldova, ratified the Convention.)[18]

### The effectiveness of the CCM

Given the central role that human rights organisations played in the drafting and promotion of the CCM, it is not surprising that proponents of the Convention argue strongly in support of its effectiveness in relation to the protection of human rights. In the preamble of the CCM there are numerous references to human rights, such as mention of 'economic and social development' and 'refugees and internally displaced persons.'[19] Article 2(1) of the CCM allows for a broad definition of 'victims' incorporating such things as 'economic loss' and 'social marginalisation.'[20] Human rights groups have argued that with this consideration by the CCM of the long-term effects of armed conflict it will lead to a greater integration of human rights and IHL which, they argue leads to a more robust and effective treaty.[21]

Continuing on this subject of human rights and state responsibility, HRW has argued that the CCM will be effective not only at banning cluster munitions, which it says has obvious humanitarian advantages, but it is also effective at addressing the cluster munitions that have been deployed in the past. In this respect the CCM can be said to be retrospective in its nature of addressing the clearing of unexploded ordnance. Its strength is Article 4(4) with the obligation it places on the deploying state with respect to clean-up assistance as well as providing information on locations and numbers of munitions deployed.[22] HRW note that this provision will remove the burden on affected states and in addressing past use it seeks to protect people from munitions used, both in the past and the future.[23]

In contrast to this, one has to wonder if by placing such retrospective obligations and deploying the discourse of human rights, the CCM is demanding too much of its signatories. After all is not the main objective of the Convention to prohibit the use of cluster munitions? One speculates here, that if the extensive provisions for the assistance to victims and clearance – however moral and justified – were not included in the final draft of the CCM, whether the larger military powers would have signed up. Obviously this can only be a speculative argument, but it would make sense that those states who are the most common users of cluster munitions would seek to avoid any binding legislation that would require of them to make substantial financial and political commitments to clean-up ordnance from countries their militaries may have departed years ago; for example the US in relation to south east Asia. The point I am trying to make here can be simplified thusly: had the Convention simply sought to prohibit the use, stockpiling, production and transfer of cluster munitions (as defined by the CCM) then there would have perhaps been more of a possibility of gaining support from the larger military powers.

The above argument against the CCM is not without its problems however. China for example has no documented use of cluster munitions, thus would have no obligations under the CCM to independently provide assistance (other than subjectively under 'international cooperation and assistance') to victims or to clean up operations; yet it remains a staunch opponent of the CCM. To explain the opposition of China, and other states in similar situations such as India and Pakistan, one has to acknowledge the economic interest these states have in the preservation of cluster munitions as a viable weapon of warfare. China is a major producer of 'dumb' munitions and to diversify one's weapon manufacturing capability at a time of such financial uncertainty does not seem likely for the world's emerging economic and military powers such as China. Thus, it is perhaps not the *complexity* of the CCM that China opposes, but rather the *overall aim* of prohibiting the use and production of the munitions.

Following on from these last two points, the failure of the CCM to attract the support of the world's most powerful nations, for whatever reason, arguably presents a case against the effectiveness of the Convention; this point is however disputed. The CCM has received widespread support from civil society organisations including the ICRC and HRW; in addition to these non-state actors, the CCM has had the support of the 106 signatory states. Perhaps the most high profile signatory state is Britain, who as mentioned above switched its position on the CCM almost at

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the last minute. There are a number of explanations as to this sudden change in mind, not least the fact that the then Prime Minister, Gordon Brown, was under political pressure from within his own Labour Party to support the CCM. Public concerns from the military and defence officials at the time however suggest that Britain was far from a willing participant in this treaty.[24] Proponents of the CCM would argue that far from being a weak point for the Convention, the support from Britain, who has now ratified the Convention, despite its reservations demonstrates the overall strongest element of the CCM: the persuasiveness of stigmatization. Supporters of the CCM have countered claims that the refusal of the large military powers to sign up to the Convention means that it will have little effect in limiting the use of cluster munitions. They cite the case of anti-personnel mines and the 1997 convention on the prohibition of their use, stockpiling, production and transfer, noting that the US, Russia, China and India, as well as others, have not signed up to the treaty but that the only state in recent years to have made significant use of such weaponry is Burma.[25] This represents proof, for supporters that stigmatization of a weapon can lead to its *de facto* prohibition among states and NSAG by making it politically difficult to use it.

