

# FORM GENEVA CIRCLES

*for  
civilian  
defence*



G U I D E  
T O T H E  
G E N E V A  
C O N V E N T -  
I O N S A N D  
T H E I R  
U S E F O R  
C I V I L I A N  
D E F E N C E

by Keith  
Mothersson

with edited  
text and refer-  
ence to the  
1957 Act and  
the 1977 Addit-  
ional Protocols

COVER

The man on the front cover holding the (added) poppy was lifted with thanks from David Massie's moving collection of 'Russian Self-Portraits' (Harper and Row, N.Y., 1977).

He probably lost relatives as well as his leg in the siege of Leningrad in which a million Soviets died (more than the combined fatalities of the Western Allies).

In 1941 Hitler ordered Leningrad to be 'wiped off the face of the earth'. Five years later the Allies handed his generals for trying to carry out such criminal orders.

In 1949 Britain co-signed the 'Red Cross Conventions' giving special protection to various non-combatant categories including wounded, sick and infirm, elderly, expectant mothers and health workers.

Yet we who benefitted from the bloody Red Army victory over most of the Nazi war machine are 'represented' by a government with a lawless 'defence' posture involving instant readiness to 'wipe out' this war veteran and his city, and to poison irreversibly the world he and all the Allies fought for.

The poppy is a red one.

NON-COMBATANTS OF THE WORLD UNITE !

\*\*\* \*\*\* \*\*\* \*\*\*

DEDICATION

I dedicate this pamphlet and kit -

\*\*\* to the memory of Raafat el Ghoussein, aged 18, Farah Sharmit, aged 9, and all the other civilian victims of FI-11's flying from Mildenhall to Tripoli, April 15th, 1986;

\*\*\* to all peaceful noncombatants now and for ten thousand generations;

\*\*\* and to loyal soldiers everywhere who take up arms to defend their MOTHERLAND OF CIVILIAN LIFE and who will work (in the words of the British Manual of Military Law) "to foresee and avert" the commission of grave war crimes.

Keith Mothersson, Edinburgh, AUG'88

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- (C) EXCERPTS FROM ADDITIONAL PROTOCOL I, 1977, with notes. (four sides)
- (D) SUGGESTION FOR HOW WE CAN USE THIS POSTER KIT (two sides)
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CONTENTS (of the GENEVA CIRCLES POSTER KIT)

- (1) Posters - eleven per kit
- (2) 'NO PREROGATIVE TO POISON !' - ANTI-NUCLEAR STUDY COMPANION ON LAW, PEACE AND NONCOMBATANT RIGHTS - one per kit
- (3) This Pamphlet - ten copies per kit.

EXTRA COPIES of the KIT available £10, of posters 40p each, of this pamphlet 40p, of the Study Companion £1 to £5 Please add a bit for postage, cheques to Keith Mothersson, 1B Savile Terrace, Edinburgh EH9 3AD.

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CREDITS

This Poster Kit was conceived and designed by Keith Mothersson with technical help from Steve 'Aldgate', Fly Press of Brixton and Brunton and Williams of Sidecup, Scramble Graphics; Heather Maxion and Murray; Val Remy and the Environment Centre.

I would also like to thank the following for donations, soft loans and/or advance orders: Fishguard CND who financed my appeal for funds; Roger Franklin, Elizabeth Coleman, Tripoli Bomb Plot Prosecution Group (courtesy the el Ghousseins), Colin Archer, Ed Stanton, Pax Legalis, Quaker Peace and Service. Also S.J.Cox and Joyce Pickard (whose addresses I've lost), Sarah and Harry Crann, Jean and Colin Paton, Ray Newton, Moira Baikle, Edinburgh and Hamilton CNDs, Andrew Riddell, Peter Burt, Anna Sadler, Bruce Kent, Helen Dougall, Evan Proud and even Neurig Devonald my Fish-guard dentist who chipped in a fiver ! My thanks to all with apologies for how long the project took to complete.

# ENFORCE THE LAW



## Geneva Conventions Act 1957

The GENEVA CONVENTIONS of 1949 are a set of four treaties which extend protection in war-time to various categories of noncombatant.

The GENEVA CONVENTIONS ACT of 1957 brought some of their key provisions explicitly into British statute law.

The ADDITIONAL PROTOCOLS of 1977 built on the Geneva Conventions. They codified existing international humanitarian law of armed conflict and extended it in some very significant respects.

Although from a moral point of view these additional Geneva Protocols are much the best set of written rules, from the point of view of getting the British courts to enforce the law of war we will do better to concentrate on the GENEVA CONVENTIONS ACT.

Although it was passed by a government which possessed nuclear 'bombs' (poison machines), when it was being debated in Parliament there was no claim that the protection of the conventions should be withdrawn from noncombatants in nuclear war. Indeed the reverse was stated.

Recently increasing numbers of people concerned for the rule of law and for peace have begun to press for the enforcement of the Act against obvious breaches by those responsible for UK defence policy.

Some have done so by 'laying of informations' at a magistrates court, others by citing the Geneva Conventions being broken as a reason to justify non-payment of war taxes or why they were justified in using 'reasonable force to stop crime' at nuclear bases. Others again have 'gone to the top' to apply for permission to prosecute under the Act of 1957.

Since the words of the Act are plain our collective failure (hitherto) to have it enforced speaks volumes about the secret constitutional crisis lurking under the smooth and self-satisfied surface of British public life : do we have a government or a junta these days ?

WHOEVER YOU ARE READING THIS - member of the police or armed services, civil servant or 'spook', magistrate or judge, or plain Jill or Jo Public - "WE HOPE YOU'LL JOIN US,  
THAT THE WORLD MAY BE AS ONE."  
You each have a special part to play.

### THE 1949 GENEVA CONVENTIONS

(1) These treaties are supported by almost every state in the world and no State has ever made use of the clause allowing it to opt out after one year. This virtual unanimity across the globe means that their principles have become part of customary (not just treaty) international law.

This means that they are now binding between all the nations, whether signatories or not. Moreover, in the late '40's British diplomats and Nuremberg prosecutors were still boasting that customary law of nations was binding within Britain as well, i.e. directly applicable in British courts.

(2) During negotiations an attempt was made to introduce an explicit ban on nuclear weapons. It was voted down as belonging more to the Law of the Hague (methods of warfare) rather than to the Law of Geneva (protecting noncombatants).

Nevertheless the implications were plain to see and by the following Spring the body which had convened the Diplomatic Conference which had resulted in the Conventions, the International Committee of the Red Cross, was writing to the great powers begging them to take the next logical step and to come to an agreement to ban atomic weapons and other 'blind weapons' which would inevitably cause unnecessary suffering.

(3) At the close of the conference the delegates passed ten supplementary resolutions of which: (I) recommended that in case of a dispute relating to the interpretation or application of the Conventions, the parties should agree to go to the International Court of Justice at the Hague.

: (VIII) expressed the hope that the Conventions would never be needed because the machinery for the peaceful settlement of disputes would be respected the world over " so that peace shall reign on earth for ever".

In preparing the present text the author gratefully acknowledges the helpful legal expertise afforded him by the INSTITUTE FOR LAW AND PEACE. However he alone is responsible for the use made of InLaP's advice.

(4) Unlike many previous treaties these conventions were made binding 'in all circumstances'. In addition, explicit prohibitions were built in on reprisals against protected persons. These articles mean that even if the rulers and military of Country A begins to kill the harmless people of Country B (and C to XYZ), the rulers and military of Country B (etc) are not entitled to take it out on the harmless noncombatants and ex-combatants of A (or C to Z). In this sense noncombatants are all bound together the world over in one Humanitarian International.

(5) The Conventions apply to cases of international conflict even where war has not been declared. In Common Article (3) they also went some way to providing a minimal code for the conduct of regular State or non-State armies e.g. in civil wars and wars of liberation and secession (e.g. in Northern Ireland).

#### (6) THE RATIONALE BEHIND THE CONVENTIONS

Many people talk loosely of the immorality of killing 'innocent people'. However the principle behind the Geneva Conventions - and of the laws of war generally - does not turn on guilt and punishment or 'goodies and baddies', but on the idea of defence against harm.

The Principle of Military Necessity permits hostilities against those who can harm 'our side' ('enemy' soldiers and by extension civilian arms workers) even innocent conscripts. But it is impossible (not just immoral) to 'defend' against people who aren't out to harm one. So by the same token the Principle of Military Necessity prohibits harming the harmless - even though many of them may have been 'guilty' of agitating for a war of aggression.

The aim of hostilities is not mindless slaughter but to neutralise military danger by putting soldiers 'hors de combat' and their military infrastructure likewise out of action. This can be done by minimum force so as to wound or by lawful ruses and propaganda so as to induce surrender, strikes, etc.

As soon as combatants are wounded seriously or as soon as they put their hands in the air they instantly move from the status of combatant to that of noncombatant. This means that it no longer conforms to military necessity - nor military law, nor military honour - to kill them - or even to cause them suffering (even if they have 'just got my buddy'). Of course if they should again resort to force they would then ipso facto lose their Noncombatant status.

#### (7) WHO ARE THE PERSONS PROTECTED BY THE CONVENTIONS ?

Unfortunately it was impossible to achieve consensus at Geneva in 1949 (at the height of the Cold War) on a blanket protection of Noncombatants as such. Grave breaches are defined as the wilful killing of 'protected persons' or inflicting mental or physical suffering on these 'protected persons'. But not all the various categories of noncombatant fall equally well into this status of 'protected person'.

