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# **International Peoples' Tribunal of Conscience In Support of the Vietnamese Victims of Agent Orange**

## **EXECUTIVE SUMMARY OF THE DECISION Paris, May 18, 2009**

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The International Peoples' Tribunal of Conscience in Support of the Vietnamese Victims of Agent Orange met on May 15 to 16 2009 in Paris to hear evidence of the impact of the use of Agent Orange by the US military in Vietnam from 1961 and 1971. A summons and complaint announcing the Tribunal was sent to the United States Government, and the Chemical Companies which manufactured Agent Orange. Despite notice neither the Government nor the firms responded.

The Tribunal was constituted by the International Association of Democratic Lawyers (IADL). The Judges of the Tribunal came from every part of the globe: Jitendra Sharma, India; Judge Juan Guzman, Chile; Judge Claudia Morcom, USA; Professor Marjorie Cohn, USA; Dr. Gavril Chiuzbaian, Romania; Prof. Adda Bekkarouch, Algeria; and Attorney Shoji Umeda, Japan.

The Tribunal received evidence and testimony from 27 people including victims and expert witnesses. The testimony from the victims was very compelling and the testimony of the experts tied the damages that these victims suffered to their exposure to Dioxin. Testimony also described the extent of the spraying, the millions of persons exposed, the jungles and forests destroyed and families devastated.

After examining the evidence the Tribunal found that the United States Government and the Chemical manufacturers were aware of the fact that Dioxin, one of the most dangerous chemicals known to man, was present in one of the component parts of Agent Orange; yet they continued to use it and in fact suppressed a study which showed in 1965 that Dioxin caused many birth defects in experimental animals. It was not until the results of that study were released by a leak from concerned citizen that the use of Agent Orange was stopped.

### Considering that this Tribunal finds:

1) that the evidence presented to the Tribunal has established that during the war of USA against Vietnam, from 1961 to 1971, military forces of the United States sprayed chemical products which contained large quantities of Dioxin in order to defoliate the trees for military objectives;

2) that the chemical products which were sprayed caused damages to the people, the land, the water, the forest, the ecology and the economy of Vietnam that this Tribunal can categorize as:

a. direct damages to the people: The illnesses produced directly to the people who have been exposed to Dioxin include cancer, skin disorders, liver damage, pulmonary and heart diseases, defects to reproductive capacity, as well as nervous disorders;

b. indirect damages to the children of those exposed to Dioxin, including severe physical deformities, mental and physical disabilities, diseases and shortened life spans;

c. damages caused to the land and forests, water supply, and communities. The forests and jungles in large parts of southern Vietnam have been devastated and denuded, and may either never grow back or take 50 to 200 years to regenerate. Animals which inhabited the forests and jungles have become extinct, disrupting the communities which depended on them. The rivers and underground water in some areas have also been contaminated. Dioxin will persist in the environment for many years; and

d. erosion and desertification necessarily will change the environment contributing to warming the planet and the dislocation of crop and animal life.

### Considering also that this Tribunal finds:

1) that the US war in Vietnam was an illegal war of aggression against a country seeking national liberation: the illegality is based on Articles 2(3) and 2(4) of the Charter of the United Nations which require countries to peacefully resolve their disputes. The massive spraying of Agent Orange/Dioxin on the southern part of Vietnam and the massive bombardment of the northern part of Vietnam clearly demonstrates that the United States violated the UN Charter mandate to refrain from the use of force in international relations;

2) that the Nuremberg Principles define a war of aggression as a *crime against peace* punishable under international law;

3) that the use of Dioxin was a **war crime** because it was a poisoned weapon outlawed both in customary international law and by the Hague Convention of 1907. [Hague Convention 23(a)]. Violations of the customs and laws of war are considered **war crimes** under Principle VI b of the Nuremberg Principles. The Chemical companies knew how their Dioxin-laced products would be used in Vietnam; yet they continued to manufacture and supply these agents with very high levels of Dioxin to the US government. By providing poison weapons the companies were complicit in the war crimes committed by the US government;

4) that the use of Dioxin was a **crime against humanity** as defined by VI c of the Nuremberg

Principles, because it **constituted an inhuman act done against a civilian population** in connection with a crime against peace and war crimes;

5) that the use of illegal weapons in an illegal war has caused the devastation described above. These crimes have produced so much pain, suffering and anguish to at least 3 to 4 million people and their families. The effects of these crimes will be felt for generations to come; and

6) that the time has come to provide an adequate remedy to the Vietnamese victims of Agent Orange and their families and to repair as much as possible the environment of Vietnam.

### **CONCLUSIONS:**

This Tribunal finds:

1. that the United States Government is guilty of the offenses listed above and determines that the damage to the environment of Vietnam can be defined as **“ecocide”**;
2. that the Chemical companies who were charged in the summons and complaint are guilty of complicity in the offenses listed above; and
3. that the United States Government and the Chemical companies which manufactured and supplied Agent Orange must fully compensate the victims of Agent Orange and their families. The US Government and the Chemical companies must also repair the environment to remove the contamination of Dioxin from the soil and the waters, and especially from the “hot spots” around former US military bases.

To complete the above task of compensation and repair, the Tribunal recommends that the **Agent Orange Commission** be established to assess the amount of compensation to be allocated to each victim, family group, and community.

The Agent Orange Commission will also determine the amount necessary to provide specialized medical facilities and rehabilitation and other therapeutic services to the victims and their families.

The Agent Orange Commission will also estimate the costs of the necessary studies of contaminated areas and the cost of environmental repair in the future.

The Agent Orange Commission will also determine the amount to be paid to the State of Vietnam to indemnify it for monies it has expended to support the victims and repair the environment.

The Tribunal urges the Government of the Socialist Republic of Vietnam to forthwith constitute such Agent Orange Commission of people of eminence in the fields of medicine, science, engineering, law, epidemiology, agriculture, toxicology, ecology, public administration, and representatives of civil society. The Agent Orange Commission shall make its recommendations within one year of its constitution.

Once the Agent Orange Commission has established the requisite amounts, those monies shall be paid by the United States Government and the Chemical companies jointly and severally to a trust fund specially created for present and future victims and their families, and repair of the environment. **The amount of \$1.52 billion a year being paid by the United States Government to**

the US Vietnam veteran victims of Agent Orange can be employed as a guide for the calculations performed by the Agent Orange Commission.

The full report of the Tribunal along with this Executive Summary shall be submitted to the Vietnamese Government within 4 weeks and will be published in full and widely distributed in the International community.

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