This argument, though strong, is not without its problematic exceptions. Take for example India and Pakistan; two nations who wield equal political power, even if they are militarily imbalanced, but also two nations who have been bitter opponents since their independence from Britain. Their main peer competitor is each other; and as such their militaries exist primarily to oppose each other (though there are recent notable exceptions[iv]).[26] It is perhaps understandable therefore that one would not wish to agree to prohibit the use of cluster munitions unless the 'other' did so too. It is in neither state's interest to limit the range of its arsenal at a time of such uncertainty regarding each other's nuclear arsenal, among other factors. Furthermore, one has to wonder how much 'stigma' either side would face if cluster munitions were deployed given that both states have nuclear arsenals and the frequent confrontations in Kashmir rarely make the news in the Western world; so given that both are now sought after allies of the West in the 'war on terror', what's to say that the use of cluster munitions will, as HRW argue 'attract international condemnation'?[27] One has to doubt that either state would feel assured by HRW's claim that by joining the CCM, even when an enemy does not, will prevent a cluster munition attack because the signatory state will have 'the moral high ground.'[28]

The above example is an exception in relation to India and Pakistan; it is not an argument against the efficacy of the CCM in a wider context. One cannot draft international legislation that is solely relevant to the present day and to certain states, one has to bear in mind at all times the broader *international* picture. The CCM arguably does exactly this and moreover it seeks to further refine the parameters of discrimination and proportionality – the two key features of IHL. In prohibiting cluster munitions the CCM strengthens the principles of *discrimination* between civilian and combatant, and *proportionality* in armed response. It does this because, as mentioned in the above section, 'dumb' cluster munitions of the sort the CCM prohibits, adhere to neither of these principles. Furthermore, the CCM takes consideration of the long term effects of the use of cluster munitions and thus seeks to refine the concept of proportionality; given the ability for cluster munitions to cause casualties long after the cessation of hostilities, the CCM requires that states take this in to account when in relation to other weapons when deciding if a response is proportionate. This gives a new long-term dimension to the proportionality principle and as such not only suggests the effectiveness of the CCM in addressing the civilian casualties of cluster munitions but also provides efficacy in addressing the proportionality of other weapons.

The above point certainly has merit when considering the core principles of IHL; however in doing so it does, what IHL itself does all too often, fails to consider the implications of NSAG. The validity of not drafting international legislation as a knee-jerk reaction to a contemporary problem remains, but when discussing NSAG one prevailing truth is evident; they commonly ignore the principles of proportionality and discrimination. In the past decade the world has witnessed a number of high-profile acts of international terrorism, the most notable of which being the attacks in the US in 2001. This essay is limited in its scope and is not able to enter into a detailed definition of terrorism or the history of NSAG violence; however at the risk of over simplifying the situation, one notes that though not all acts of violence by NSAG have been aimed at civilian populations and have ignored the principle of discrimination (recent violence by ETA for example) a large number of acts have failed to adhere to such principles. There are two points to consider here, first is that NSAG have a history of obtaining and using cluster munitions (Hezbollah 2006) and the recent trend in NSAG violence over the past decade indicates that NSAG are more readily prepared to ignore the principles of proportionality and discrimination.[v] To this end, one raises the issue of doubt

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over the adherence to the newly refined definitions of IHL proposed by the CCM, and over the claims that even though the CCM is not designed for NSAG they will feel compelled to adhere to its principles. In short, there is little to suggest that NSAG who have ignored the principles of discrimination and proportionality in the past will feel pressured into now following these newly refined definitions presented in the CCM.