In order to help you work out who is and isn't protected under these conventions I will invite you to jump in and out of a time machine and imagine that the Geneva Conventions of 1949 had come into general acceptance in 1939. Passages in square brackets [ ].

7.1 The first three conventions cover three categories of harmless military personnel, or ex-combatants: **WOUNDED AND SICK IN THE FIELD; WOUNDED, SICK AND SHIPWRECKED AT SEA; and PRISONERS OF WAR.**

[From the text of the Convention it appears that this would have made it a 'grave breach' (war crime) not just for the Japanese to kill U.S. or Korean prisoners of war in Japan, but also for the U.S. to have incinerated tens of thousands of Allied POWs (mainly Koreans) in the nuclear and non-nuclear firestorms they created in 1945.]

7.2 Also protected are **NON-PARTISAN RELIEF AGENCIES** such as the Red Cross and Crescent and **CHAPLAINS** attached to the armed services.

7.3 All four Geneva Conventions protect **MEDICAL WORKERS**, from footsoldiers temporarily formed into a unit of stretcher-bearers at the front to hospital administrators and ambulance drivers in the rear. Also protected are the **HOSPITALS AND MEDICAL EQUIPMENT** necessary for them to do their humanitarian work. Unless used to shield military operations they must be spared, **EXTENSIVE DESTRUCTION** and appropriation of property, **NOT JUSTIFIED BY MILITARY NECESSITY AND CARRIED OUT UNLAWFULLY AND WANTONLY**. (Indeed Pic-tet's Commentary states that deliberate destruction of even a single hospital would count as a 'grave breach'.)

7.4 So far as **CIVILIANS** are concerned the picture is more complicated. According to the Fourth Convention most **CIVILIANS IN OCCUPIED TERRITORY** are protected from attacks and from reprisals. The occupiers are under a special duty to protect women and children. However there are some exceptions:

- (a) citizens of nations that are at war with 'us';
- (b) citizens of States not party to the conventions; and
- (c) those already protected under one of the other three texts.

[Germany would have been guilty of grave breaches of the Convention when the SS killed the villagers of Oradour. But Britain would almost certainly have fallen foul of the text when Bomber Command flattened Le Havre and Dunkirk or when on March 3rd 1945 40 medium bombers of the 2nd Tactical Air Force dropped incendiary bombs on the Bezuidenhout working class district of the Hague, killing 800 inhabitants.]

#### 7.5 CIVILIAN FOREIGNERS IN COMBATANT NATIONS

The most disappointing feature of the Civilian Convention concerns protection for civilians in **TERRITORIES OF THE PARTIES TO THE CONFLICT**, [e.g. for the U.K. in WW2 civilians resident in Germany and Italy and other Axis countries].

Civilian foreigners of signatory nations who 'in any manner whatsoever find themselves in the hands (Pictet says territory) of a party to the conflict of which they are not nationals' are protected. However now neutral civilians must look to diplomatic channels for protection, not to these conventions.

[Assuming all countries had signed the Conventions in 1939 this would mean that Germany would have been bound to refrain from maltreating British or Russian detainees - and vice versa. Arguably it would also mean that Germany should refrain from bombing German detainees in London, say, and the RAF should refrain from the wilful killing of British or Russian or French civilians detained or resident in Berlin.]

7.6 CIVILIAN NATIONALS IN THE HOMELANDS OF THE WARRING PARTIES  
This most numerous category of civilians are not protected as such in the Geneva Conventions of 1949. However they remain under the general protection of international law, including the Hague Conventions of 1907, the Martens Clause about 'the laws of humanity and the dictates of the public conscience', and now after 1977 the Protocols Additional to the Geneva Conventions.

7.7 SPECIALLY HARMLESS CIVILIANS IN WARRING COUNTRIES  
However Part II of the Civilian Convention did set up some specific sub-categories who are protected: WOUNDED AND SICK CIVILIANS, THE INFIRM AND EXPECTANT MOTHERS - plus of course the medical workers and their infirmaries already noted. The rationale seems to have been that children can run reconnaissance errands, and grow strong enough to fight, peaceful bus drivers can be conscripted to drive tanks but the categories named above were deemed to be either incapable or unlikely to be free to enter the fray of combat. (Of course if they did they would lose their protective status of harmless noncombatants.)

[This would have made it a grave breach to have bombed Dresden, in preparation for which the red crosses signifying hospitals, sanatoria and infirmaries which dotted the earlier editions of the maps and photographs of Dresden were removed from the maps used in planning the Dresden raid. Although the deaths of hospital invalids were doubtless not desired as such, the actions which would probably raise a firestorm in the non-industrial heart of the city which would then inevitably kill many thousands of invalids and nurses (etc) were deliberately carried out and would hence have counted as "WILFUL KILLING" of these invalids.]

Moreover Article 13 makes it clear that these harmless and healing civilians are to be spared wherever they are in the territories of the parties to the conflict - and regardless of race, religion, political opinion or nationality.

In other words if Britain were to bomb Moscow (to change the scenario) this would be a breach of the Geneva Conventions if the means used incinerated Russian or any other invalids and health workers in Moscow, or if it poisoned them OR IF THE POISON BLEW BACK AND POISONED BRITISH (and FRENCH AND SWEDISH)

WOUNDED AND SICK, INFIRM, AND PREGNANT MOTHERS IN BRITAIN ALSO! And this is all the more serious because these are most of the categories of people MOST AT RISK FROM RADIATION, and also because it is triple impossible to 'defend ourselves' against the unborn who will remain vulnerable to plutonium attack for thousands of generations worldwide, following the atomic bombing of 'Moscow'.

Even if no physical harm was done to these harmless and healers, or other protected persons such as POWs and Civilian detainees, imagine the spiritual anguish and mental stress which would accompany witnessing the destruction of one's native city or hearing of the incineration of one's mother/motherland/Mother Earth! This too would count as a war crime - 'wilfully causing (protected persons) GREAT SUFFERING...or SERIOUS INJURY TO BODY OR HEALTH' (Art. 147 and the other 'Grave Breach' articles).

## 8. SEPARATION OF MILITARY ACTIVITIES FROM CIVILIANS

The parties promised to co-operate in segregating military activities, including production of arms, from peaceful civilian life. Following the success of neutralized zones negotiated in Madrid and Shanghai in 1936-37 and in Jerusalem in 1948, Article 15 provided for the declaration of neutralized zones in which no work of a military character must be performed. Article 14 provides for the creation of Hospital and Safety Zones which can be set up as enclaves in the areas of actual fighting and in which such vulnerable sectors of the population as the sick, old and young can take refuge.

Failure to segregate military 'objects' (targets) from peaceful civilians does not confer immunity from attack on military objects. However such a failure would not erode the obligation on the opposing military to 'respect and protect' the special categories of civilians and hospitals 'in all circumstances'.

## 9. THE RED CROSS EMBLEM AND NON-PARTISAN PRINCIPLES

The 'States party' (to the Conventions) also agreed on regulations designed to preserve the moral authority of the Red Cross/Red Crescent emblem. Their aim was to curb cases of 'perfidy' in which, as had happened, guns had been run at the front in ambulances or even Zyklon B poison gas pellets had been delivered to Auschwitz in Red Cross vehicles! They also aimed to stop the Red Cross emblem being used in commercial advertisements and dragged into the mire of party political propaganda - something which Norman Tebbit recently accused the Labour Party's Health Campaign literature of doing.

The Conventions are and must be **IMPARTIAL** and **NEUTRAL** as between the signatory nations, their military forces and their populations. 'The red cross emblem is intended to signify one thing only - something which is, however, of immense importance: respect for the individual who suffers and is defenceless, who must be aided, whether friend or enemy, without distinction of nationality, race, religion, class or opinion.' (Official Commentary of ICRC, ed Pictet, I, 305)

But this does **not** mean that the Conventions are 'impartial' or 'non-partisan' as between lawless behaviour of military personnel and civilians on the one hand and their suffering victims on the other. On the contrary, the 'Red

right to pursue the extradition of war criminals belonging to the victor nation (e.g. 'Bomber Harris, or Iraqi chemical weapons experts). The Conventions impose on signatories a duty to ensure respect for the conventions. They prohibit countries from absolving other countries from their obligations - which is pertinent concerning the British permission for the U.S. night bombing of co-signatory Libya's capital city!

Cross Conventions' are thoroughly partisan. For they take a clear-cut and committed stand on the side of these civilians and other non-combatants worldwide - from Mrs Tebbit (crippled in the appalling Brighton bombing) to Gorbachov's mum; from the victims of Bloody Sunday in Derry or Emiskillen to peasants and tribespeople suffering from guerilla shelling or government airstrikes in Afghanistan or the Philippines.

The true meaning of the Geneva Conventions and the Red Cross/Crescent is simultaneously NON-(party)-POLITICAL but yet radical. They are committed and partisan in one sense precisely in and through being non-partisan in another.

Unfortunately, no better method of checking abuse of the Red Cross emblem could be agreed on than for the governments to organise a monopoly on its use, display, reproduction, etc. Hence in nuclear nations we encounter the predicament of how to defend politically the moral authority of the red cross emblem without falling foul of those in Ministries of 'Defence' who would strain at our flea but appear to find their own institutionally-swallowed nuclear camel digestible enough!

## 10. UNCONDITIONAL NATURE OF OBLIGATIONS

The conventions are not just contracts dependent on reciprocity and national interest - rather a solemn affirmation of principles respected for their own sake, a series of unconditional engagements on the part of each of the contracting Parties vis-a-vis others. (emphasis added)

[The prohibition of reprisals] is absolute and mandatory in character and cannot be interpreted as containing tacit reservations with regard to military necessity.

The solemn and unconditional character of the undertaking... must be emphasised. To infringe this provision with the idea of restoring law and order would only add one more violation to those with which the enemy is reproached. (ICRC Official Commentary, Vol IV, regarding articles 1 and 33)

## 11. MEANS OF ENSURING RESPECT

Having set the strictest humanitarian limits on the use of reprisals, the Geneva conference relied on other methods of ensuring respect for the law. Nations at war with each other could communicate through third and fourth parties - designated 'protecting powers' - if they had complaints. These Protecting Powers would work to raise reported violations of the conventions with the alleged guilty party, prompting investigation and corrective action where necessary. If Protecting Powers feel that their diplomatic approaches are getting no results the possibility exists for them to 'go public' which world opinion is likely to set more store on than if the victim nation itself were to be complaining of violations.

In addition to their duty to stop infractions (rule-breaking) the States party accepted an obligation to punish those guilty of 'grave breaches' (i.e. breaking the most serious rules) whatever their nationality - or else to extradite alleged offenders.

The conference also moved to prevent 'peace treaties' in which victor nations imposed terms on defeated nations which forced them to forfeit their

## THE GENEVA CONVENTIONS ACT, 1957

1.1. Background. On July 31st, 1957 the G.C.Aot entered into law with all-party support. In the aftermath of the Suez invasion the Conservative administration finally agreed to make time to ratify the 1949 Conventions as they had long been pressed to do by the ICRC. The British Red Cross Society and its many allies in British public life, among them MPs Joan Vickers, Fenner Brockway, Elwyn Jones and Dame Irene Ward. Also prominent in debate in the Lords were the Earls of Limerick and Woolton, Lord Alexander and the prestigious expert in international law, Lord McNair.

1.2. Each of the Conventions had contained a common article in which signatories had undertaken 'to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed (N.B.) grave breaches' and in general to take the 'measures necessary to repress abuses and infractions short of the grave breaches defined in the Conventions'. Accordingly, prior to ratification, a review of the provisions of the treaties was undertaken, presided over by Viscount Kilmuir, the Lord Chancellor. It was decided that all Britain's obligations 'could be dealt with administratively' except for three areas where change in British statute law would be needed to 'enable effect to be given' to the conventions.

1.3 (a) On the plane of international law the years after WW2 had seen war crimes declared to be 'universal crimes'. This meant that they were to be treated like piracy - crimes with personal responsibility and which entailed the co-operation of all nations to ensure that there should be 'no hiding place'. Recent years have seen similar conventions to deal with non-governmental 'terrorists', e.g. air hi-jackers.

British courts nearly always disclaimed jurisdiction over murder when carried out abroad by foreigners - so the law needed to be changed. Yet grave misgivings were voiced about Britain 'with Her liberal traditions' giving in to 'politically motivated' requests for extradition from countries 'where a fair trial would be in doubt'. (Perhaps there was also a worry not voiced: that the Soviet Union would be able to demand the extradition of men like Klaus Barbie who had traded anti-communist usefulness for immunity from prosecution for their undoubted warcrimes against the peoples of occupied Europe - though in Barbie's particular case he hadn't settled in Britain. Changing the law would thus legitimise extradition refusals and facilitate cover-ups in 'sensitive cases'-motives the reverse of the spirit of Geneva.)

1.3. (b) Legal safeguards were provided for the trial of those accused of 'grave breaches' and also of alien POWs and internees accused of any offences (sections 2 to 5 of the Act).

- 1.3(c) Section 6 gives the Defence Council control of the Red Cross sign.
- 2.(a) Section 1 falls under a heading 'Punishment of offender against conventions', and is itself headed: 1. Grave breaches of the scheduled conventions. Sub-section (1) begins: 'Any person, whatever his nationality, who, whether in or outside the U.K., commits, or aids, abets or procures the commission by any other person of, any...grave breach....'.

To procure means to see to it that something happens, to bring it about, to engineer an outcome. However in law you can't be guilty of aiding, abetting or procuring unless the main crime has been carried out. By contrast with these secondary or ancillary modes of participating in a crime are what are known as the 'inchoate' offences which you can be charged with even if the main crime hasn't been completed. So, given that our whole interest lies in prevention, not punishment, we will have to rely on the three main 'inchoate' offences: Attempt, Incitement and Conspiracy to commit a grave breach of the Geneva Conventions.

Attempt means being about to embark on execution, something more than merely preparatory, and is governed by the 1981 Criminal Attempts Act.

Incitement is a common law offence, defined by precedent and the courts, not by any statute. It covers a wide range of meanings from ordering someone with threats and inducements to do something to an implicit proposal conveyed with a nudge and a wink. The prosecution need not establish that any specific person actually went on to do the main offence e.g. the case law in which gay newspapers were done for running homosexual contact lists.

Conspiracy is defined in the Criminal Law Act, 1977, s.1 in terms of making an agreement with any person or persons, that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions...will necessarily amount or involve the commission of any offence or offences by one or more of the parties to the agreement.... This can include conditional conspiracies where the agreement is to do one of two courses of action, one of which involves an offence either as a means to an end or as the end. In the case of nuclear 'deterrence' either that the government and armed forces have lawful intentions in respect of 'keeping the peace', should not be seen as shielding them from also having a guilty collective mind and plans to threaten to kill and in some circumstances to commit grave breaches of the Geneva Conventions.

Other ways of being guilty before the completion of the main crime are:

Conspiracy to aid, abet, counsel and procure an offence;  
Incitement to (likewise); and Attempting to incite the commission of offence.

2.(b) Willful killing. Section 1 (1) of the Act incorporates into British law the 'Grave Breach' articles of the four Conventions (Arts 50, 51, 130, 147). These refer to willful killing and willfully causing great suffering to body or health - in both cases of the specially protected persons. 'Willful' does not mean personally desiring the deaths of individual 'Genevans', e.g. maternity cases in Moscow hospitals. It simply means that their deaths aren't due to an unforeseeable accident but stem from an act which is deliberately carried out and which was always likely to cause the deaths or suffering of 'Genevans' as well as 'enemy'. (Of course this 'regrettable' indiscriminate nature of the Polaris threat is precisely what accrues welcome 'strategic' leverage to UK warlords. Don't shoot or I'll kill the gal.)

3. Like Nuremberg the Geneva Conventions were achievements which flowed out of the sacrifices of millions in a war which Churchill always declared to be for the securing of peace in the world and restoration of the rule of law. What right have we to salute the heroism of those who laid down their lives if, out of fear or dogma, we squander their bequest to us and future generations?

It is therefore of vital importance that more and more members of our services know the GC Act and Conventions and the law on 'inchoate' crimes so that their civilian and military commanders cannot contemplate issuing or transmitting manifestly unlawful commands without a greater and greater possibility passing through their minds that they will be arrested - even in some unavoidable circumstances shot. I call this deterring, deterrence, ie deterrence, through the law, of unlawful(nuclear-poison-plot)'deterrence'. Or Law as part of SDI - societal defence initiative.

4.(a). GETTING INTO COURT If we expect the men and women of our armed services to take these laws with deadly seriousness, we too must bestir ourselves to validate the plain meaning and intention of the Geneva Conventions by going to our courts to get the laws enforced.

Immediately, however, we come up against the first of many procedural difficulties: section 1(3) of the Act provided that:

'...proceedings...shall not be instituted in England except by or on behalf of the Director of Public Prosecutions...'

The DPP works directly under the Attorney General who is a semi-detached member of the Cabinet (usually) and always appointed by the Prime Minister. Similar consents or fiats are needed in Scotland and Northern Ireland - though from the Lord Advocate and the Attorney General for Northern Ireland. So sooner or later we will have to overcome this obstacle (using this Act).

4(b) However this does not mean that we cannot go to court prior to the formal institution of proceedings. We can still ask for a warrant to be issued against Margaret Thatcher or The Prime Minister (not the same thing in law) or against Younger/Secretary of State for Defence. If we ask for a mere summons we could be accused of not being serious - given the gravity of the ongoing conspiracy/incitements we are alleging. Moreover the magistrate's clerk would be within his rights to bar our path to the bench. The clerk must arrange a hearing before one or more magistrates where we can lay our informations substantiated on oath.

Because we are alleging - with prima facie supporting expert witness statements - continuing, inchoate offences, uncompleted crimes, there is a special warrant we can ask for: 'warrant backed for bail in the defendants own recognisance and without surety', but which requires the pre-defendant on whom it is served to meet any attached requirement - in this case that they agree not to conspire or incite to breach the Geneva Conventions Act. This is a kind of injunction in criminal law. (Magistrates Courts Act 1980, s 117, sub-s 3; Bail Act 1976, ss 1 and 3, sub-s 6. See Snowball/INLAP guides.)