In addition to this, one also raises doubt over claims made by groups such as HRW that the CCM will 'stigmatise' cluster munitions to the point that their usage will become 'politically difficult'. The argument about stigma is arguably a strong one when dealing with states, and indeed the precedent set by the convention on anti-personnel landmines only serves to strengthen this point. In dealing with NSAG however, as seen above, one cannot posit the same assumptions as if dealing with state governments. One can confidently assume that stigmatisation is not always the main concern for NSAG, and indeed as can be seen in the most recent international terrorist attacks certain groups appear to thrive on the international condemnation of their acts of violence. It is important to note here that the concern of IHL is not, in the most part, to address acts of terrorism and also that not all NSAG are 'terrorist' groups. This said however, what one state or organisation may deem to be an act of terrorism another may deem as an act of war; and thus the lines of definition of the applicability of IHL are blurred. It was not a stated aim of the CCM to address the issue of NSAG, but given that there is documented evidence of transfer of cluster munitions to such groups, and also given that stigmatisation has become one of the strongest proposed arguments in favour of the CCM; the stigmatisation of NSAG usage of cluster munitions cannot escape a discussion of its effectiveness. Again here one could argue, as with the previous point, that though the issue of stigmatisation is a valid argument in relation to state actors; there is little to suggest that stigma will present a strong enough deterrent for NSAG who are not (and cannot be) signatories to the CCM and for whom 'stigma', in the form of international attention, may serve as an incentive for further violence.

Finally, even though the stigma argument *is* a strong point in relation to state actors, possible contemporary exceptions do exist. States such as North Korea and Israel have consistently ignored international criticism of their military actions or their weapons development programs and as such there is perhaps a possibility that these states, and possible similar states in the future, will not feel bound by 'stigmatization' alone.

Criticism of the efficacy of the CCM has raised the issue that the Convention did not go 'far enough' in so much as there were too many compromises made to powerful military states such as Britain with regard to interoperability and the use of 'smart clusters'. Proponents of this argument note that, contrary to the suggestion above that Britain signed the Convention because of domestic and international pressure with regard to the stigmatisation of cluster munitions, Britain actually signed up because its demands for certain compromises were met.[29] One such 'compromise' is thought to be regarding the ability of states party to the Convention to participate in joint military operations with non-state parties. It would appear that Britain, with the aid of US pressure, got its compromise; Article 21 of the CCM allows such joint military operations providing that there are no requests from state-parties that cluster munitions be used when the state-party has 'exclusive control' over the munitions used.[30] Further to this, Britain secured another compromise with regard to the use of 'smart' munitions; Article 2 of the CCM gives a relaxed definition of 'cluster munitions' allowing the retention and use of cluster munitions that contain less than ten sub-munitions and that operate with smart technology such as self-destruct and self-deactivation capabilities.[31] These broad definitions are what Britain, and the US on behalf of those taking part in the Oslo Process, have been pressing for and have been seen as instrumental in the British government's change of position. These concessions have been seen by some, such as Landmine Action, as weakening the CCM and the claims made regarding the improved humanitarian impact of 'smart' munitions have been disputed by both the Cluster Munitions Coalition (CMC) and the UN.[32] The director of Landmine Action, Simon Conway, accused the British government of cynicism and claimed it was 'spinning a cluster bomb con.'[33] There is no doubt that these compromises have been interpreted as some as an undermining of the principles of the CCM before the discussions at Dublin had even ended, and it has dealt a heavy blow to those campaigning for an outright blanket ban of all cluster munitions who's hopes were pinned on the CCM to deliver such a ban. The safeguard that state parties may not request the use of cluster munitions during joint operations seems concrete on paper, but in a world in which a great deal of military operations are carried out in secrecy and are cloaked in confidentiality pertaining to 'national security', one wonders how effective such a safeguard will be. After all there have already been instances of states' use and complicity in the practice extraordinary rendition in order to 'get around' laws governing torture; in a world where the discourse of security

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seems to prevail over all else, some wonder what will prevent a similar circumvention of law, in this case the CCM, arising in respect of state-parties and the use of cluster munitions.