The advantage of this is that it makes it easier for the magistrate(s) to contemplate 'issuing process' - rather than issuing a warrant to have the PM banged up in Risley pending our application for a fiat and committal proceedings. So its fair to her. Its fair to us because it 'preserves our cause of action'. And its fair to the DPP because it still leaves it up to him whether

to decide that a prosecution is warranted having regard to the public interest and working on the basis of guidelines set by his 'superiors'. So long as our informations and expert witness statements disclose a prima facie case of an offence known to law then this procedure is also fair to the justices - who are in any case sworn to uphold the law without fear or favour. We are not asking them to usurp the role of the DPP - quite the contrary. Nor are we asking them to express any kind of personal political beliefs but rather to assess our information(s) from a technical and evidential standpoint. We are using, not 'abusing', the processes of justice of our society.

5. PAX LEGALIS A group of four ordinary citizens in Mold, Clywd, also decided to put their faith in the law and to see what happened. (This recalls the legal adage that in every case the law and the legal system are also on trial.) Over three years they contacted solicitors, barristers and sympathetic academics finally amassing a vast pile of the most chilling documentary evidence to back the affidavits of their expert witnesses. (All this work is now available for others to draw on.)

On June 9th, 1987 they submitted to the DPP's office a full-scale request for his consent for prosecutions of the Prime Minister and Secretary of State for Defence for conspiring with Reagan and others to commit grave breaches of the Geneva Conventions and for conspiracy and soliciting to murder. When these consents were refused they applied for Judicial Review of the decisions of the DPP and Attorney-General on the grounds that, having regard to the nature of the crimes alleged, 'no reasonable consideration of whether to prosecute for such offences, where there is a prima facie case, could possibly result in a refusal to do so'.

On Oct 21st 1987 their barrister attempted to persuade Justice Simon Brown 'that one cannot imagine the policy considerations which could begin to outweigh the necessity to prosecute for these offences'. The judge granted, for the sake of argument, that some decisions of the DPP and A-G were reviewable in exceptional cases. He also conceded the possibility that arguable prima facie criminality existed in the 'deterrence' policies being pursued:

'The true hurdle which the applicants face... is to establish that merely because possession of a nuclear deterrent involves arguable criminality in international or domestic law it follows as the night the day that the only proper exercise of power by the A-G is to allow that matter to be litigated to its conclusion by placing [them] in a criminal dock.... I am wholly unable to accept the proposition that it is impossible to conceive of lawful, rational considerations leading the A-G in these circumstances to decline his fiat.'

Pax Legalis had not denied that there are some cases in which the law officers can legitimately decide not to prosecute e.g. a firearms amnesty. However such cases are very different from refusing to allow one's own colleagues to clear their name in a situation where the firearms (poison machines) continue not to be handed in. Nor is mere static possession the issue. Evidence Pax Legalis had submitted pointed to a whole series of preparations, deployments and threats which went far beyond any arguably lawful mere possession. The judge had no business to introduce the terms 'defence' and 'deterrent' into his judgment. Exonerating on what is not charged defies the groundrules of natural justice. Defence was exactly what Pax Legalis were not complaining of!

If the laws are considered contrary to the public interest then let the government bring the necessary legislation to repeal them (a Global Poisoning Permissive Powers Act, for example). Doubtless they would find this very embarrassing, just as Hitler would have been discomfited if the German judges had forced him to publicly repeal the existing laws - on the books, but not enforced - outlawing murder, kidnap and slavery. Until then the executive and the judiciary are subverting our Parliamentary constitution if they connive in the secret 'putsch' of extra-parliamentary repeal of the laws of the land that they are sworn to uphold. Winning an election is not a license to grant oneself a five-year 'dispensing power', contrary to the Bill of Rights of 1688: NO POWER IN THE CROWN TO DISPENSE WITH THE LAWS OF ENGLAND!

Of course this sort of case is in one sense a political business. So are rape and ballot-rigging. But if we go to the police, courts or law-officers complaining of these activities we do not expect to be told that the matter is 'political', 'non-justiciable' by the courts and we should go to Parliament with our complaint. By passing the Geneva Conventions Act Parliament has already dealt with it - and they passed the question of killing harmless non-combatants to the courts to judge of!

Pax Legalis feel indignant at the way the legal system has dealt with their case - or rather refused to deal with it. They continue to believe in the law but consider that the law-officers and judges are refusing to apply and enforce the law. For reasons of cost (inter alia) they have decided not to go to the European Court of Human Rights under the European Human Rights Convention of 1948: Right to Life protected even in war with the exception only of deaths resulting from lawful acts of war; Right to an effective remedy before a national authority - Articles 2, 15 and 13. This is in many ways a pity since conditional preparations to poison all Europe can hardly be said to be the exclusive concern of the UK, whatever insular arguments about exclusive sovereignty over national 'defence' would be raised.

Pax Legalis are seeking to raise the constitutional issues flowing from their case, both in Parliament and the country. We should also note the great significance of the judge declining to instance any of the 'lawful, rational considerations' which might decide the DPP or A-G not to prosecute. Perhaps they warned their colleagues to cease all nuclear-poison-plot preparations within a year (say), else they might grant their fiat in future. So fresh and repeated efforts to secure prosecution consents from the current A-G and DPP cannot be impuned as inevitably fore-doomed - at any rate until reasons are given it is not us who will be acting unreasonably!

#### ADDITIONAL PROTOCOLS, 1977

These build on the Conventions in various ways and mark a confluence between the laws of war and the law of human rights. They greatly expand the protection given to civilians against combat operations - not mainly in occupations. Precautions are spelled out for planning or executing military attacks so that civilians are not endangered. 'Methods and means of warfare which may be expected to cause widespread, long-term and severe damage to the natural environment' are outlawed (Art.35,3). This is now such a fundamental norm of customary international law (jus cogens) that it is binding on all States irrespective of non-signature or purported 'reservations'. Signatories promised that all military commanders should have legal advisors.



## USING THE GENEVA CONVENTIONS

Nuclear poisoning and risking nuclear winter are the ultimate nihilism. That is to say they threaten every value that people have ever stood up for or tried to enshrine in legislation. Nuclear 'preparedness' violates our way of life and (not surprisingly when one thinks about it) many, many Acts and clauses of laws (see below).

As citizens we have a right and a duty to stop crime and we have bona fide legal grounds for bringing informations charging offences under many laws - our long SEIGE FOR JUSTICE. But which to concentrate on, which to bring first? The reason I see the Geneva Conventions Act as particularly useful to lead with is not 'political' as opposed to legal, but it is because of the scope they offer us for pluralistic organisation and outreach.

Around a unified focus each social sector can come forward with its own insights, style and dignity. Within a single broad conception each group can exert its own special kind of moral authority, while at the same time enhancing the special message of all the other sectors. Only 10 specific people invoking the Geneva Conventions can have the impact of thousands in some disorganised 'demo'. Having said this, I also believe that the Geneva Circle idea can provide a flexible format which can allow for the steady growth in numbers of people participating in a new kind of tri-generational non-partisan politics which affirms values no one disputes in ways fewer and fewer dare gainsay. With the GCs as a framework we can generate more and more legitimacy with which to expose the moral and legal bankruptcy of nuclear nihilism.

What follows are suggestions about how we can perhaps use the Conventions, poster kits and Geneva Circles. I'll sometimes use note form both to save space and to emphasise how unexplored and open are the possibilities disclosed by the idea of Geneva Circles and Poster Parades, etc. Over time we can develop a new kind of symbolic vocabulary which offers lots of scope for the creativity of all of us!

**POSTER PARADES** : Remember to allow enough space between posters. If the procession is part of a bigger demonstration, post an assistant to stop demonstrators pressing in or wandering through the parade. Prepare a leaflet to give onlookers. If we establish a regular pitch down the High Street or outside the court or police station, each parade can still have fresh interest for people if we ask different people to take their turn - 'Ooh, I never knew Mrs Smith was in with them ban-the-bombers, and there's Harry's cousin.'

**PHOTOCALL** : Post assistants at either side of the arc of 'take' to prevent dozy folk wandering through your photocall while you take plenty of time to get it just right. (Ask the group for permission for the photographer to be bossy!) If you buy Ilford XPI film it can be developed by a High Street mini Lab just like colour print film. For colour prints use E6, preferably 100 ISO.

**GENEVA CIRCLES** : Of course any ten people can carry the posters and stand in a circle. But I believe we will generate far more interest and respect if we take the time and trouble to seek out one (or more) in each protected category who can represent him/herself and her fellows. Once a Geneva Circle proper has been convened it should be possible to build on it for outreach to the various sectors so that next month or year there is a circle of circles, each clearly distinct with their own special message, style and dignity. Perhaps different sectors could wear different coloured ribbons. Instead of mass events with their anonymity and confusion we should concentrate on events (small or getting larger) with a definite internal structure which projects clear messages to on-lookers - and the clear meta-message: 'These people mean business!'

Each Geneva Circle can evolve into a Circle of Dignity with an opportunity for each member or sectoral representative to contribute what is on their minds and in their hearts, and to speak words of power, words of truth. Our aim is not simply to 'influence public opinion' with 'information'. It seems to me that our 'Geneva' education efforts should aim to touch new or long-forgotten nerves in the culture. They should aim to nourish public conviction, moving people from 'having opinions about' something to 'being about' something.