In response to claims that the CCM has made too many compromises and has not prohibited a total use of cluster munitions, one has to make the point that the CCM seeks to be an instrument of IHL; that is to say legislation that governs the actions of warfare, not prohibits war altogether. It is important to remember that IHL is strongest and most effective when it achieves a true consensus of international opinion, which inevitably means compromise. One could argue that it is better to have a convention that receives popular support from large military powers such as Britain than to have an ideologically 'perfect' convention that receives support only from those like-minded states who were not intending to use cluster munitions in the first place. It is not, and never has been the aim of IHL to make *moral* judgements on the use of force in international relations, but rather it has aimed to *regulate* such usage and one could argue that in making compromises with states such as Britain and opting not to outlaw all cluster munitions, the CCM is performing the task of IHL in the most relevant way. That is to say that it seeks to *regulate* the use of cluster munitions not *prohibit* their use. True though it is that IHL on a large number of occasions has outlawed the usage of certain weaponry, and perhaps when international opinion is strong enough it will seek an outright ban of all cluster munitions; but for the moment the CCM is arguably the strongest relevant treaty that could be achieved and in expecting an outright ban is, at the moment, asking too much from an instrument of IHL.

Nevertheless, the CCM failed to gain the support of the largest military power, the US. The US government have made a number of public statements regarding the CCM, making it clear that at the time of its drafting they supported following the UN framework and negotiating an additional protocol to the CCW; it supported this framework because all states who produce cluster munitions are party to the CCW and thus such an additional protocol would prove more effective and be more widely applicable. The US has also stated the continued military effectiveness of cluster munitions[34] and rejects the claims made in the preamble of the CCM, claiming that cluster munitions can 'produce less collateral damage to civilians...than unitary weapons' and opposes any form of blanket ban due to the 'negative consequences for civilians.'[35] The US has also committed itself to phasing out production, export and use of 'dumb' munitions by 2018 and also to aid in the clearing of unexploded ordnance. Very little has changed with the change of administration in the US and recent reports indicate that the US recently used cluster munitions in Yemen[36]; it remains to be seen if President Obama, who was a supporter of the CCM as a senator,[37] will move to condone and sign the Convention in the future.

One could argue that the US has a strong point here in proposing an additional protocol as an alternative, the CCW framework would prove binding on more states; but the two previous attempts to introduce such an additional protocol were opposed by all major producers of the munitions, including the US. Proponents of the CCM claim that the framework it adopted allowed for greater flexibility and a stronger probability of international consensus; noting that not following the traditional UN framework is in fact a strong point for the CCM and sets an example for future treaty making processes.

## Conclusion

Drawing a clear conclusion on the effectiveness of the Convention on Cluster Munitions is a complex issue; its efficacy cannot be determined by the content of the Convention alone. There are a wide range of other factors affecting the prospects of an effective response from the CCM; in this essay I have attempted to outline and detail these factors.

I believe that if one takes the aim of the CCM as prohibiting the use of cluster munitions I would conclude that it will be largely effective at achieving this goal; as I predict that as a result of growing stigmatisation, the prohibition of the use of cluster munitions will eventually become a norm of IHL. This does not mean though, as with all IHL, that states will always adhere to this prohibition; and certainly does not mean NSAG will adhere either.

Regarding the signatory states I believe there is enough political will to uphold the Convention with regard to the state-

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parties. However, in my opinion the efficacy of the CCM is reduced significantly because it seeks too much to blend human rights with IHL and this has ultimately reduced its popular global support; in short it asks too much of state-parties and as such cannot expect non state-parties to be willing to assist in tasks such as clearing unexploded remnants to any greater extent than at present.

Finally, the conclusion of this essay is that the CCM is a strong document that sets out ambitious and laudable aims, but as a document of IHL it is too ideological and demands too much of its signatories; as such it has failed to gain full international support. Though the use of cluster munitions will eventually become too stigmatised to be viable, if this will be the only success of the CCM, I conclude that a stronger, binding agreement could have been reached through an additional protocol to the CCW. This would have been less ambitious in *scope* but much stronger in *practice*.

[i] N.B. This essay makes reference to cluster '*munitions*' due to the ability of such weapons to be deployed by a variety of missile and artillery systems, including submarine, and not simply the traditional aircraft-delivered cluster 'bomb'.

[ii] Even when munitions are not 'dumb' their usage in civilian areas cannot be considered 'discriminate' due to the wide dispersal area of sub-munitions.