All of us can pool our ideas about how to stage our Geneva Circles with more and more heart, power and dignity. We may like to incorporate elements from the worlds of therapy, theatre and religion as well as the law and politics, e.g. passing of food and drink (Take, drink, we shall not poison you.), elements of liturgy, symbol, ceremonial as well as space for spontaneous contributions; speaking for threatened species other than our own; recounting experiences of attack or of nuclear nightmares; songs with call and refrain; an anthem to our Motherland/Earth; props such as mobile totems and hand-crafted standards (Some of us still have our standards!); possible use of stones or tree plantings (see later).

When the Geneva Conventions were negotiated after WW2 they put into an elaborate formal code some very basic and universal social norms which already guide most people most of the time all over the world. Yet it is not enough that some diplomats in Geneva and then some Parliamentarians in London convened and enacted. To make them live in people's conscious minds we must enact them locally in regional, city and neighbourhood Geneva Conventions.

**USE OF STONES AND TREES** : The origin of our word 'law' is Icelandic/Nordic 'loghi' - the things laid down (OED). In the Welsh national Eisteddfod tradition stone circles are laid to give weight to the ceremonial proceedings and to project continuity with generations past and to come. Perhaps we could lay Geneva stones or circles. Alternatively we could plant yews, oaks, walnuts and other long-lasting trees to symbolize our hope for life to come - so long as the ground-rules of human co-existence can be re-instated and revalidated with fresh spiritual energy.

**BEATING THE BOUNDS** : We could form processions and 'star marches' to beat the bounds of our Nuclear-Free Zone 'Genevalands', setting up 'Shrines to the Unknown Non-Combatants'. And we could visit every protected building such as health centre, hospital, library, museum, 'heritage' tourist attraction to post permanent notices combining legal quotes with 'human interest' photos, e.g. of Soviet nurses outside a Soviet health clinic.

**USE OF PHOTOS** : Each poster can be 'hallowed' with an appropriate photo on the reverse - or three, e.g. 'Soviet', 'British' and 'neutral'. Existing town-twinning can be activated to create photoswaps between civilians in similar legal categories and the resulting photos used both in domestic and workplace shrines to the unknown non-combatant' and in Geneva exhibitions to tour local schools, community centres, etc.

**REPRINTING THE CONVENTIONS** : N-F Zones could help press the government to stop defaulting on its obligations to the Conventions and Protocols. If they get nowhere they could even reprint selected editions and arrange for ceremonial presentations to every school, library, Red Cross group, police station and military base in their area.

**PETITIONS** : Blank posters can be used with space for people to sign their own name, possibly with different coloured pens for different protected categories. Or the posters can be set up on ten small tables with ten joint petitions. Or the posters can be signed on the back.

**REMEMBRANCE EVENTS** : Obvious 'pegs' on which to hang Geneva turn-outs would be: 8th June '77 (Protocols signed); 31st July '57 (GC Act); 12th Aug ('49 Conventions). Others might include: Feb 13/14 (Dresden night, 1945); Mar 8th (Intl Women's Day); Mar 20th (Neutrality Day, Swiss Declaration, 1815); May 16th (UN Intl Day of Peace); Aug 6 and 9th (Hiroshima, Nagasaki); Sept Day; Sunday in November (Remembrance Day); Dec 10th (Universal Declaration of Human Rights, 1948).

**N. V. D. A.** : The GCs provide a useful framework for pluralistic organisation in taking **direct action for law enforcement as is our loyal duty and lawful right**. A person may use force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders... (Criminal Law Act, 1977)

i.e. on different hours, days, weeks, or months one or more volunteers from the various protected sectors could blockade, invade or take other reasonable action **not just against any military activities** but specifically focussed against nuclear crime and other preparations to kill us and other old people, children, mothers, etc by blast, fire or poison.

For best publicity its vital we brief the press not just about what we do but also about the **legal meaning** of what we do. We can reframe our actions by building towards them in a series of steps which exhaust 'reasonable' alternatives e.g. (a) Geneva Photocall round a post box posting letters to Base Commander and his legal adviser asking for a meeting to discuss the issues in law; (b) Geneva Circle at door of local police station inviting local police chiefs to discuss our reports of suspected crime and offering them our assistance in **doing their jobs** in the very difficult position in which they are being placed (orders to ignore lawless activities, contrary to Police Discipline Code); (c) then after holding hands around it or vigilling overnight we can proceed to our base where we can first project the same subtle but powerful and unexpected message of offering to assist soldiers in fulfilling their duty and allegiance and in working for the restoration of good forces discipline.

**COURT FOCUSED ACTION** : 'Maggie Prosecution Bids' have often made local headlines and a well-organised Geneva Circle to accompany court appearances will probably bring photocoverage. However be careful that you don't give the appearance of being mainly out for publicity

as this will devalue the legal seriousness of your prosecution attempt and the magistrate will dismiss your case as 'an abuse of the process of the court' - s/he may do anyway, however! If our efforts to secure justice are blocked as 'vexatious' or 'abuse of process' we would be justified in organising counter-tribunals to assess the information laid or a popular assizes which solemnly rules the court vexatious, abusive of the people's trust and in contempt of **people**. N-F Zone local authorities could reassess their contribution to funding 'the administration of justice'.

Magistrates' courts hardly ever give reasons for their decision. This is morally scandalous but it allows us to **keep coming back** by ringing the changes in respect of who/which sector is bringing the information;

which person(s) or office(s) the information is brought against; incitement and conspiracy to breach the G.C. Act, s.1; all the other laws being violated by nuclear terrorism.

In the age of the word-processor tight legal documents including witness statements ready for signing can easily be recycled with minor changes (date/place).

We will often be told we are wasting the court's time, but so long as we have bona fide concern and prima facie evidence the magistrates' clerk **must** co-operate with us. So long as we ask for a **warrant** he must arrange for a hearing before one or more magistrate(s). This is our right and his duty - a use not an abuse of the time of the court. If we persist the system has powers to declare us 'vexatious litigants', i.e. legally ignore-able. But we can then appeal (around questions of reasonableness!). And new representatives of our various Geneva sectors can come forward to continue our **Seige for JUSTICE** and the **enforcement of OUR LAWS which are written in plain English**.

(Incidentally it costs nothing to lay informations - beyond a few quid for photocopying, stamps for letters to expert witnesses, etc. See booklist and address list for sources: Inlap, Snowball, Pax Legalis, Legal Defence.)

#### OUTREACH AND INVOLVEMENT - LEGITIMACY AND LITIGATION

In the following section I shall briefly discuss each of the Geneva-protected categories covering (a) their special Geneva Clauses; (b) general factors making for each sector having special moral authority and potential for communicating; and (c) certain laws other than the Geneva Conventions Act that each sector might be best placed or motivated to seek to reclaim against nuclear nihilism and those fraternities who still serve and shield it from communal accountability.

KEY: HC - Hague Convention  
GC - Geneva Convention IV - **bold - GC Act, 1957 - protection from combat**  
GP - Geneva Protocol I  
OP Act - Offences Against Person Act, 1861  
Ev - provision for evacuation  
Oc - occupation regulation

H&S - provision for creating Health and Safety Zones

#### 1) MOTHERS/WOMEN

**Expectant mothers - GC, article 16**; also GP 8a, 10 (maternity cases).  
Mothers of children under seven - GC 14 (H&S) and 17 (Ev).  
Women: GC 27 and GP 76 (both Oc).

(b) Women who give life are demanding control of the means of taking it. Many mothers fear their baby will be born deformed. Mothers are supposed to 'make

a safe environment for baby'. Now many are learning to see through pedestalisation yet also to re-invent maternal authority: No Smoking in Baby's living space - and no nukes either! Women have sometimes seen the path of liberation as entering the public world unencumbered by having to care for older and younger generations, the disabled, etc. In Geneva Circles domestic carers (90 percent women) can convert their 'handicap' into a source of added moral authority, connecting past and future, old and young. To assist women to take the lead in the peace movement and society it is vital that more and more men are prepared to hold back and assume support roles as well as share their (generally greater) income on an explicit basis of gender justice. Central role in Anti-Poison Chain of Life.

(c) Among laws which women might like to press for are:  
OPAct, s23: causing poison or noxious things to be taken so as to endanger life  
s64: possession of any noxious thing or machine by means whereof to commit or enable any crime under the Act (e.g. s 23).

## 2) PEOPLE WITH A DISABILITY

(a) Wounded, Sick and Infirm - GC 16

(b) Many lost limbs or eyes defending the realm - or in industrial accidents building it. Many, many Soviet citizens also received their disability in stopping Hitler for all our benefit. They have a unique moral authority to expose the lie that people who aren't capable of invading anyone can be killed and it be 'defence': its a logical point. Another moral authority is brought to mind by the climax of 'The China Syndrome': the hero is soon to die yet he is still trying to prevent the melt-down, so suddenly he is taken seriously. In similar vein there must be many suffering from serious diseases such as cancer who like to express their concern also for the fate of the world and their utter indignation that modern so-called 'weapons' put invalids at risk all over the world. I indeed its ironic that the very categories most vulnerable to radiation poisoning are those who are supposed to be most protected under the laws of war! Also cancer survivors and bereaved relatives might welcome a well-organised opportunity to speak out. So it is vital that we learn sensitive ways of outreach in these sectors and from the word go create our Geneva Circles as Disability-Friendly Zones.

(c) as above 1(c) also OPAct, s 16: without lawful excuse making threats to murder another or a third party.

## 3) EX-SERVICES, ESPECIALLY EX-PRISONERS OF WAR

(a) Prisoners - GC III, GP 44. Military Chaplains - GC III, GP 8d, 15.  
(b) Many ex-prisoners still feel unheard. Many Allied POWs were incinerated in the firestorms of WW2. It violates international law to wage war on the basis of 'No Quarter' (GP 40 and HCIV of 1907, 23(d)). How do you surrender to nuclear attack? Magistrates might think twice before condemning as frivolous applications for a warrant from a small contingent of ex-POWs: 'Our Lives depend on the Geneva Conventions, Now Yours Do Too!' Along with Generals for Peace and Disarmament, Ex-Services groups can play an ever more crucial role in influencing society, including currently serving military personnel among whom we should remember military chaplains, medics, lawyers, scientists, etc  
(c) As well as invoking the GC Act, ex-services might like to consider pressing for the enforcement of the Services Acts:  
Army and Air Force Acts (both 1955): ss 68a inciting offences; 63 offences against civilian population abroad; s 70 civil offences; 43a threatening behaviour.

Naval Discipline Act, 1957: similar offences, plus s 94 seduction from duty.  
Also Incident to Disaffection Act, 1934, s 1: seduction from duty or allegiance; s 2: possession of documents thereto.

## 4) HEALTH WORKERS

(a) GC 20; GP 8c, e, 12, 15. Also GP 17 - role for aid societies.  
(b) Doctors, nurses and other ancillary medical staff e.g. ambulance staff, cooks, cleaners, chaplains and other healers see the suffering caused by lawless men's gangs every Saturday night. Like the other sectors they have a unique moral authority to exert, which is still tremendously underdeveloped: Geneva Circles might provide them with regular well-organised contexts in which to develop that communicative power. Opportunity for at least dialogue with local BMA, College of Physicians, Health Unions and also Red Cross and St John's Ambulance groups.

(c) OPAct s 64: possession so as to enable other offences under the Act, inc. s 20: malicious wounding/GBH; ss28/9: maiming by or sending destructive substances with intent to cause GBH; s 47 assault occasioning physical or nervous harm. ('Balance of Terror' effects.)  
Criminal Justice Act, 1988, s 134: inflicting severe physical or mental pain in purported exercise of official duties.

## 5) EMERGENCY SERVICE WORKERS

(a) GP 71, 72 protect those carrying out civil defence.

(b) Chance to involve health workers, civil servants and fire-fighters. The FBU have a good anti-nuclear record (including considerable resistance to civil defence/protection plans of a civilian-endangering nuclear government). Another vital group to reach across to in this category are the police. Perhaps if they insist on accompanying our Geneva processions they won't mind if health workers take one arm and fire-fighters the other! Perhaps we can envisage 'Uniformed Services for Law and Peace' forums emerging which in some areas succeed in opening dialogue with local branches of the Police Federation - what their duty is and being allowed to enforce existing unrepealed statutes must surely count as 'terms and conditions of service' questions.

(c) Criminal Damage Act, 1971, s 1: arson and destruction of property without lawful excuse (e.g. hill farms); ss2, 3: threats and possession with intent (may be conditional) to cause or permit arson.

Police Act, 1964, s53: Making it harder for police to do their duty.

## 6) OLD PEOPLE

(a) GC 14 (H&S), 17 (Evac).

(b) Its time the elders of the tribe and the crones received the respect due to them. As they go before us towards death they have little reason to pretend and many reasons to gather their energies to affirm the kind of basic values that might guarantee a world for their grandchildren. Groups like Pensioners Associations and Pensioners for Peace help old people to feel less vulnerable - and less liable to have their vulnerability twisted and exploited into identification with 'Strong Defence' (Revenge and Poison). Many Law and Order provisions are brought in by reference to old people, hence....

(c) Old people might like to press for e.g. Public Order Act, 1986, ss dealing with meeting to use or threaten unlawful violence, e.g. throwing of missiles, and causing alarm and distress.

BOOKLIST AND ADDRESSES

7) CHILDREN

- (a) GC 14 (H&S), 17 (Evac); GP 77 (Occup), 77 (evac).
- (b) Particular vulnerability to environmental poisons. Oppression by general levels of global menace which blights their hope and faith for the future, rendering much of life meaningless. The principle of non-combatant immunity is merely a particular outgrowth of the social ABC every mammy's girl or boy well knows: its bullying to attack people who aren't attacking us.
- (c) Teenage youth sometimes carry knives which they claim are needed to defend themselves with if they meet trouble. Since this deterrent possession is illegal it might be particularly powerful for children and young people to press for application across the board of Prevention of Crime Act, 1953, s 1: being in possession or control of weapons in a public place without being able to show lawful authority or reasonable excuse.

8) OTHER CIVILIANS

- (a) Persons taking no active part in hostilities - GP 48,51; GC27,32-34(occup)
- (b) In small Geneva circles or parades this category gives us elasticity to correct for ethnic or gender imbalances.  
At a later stage it could be valuable to encourage organised sub-categories in 'guilds' or 'colleges', e.g. Guilds of survivors of more immediate forms of male-gang violence such as 'queer-bashing' or racial attacks or drunks attacking bus-drivers on Saturday night; Guilds of those who Feed, Clothe, Shelter, Transport, Heal, Teach and other useful branches of the tree of life and labour on which politicians, generals and judges also depend.
- (c) It is in the specific interest of civilians to enforce the Firearms and Explosives Laws. The Firearms Act, 1968 is framed in very wide terms which cover nuclear poison machines which have the aspect of 'lethal barrelled weapons from which any missile can be discharged': s 19 carrying or control in a public place; s 18 carrying with criminal intent; s 16 possession of any firearm or ammunition with intent (which may be conditional) to injure or enable another to injure. The Explosive Substances Act, 1883 would also cover nuclear 'bombs' (poison-dispensers): s 4 making or possession of any explosive substance(device,part,etc) under circumstances giving rise to reasonable suspicion without being able to prove lawful 'object' (purpose).

9) NEUTRAL NATIONS

- (a) HC V of 1907; neutral persons are protected under some circumstances in GC 27,32-34(occup).
- (b) Possible outreach to Irish communities, and in some cities to Swedish, Finnish, Austrian, etc emigres. Also with communities from non-aligned countries, e.g. India, Ghana, Jamaica, etc who would all count as neutral in a Super-Poison war.
- (c) Swiss neutrality is a long established and recognised feature of customary international law, i.e. it should be directly relevant in British courts (however you might need Prof Ian Brownlie, QC pleading your case to get courts to apply the law of nations in this nation!). Possible lead in invoking: law against conspiracy to murder abroad (Criminal Law Act, 1977, s 1 and Homicide Act, 1957, s 3: killing with malice aforethought, no lawful excuse). Pressure for Prevention of Terrorism Act 1974/1984 to be used to harass nuclear terrorists. (continued bottom next panel)

Geneva Conventions; Additional Protocols - texts available free from ICRC, the Intl Committee of Red Cross, 17 Avenue de la Paix, CH-1202, Genève. Some free lit also from British Red Cross Soc, 9 Grosvenor Cres, London SW1X 7EJ Documents on the Laws of War: ed Adam Roberts and Richard Gueiff (Oxford, 1982) - contains complete texts and some introduction.

UN Treaty Series, Vol 75, 1950, I (for comparing English and French texts).

The most detailed and authoritative studies, published by the International Committee of the Red Cross are:

Pictet, Jean : The Geneva Conventions of 12th Aug 1949, Commentary; 4 vols (Geneva, 1952-60)

Pictet, Jean : Commentary on the Additional Protocols of 8th June 1977(1987)

See also Draper, GLAD : The Red Cross Conventions (London 1958) and Best, Geoffrey : Humanity in Warfare (London 1980).

The best single book on The Law versus Nuclear 'Weapons' is 'Humanising Hell' by George Delf (London, 1986). Also excellent (mostly) is Michael Walzer's 'Just and Unjust Wars' (London, 1980).

For the Parliamentary proceedings:

Commons: Vol 573, cols 1605-1616, also Vol 566, col 520;

Lords : Vol 200, cols 70-72; Vol 202, col 1-4; Vol 204, cols 348-357.

Cheney v Conn 1968 Ch D 779 - law report of tax refusal case which sought to rely on breach of the Geneva Conventions.

Pax Legalis : Documents on their attempt to activate the G.C.Act, 1957 via the Attorney General and Judicial Review can be obtained from Fred Starkey, Llys Fannau, Pantymwyn, Mold, Clwyd; tel:0352-740844.

How to Take the Government to Court - very clear well-researched pamphlet by Angie Zelter of Snowball on how to lay informations. Shorter version £1 full kit £6, plus post from INLAP (see below).

No Prerogative to Poison - anti-nuclear study companion on Law, Peace and Non-Combatant Rights by Keith Mothersson; one in each G.C.kit or variable price £1 to £5 from 1 B Saville Ter, Edinburgh EH9 3AD or from INLAP.