[iii] Namely the US, Russia, China, Israel, Pakistan and India

[iv] Such as Pakistan's military offensive against the Taliban and Indian involvement in international peacekeeping and anti-piracy activities

[v] N.B. again here, one recognises that this is not the case for *all* NSAG violence, and indeed an opposite trend is being demonstrated by groups such as ETA and Hamas, but this point is assumed on the basis of the number of NSAG violent acts that do adhere to this trend and the scale of such violence relative to that of other NSAG.

[1] ICRC, 'Cluster Munitions: What Are They and What Is the Problem?' (Geneva: ICRC, February 2008)

[2] S. D. Goose, M. E. Garlasco & B. L. Docherty, 'Flooding South Lebanon – Israel's Use of Cluster Munitions in Lebanon in July and August 2006' (Human Rights Watch, February 2008) 19

[3] *Ibid*

[4] Geneva Protocol I 1977, Art 51(5)(a)

[5] n 1 above, 49

[6] ICRC, 'Cluster Munitions: What Are They and What Is the Problem?' (Geneva: ICRC, February 2008) 1; J. Corsi, 'Towards Peace through Legal Innovation: The Process and the Promise of the 2008 Cluster Munitions Convention', in *Harvard Human Rights Journal*, Vol. 22 (2009) 146-147

[7] F. Cochrane, 'Ending Wars' (Cambridge: Polity, 2008) 27

[8] B. Docherty, 'The Time Is Now: A Historical Argument for a Cluster Munitions Convention', in *Harvard Human Rights Journal*, Vol. 20 (2007) 67-68

[9] U.S. Assistant Secretary of Defense (Public Affairs), 'Cluster Munitions Policy Released' (Washington, DC: U.S. Department of Defense – Office of the Assistant Secretary of Defense (Public Affairs), July 09 2008); *see also* R. Gates – U.S. Secretary of Defense, 'DoD Policy on Cluster Munitions and Unintended Harm to Civilians' (Washington, DC: U.S. Department of Defense, June 19 2008)

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[10] Human Rights Watch, 'Fact Sheet: Cluster Munitions Information Chart' (HRW, April 2010)

[11] n 5 above, *passim*

[12] J. Corsi, 'Towards Peace through Legal Innovation: The Process and the Promise of the 2008 Cluster Munitions Convention', in *Harvard Human Rights Journal*, Vol. 22 (2009) 147

[13] United Nations General Assembly, 'Problem of Remnants of War—Report of the Secretary General' (New York: United Nations, October 1983)

[14] n 16 above, 147-148

[15] n 16 above, 149

[16] BBC News, 'Cluster Bomb Ban Treaty Approved' (BBC News, May 2008) (accessed via: <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/7423714.stm>)

[17] J. F. Burns, 'Britain Joins a Draft Treaty on Cluster Munitions', in *The New York Times* (May 29 2008)

[18] Cluster Munitions Convention, 'Who's Joined the Convention on Cluster Munitions?' (CMC, May 2010)

[19] Convention on Cluster Munitions 2008, preamble

[20] n 23 above, Art 2(1)

[21] n 16 above, 154

[22] n 23 above, Art 4(4)

[23] Human Rights Watch, 'Twelve Facts and fallacies about the Convention on Cluster Munitions' (HRW, April 2009) 5

[24] S. Myska, 'UK Seeks Cluster Bomb Exemption' (BBC News, May 2008) (accessed via: <http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk/7407564.stm>)

[25] n 27 above, 2

[26] M. P. Ajithkumar, 'India-Pakistan Relations: The Story of a Fractured Fraternity' (Delhi: Gyan Books: 2006)

[27] n 27 above, 1

[28] *Ibid*

[29] J. Abramson, '107 Countries Approve Cluster Munitions Treaty', in *Arms Control Today* (July/August 2008)

[30] n 23 above, Art 21(4)(d)

[31] n 23 above, Art 2(2)(c)

[32] n 28 above

[33] *Ibid*

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[34] J. Anzalone, 'The Virtue of Proportional Response: The United States Stance Against the Convention on Cluster Munitions', in *Pace International Law Review*, Vol. 22, No. 1 (Winter 2010) 154-185

[35] n 10 above

[36] R. Spencer, 'US Cluster Bombs 'Killed 35 Women and Children' (London: The Daily Telegraph, June 07 2010)

[37] n 18 above