INSTITUTE FOR LAW AND PEACE (INLAP), Sec.Rob Mansont, Bryn y Mor, Parrog, Newport, Dyfed, Cymru SA42 0RX Tel 0239 820661.

Legal Defence, Sec. George Delf, 5 Railway Terrace, Stanhope, Co Durham DL13 2PT  
IND(lawyers), 2 Garden Ct, Temple, London ECAY 9VL (but may oppose prosecutions)

10) NATURAL ENVIRONMENT

(a) GP 35 (3) and 55; (also other international accords).

(b) The trees, birds, frogs and seals can't join hands with us but we can reach out to ramblers, conservationists, ornithologists, animal-liberalists and pet lovers to join our parades and circles. Scope here for people to dress up like shamans and to speak for all the species they most love which are also threatened with nuclear winter or genetic wipe-out. Preservation of the integrity and diversity of all our Earth-home is NOT a 'political' business. (c) Protection of Animals Act, 1911. ss 1 and 8: cruelty, poisoning. Wildlife and Countryside Act, 1981: ss 1, 9: protecting birds, wild animals.

## THERE ARE LAWS AGAINST POISON ! OVERTHROWING THE MILITARY MODEL OF "THE BOMB".

The Geneva Conventions of 1949 grew out of many decades in which concern to protect soldiers and civilians from the worst excesses of war had been growing, but always struggling to keep up with the horrific advances towards technological nihilism of the ruling military elites.

Marxist see history as a conflict between new productive forces (like technological innovation) and the old social relations of production surrounding economic activity.

In a similar way non-Marxists can trace a long see-saw tension or 'dialectic' between the old social relations of conflict on the one hand and on the other the new means and methods of destruction.

For example, let's take the issue of poison.

Many anthropologists assume that humanity evolved in bands of GATHERER-hunters in which the mothers played the central role, in which mutual aid was practiced and the basic groundrule observed: Not to attack those who weren't attacking anyone!

In the late nineteenth century Morgan and Engels pointed to the Iroquois as a survival of once general ancient mother-rule. The Matrons of the clan controlled the appointment and demotion of the war chief. Only if persuaded that armed conflict was defensive and discriminating would they release supplies for a military expedition and tell the braves where they had buried the weapons!

Breaking UNFREE from the matrix of communal responsibility men bonded together to take power. Life, hitherto sacred, became cheap. New inventions were pressed into service to meet their expansionist designs. The original code of life and of conflict, which forbade indiscriminate slaughter of noncombatants, was overthrown along with the spiritual MotherRight which had made everyone degrees of kin, all children together of the nourishing Mother, Great Gaia, the Earth.

One of the many tribes in which this Fraternity/Paternity rule spread was the Hebrews. Yet even among the tales of genocidal conquest in the book of Judges we read that fruit trees should be spared the axe!

As Christendom waged its bloody crusades against infidel and heathen it regularly stooped to germ warfare - throwing bodies into wells and lobbing diseased bodies over siege walls. This did not stop them regularly massacring the Jews for alleged perpetration of the most horrendous of all crimes, spreading disease and poison!

Around the time of the Renaissance clerics/diplomats/lawyers emerged who sought to lay down more and more conditions which the rulers should meet before going to war, and rules for the conduct of operations. Most of them now held that it was contrary to the

presumed 'Practice of Christian Princes' to use poisons - especially sneakily invisible ones, and especially against fellow members of Christendom - 'savages' without souls were different!

After the all-out religious fanaticism of the Thirty Years War (1618-1648) most European wars were fought for finite material objectives using limited technologies aimed between professional military castes in the field. Why poison the territory one planned to acquire?

By 1874 it was common ground that 'the right of belligerents to adopt means of injuring the enemy is not unlimited' (Brussels Declaration). Military necessity should be tempered by principles of chivalry and humanity.

In 1899 the statesmen, lawyers and military men who gathered at the Hague set out to codify what were assumed to be underlying and pre-existent rules of customary i.e. binding international law. Among them a prohibition on the use of projectiles the sole object of which is the diffusion of asphyxiating or deleterious gases!

In 1907 Hague Convention IV on the Laws and Customs of War on Land prohibited the use of 'poison or poisoned weapons' as well as 'the bombardment by whatever means' of undefended towns and even buildings (Arts. 21(a) and 25). In the Preamble the signatories sought to cover the case of new inventions by requiring belligerents to conform to 'the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.' (The famous 'Martens Clause' used in later treaties)

Nevertheless WW2 was to see Germany and then Britain use gas warfare on a large scale, the latter as a 'reprisal' albeit that it often killed civilians and British troops. Germany justified itself by reference to the 1899 Hague Declaration: its gas came from stationary drums, not 'projectiles'!

Out of this and other atrocities came the diplomatic momentum which led to the Geneva Convention of 1925, the 'Gas Protocol' or we could call it the Poison Protocol. This reaffirmed the ban on the 'use in war of asphyxiating, poisonous or other gases and of all analogous liquids materials or devices' and extended it also to 'bacteriological methods of warfare'.

Although Italy used gas against Ethiopia in 1935/6 and Japan in China 1937 and 1945 this Protocol was observed between all other belligerents of WW2 (except of course if one counts the Nazi extermination of non-belligerents in gas ovens).

Other laws of war were violated on a huge scale including the chivalrous treatment of prisoners of war and the indiscriminate 'area' or 'carpet' bombing of cities.

"THE BOMB": BLAST, FIRE, AND POISON

It has been said of generals that they tend to plan for the next war while mentally captive to the precedents and methods of

the last war. The same could often be said about us peace activists and lawyers who 'support the peace movement'.

The first military airplanes were used as adjuncts to artillery bombardment at the front - first for reconnaissance, then for actual delivery of shells when Italy seized Tripolitania from the Ottoman Empire in 1912, and in 1914-1918.

At first the ratio of soldiers killed was high compared with civilian fatalities. So long as the front line existed the air-men reasoned that everything behind it was 'defended' - and any-way Hague Convention IV was about Land Warfare, the only treaty which covered Air Warfare concerned not dropping things from Gas Balloons, they claimed!

It was with this impact-blast model of artillery shells in mind that theories of precision bombing came into vogue during WWI and after and were used to justify by extension long distance 'strategic bombing' - no longer just of frontline guns and nearby ammunition piles but of enemy arms factories. Even the morale of the population of the principal cities of the Enemy were considered to be 'military objectives'. This was a clear breach of the Declaration of St Petersburg of 1864 which had laid down that 'the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy' (emphasis added).

An era of Total War was dawning in which the Fraternities of Ruling Men were claiming the right to cause ever greater devastation against the Matrix of Civilian Life which had nourished them. As well as new technologies, new practices (such as universal conscription and mass propaganda methods) and new doctrines were spreading such as Nationalism and even Democracy. These led to the racist idea of 'guilt by association' whereby the new category of 'enemy civilians' could be subsumed under the old category of Enemy Nation, and held to blame for their rulers' misdeeds. They also led to the return of ideological - and hence unlimited-objectives, as expressed in the demand for Unconditional Surrender, pursued now with ever less limited means.

In WW2 Britain justified its strategic bombing as some kind of pinpoint military retaliation, 'Hitting Back at Hitler'. But from 1941 onwards a silent coup took place. The Chief of Air Staff, Portal, egged on by Churchill and his 'scientific' advisors, and helped by Bomber Harris of Bomber Command proceeded to tear up the military code and break out of all humanitarian restraint, thus endangering civilians of every nationality. A cold-blooded series of experiments was begun to see how they might set off FIRESTORMS in Rostock and Lubek and Cologne, later in the working class districts of cities such as 'Red Hamburg'. The climax came with the Dresden Firestorm in which a cultural capital and hospital city full of refugees was destroyed along with 60-100,000 inhabitants when the Anti-Nazi war was as good as won already (but as a warning to the Red Army not to advance 'too fast'). (Feb. 13/14th, 1945)

The following month the US Air Force began creating firestorms in Tokyo (85,000 dead) and many other cities, culminating in Hiroshima and Nagasaki. These atomic attacks were 'justified' as 'saving Allied lives' although

- (a) 40,000 allied POWs and forced labourers were exterminated in the attacks ('Only' Koreans);
- (b) Japan was already down and virtually out - and suing for peace; and
- (c) demonstration explosions out to sea or tactical explosion against Japanese troop concentrations would also have helped to precipitate Japan's surrender - as would political factors have done, a different diplomacy.

Considering the grisly track record of the Western Allies concerning bombing it was always liable that the awesome blast and fire effects of 'the Bomb' would have been deployed indiscriminately. But to begin with it was possible for many to imagine that it could have been used lawfully - just as the technique of raising a firestorm could have been used against a Panzer division in a remote forest.

But gradually awareness of a new level of horror dawned - 'the Bomb' had poisonous 'side effects'. But the radiation effects continued and in many cases intensified after ten or twenty years, including cancers and leukaemias of all kinds. Even in recent years the data are being reworked with the result that the level of radiation officially deemed 'safe' has been halved, while others have concluded that all radio-active releases, no matter how small, will lead to damage or death somewhere sometime.

It was the women of the Pacific who realized with unspeakable heartbreak the genetic effects of Hiroshima, Nagasaki and the reckless nuclear 'testing'. These genetic effects may lead to the 'birth' of 'jelly-fish babies' or 'merely' to harems and a greater chance of their children having deformed children and grandchildren.

Since the genetic effects are irreversible they are also in considerable degree cumulative down the generations. Some radio-active isotopes have a half-life of only thirty years, e.g. caesium. But plutonium has a half-life of over 23,000 years and others will travel round the intercontinental food-chains for even longer.

Already in one generation between 1956 and '76 the rate of genetically malformed babies doubled in the industrialised West. Plutonium lasts a Thousand Generations, half-life. Depending on some yet unverifiable (but plausible) assumptions, some scientists are concluding that EVEN IF THE NUCLEAR AGE WERE TO BE CAREFULLY DECOMMISSIONED TOMORROW, THE AMOUNT OF NUCLEAR POISON ALREADY LOOSE IN THE WORLD INEVITABLY SPELLS HUMAN EXTINCTION THROUGH GENETIC WIPE-OUT. (See Rosalie Bertell's brilliant 'No Immediate Danger')

Research on the ozone layer, the atmosphere and the seas also incriminates the nuclear industry; "bombs" may go off in under-

ground explosions ('just testing' in the eyes of the perpetrators); plutonium has been scattered in air accidents and leaked from processing plants such as Sellafield; nuclear wastes roll around the ocean floor in leaky drums or flow from sunken nuclear submarines.

Nothing illustrates the widespread hold of the old blast-focussed two-actor-model thinking than Reagan's vision of his Star Wars 'defensive' shield. Even if it 'worked' 100 percent it would merely relocate most blast and fire effects - the plutonium would scatter in the atmosphere and fall in poisonous rains. Yet this is something our 'Ban the Bomb' movement has completely failed to expose for too often we share the same tunnel vision and the same words.

#### NECESSITY FOR TRUTHFUL LANGUAGE

These nuclear devices are not simply toys the boys play each other with! They affect all of humanity, turning our beautiful earth-home into a global gas-chamber. From the point of view of the 'strategic thinkers' they are for hitting each other with i.e. 'weapons'. But they are something very different from the point of view of the majority of the inhabitants of the world - not just in Moscow and Washington but also in the neutral countries; not just humans but also the animal and plant species; not just in the present but also in future generations. (One can imagine children in the year 2500 'A.D.' asking: 'Mummy, why have we got hare lips and twisty little arms?' 'Well dears, a long time ago when the men were bossing everything, there were the poison times...')

Every time we name these poison-machines 'weapons' we are continuing to identify unconsciously with the men's terror gangs and their narrow 'enemy'-fixations. We are betraying our own civilian and earthling estates. Whose side are we on? Whose eyes do we use? Whose words do we use? Every serious movement for social change has to challenge the prevailing language of domination e.g. 'Mankind he' talk. And all such challenges run the painful risk of being met with sarcastic laughter initially. But just because the nuclear 'war'-lords write 'This is for Gorbachev and the Kremlin military chiefs' mentally on their poison machines, that is no reason for us to use language which factors out the majority of the actual and future victims: e.g. nuclear 'retaliation' and 'second-strike' 'counterforce' missiles. How will military personnel ever see their duty clearly if we continue to humour the nuclear-poison-plotters by colluding in their hallucinatory vocabulary?

Were those other poison machines weapons? Were gas chambers a military business which 'retaliated' against the helpless people who were shoved into them? When this perspective was pleaded by the defence at Nuremberg the British prosecutor poured scorn on such delusions: how could one defend the Reich or oneself against a two-year old child? And the Soviet prosecutor, General Rudenko, asked:

'Since when has the 'duty of a soldier' and the 'honour of an officer' been compatible with the extermination of women, children and old people?'

The British government maintains that since there is no general rule of international law explicitly prohibiting nuclear 'weapons' as such, they could be used lawfully or unlawfully like any other weapon, and hence the threat of their legitimate use and associated 'deterrent' deployments are lawful.

Scenarios are conjured up of Soviet tanks advancing across the numerous deserted plains of Western Europe where doubtless few civilians will be vaporised, blasted or burnt. Or of Soviet nuclear submarines in the North Sea about to land one on London (doubtless according to the latest intelligence provided by our reliable American/Nato friends). Surely these would be legitimate targets?

But once we take poison seriously then we can see that even with such fanciful scenarios it is just a matter of time before the ratio of legitimate military fatalities caused begins to fall below the illegitimate civilian deaths inflicted. With a bona fide weapon like a tank one still has the moral choice whether to kill (combatants) or murder (non-combatants). With a nuclear poison machine one inevitably kills more non-combatants sooner or later. The 'side-effects' are the main effects!

Nato's 'first use' posture contravenes the 1925 'gas protocol' which bans the use in warfare of poisonous materials and devices - reprinted and endorsed in the British Manual of Military Law, Part III. Even if the Soviet Union did (unaccountably) fire nuclear cancer machines at the UK, Britain would only be legally justified in using controlled reprisals against Soviet troops. No doctrine of treaty reciprocity or reprisals would justify taking it out on Soviet invalids/pregnant mums/health workers (Vienna Convention on the Law of Treaties 1969, Art. 60, para 5). Nor would any British counter-break-out from the 'gas protocol' be justified if it poisoned neutral nations and the natural environment. (Similarly, of course, it would violate the law of nations for any other nations to wage nuclear 'war', e.g. if Britain were to be poisoned by Russia and China.)

#### THERE ARE LAWS AGAINST POISON!

Nor is it only on the plane of international law that threats and preparations to engage in nuclear poisoning are unlawful. True, there is no specific law explicitly condemning nuclear 'weapons' - and indeed one law, The Control of Pollution Act, which specifically excludes nuclear radiation from its provisions. But this does not affect the plain meaning of the ordinary laws against poisoning people, against murder, against threatening people who aren't threatening you, and so on. As Nicholas Grief wrote in his fine essay in 'Nuclear Weapons and International Law', ed. I. Fogarty: 'The right to life is not lost as new methods of killing are invented.' There is also no explicit ban upon cotton wool. But this would not avail me in court if I was charged with suffocating a baby with cotton wool: the law deals with acts and social relations before it deals in objects.

Having said that the law does deal with classes of object - those which are inherently dangerous or can be easily adapted to cause danger. Apologists for nuclear terrorism often claim that international law contains no ban on Britain possessing nuclear 'weapons'. This is true so far as it goes - though even in international law some other norms (e.g. the Nuremberg Principles) go a long way to rendering possession illegal as part of preparing for a war in violation of international treaties. As Francis Boyle has pointed out nuclear 'weapons' are not like a shotgun stored under one's bed, rather they are deployed on a permanent state of alert as if one was to brandish one's shotgun with the safety catch off inches from the heads of terrified passers-by in the main street.

British law contains numerous provisions against possession and carrying dangerous objects - 'carrying' can extend to being in close control of an offensive weapon in a public place. In some of these statutes the onus would be on the prosecution to prove criminal intent - e.g. possession with intent to cause criminal damage or possession of any noxious thing with intent to commit an offence under the Offences Against the Person Act, 1861 or to enable another to do so, e.g. threaten to murder or causing life-endangering poison to be taken. In other statutes the onus of proof is on the person charged to prove s/he does have a lawful object (purpose), e.g. section 4 of the Explosive Substances Act 1883 bans possession of any explosive substance under circumstances giving rise to reasonable suspicion that you are up to no good (such as the detonator of a nuclear warhead); The Prevention of Crime Act 1953 bans possession of weapons and weapon-like objects in a public place without being able to show **lawful authority or reasonable excuse**. The possession of nuclear firing codes is also unlawful under s.2 of the Incitement to Disaffection Act, 1934; possession of documents for the purpose of seducing members of the armed forces from their duty or allegiance to Her Majesty.

Of course this hangs on the questions: What is the duty of a soldier? and that in turn depends on whether the Prime Minister and Secretary of State for Defence and the whole chain of command down to individual 'weapons' officers on Polaris submarines, - whether they can establish 'lawful authority' for their nuclear deployments and alliances with the U.S./Nato.

#### NO PREROGATIVE TO POISON !

The reason why otherwise progressive and sympathetic lawyers still tend to pour cold water on militant anti-nuclear law-enforcement strategies is that they still see nuclear poison machines as some kind of military weapon, and hence as falling under the 'Crown Prerogative for Defence'. What is Crown Prerogative?

The doctrine of Crown Prerogative is a survival from the Divine Right of Kings. Crown Prerogative matters are almost invariably declared by the courts to be 'non-justiciable', that is to say matters within the exclusive discretion of the Ministers of the Crown, who have therefore a de facto legal immunity from prosecution so long as they can claim to be acting in an official capacity to perform activities which can 'truly be said' to fall under the Royal Prerogative. Recognised prerogative powers exist for such activities as raising taxes and annuities, issuing passports and printing money, etc. So you and I can be done for printing money but we would not get very far if we went to the courts seeking to prosecute the Royal Mint, whose manager would be able to cite lawful authority for doing what was otherwise forbidden to ordinary commoners.

However, suppose that Parliament had passed a law outlawing money. Then the Royal Prerogative for issuing currency would be abolished (or in abeyance). If the manager of the Mint pleaded Royal Prerogative the prosecution would then be able to trump Prerogative with Statute, the Sovereignty of the Crown in Parliament being the great legacy of the constitutional struggles of the seventeenth century. Thus the sphere of prerogative power is constantly liable to invasion by Parliament which may pass a law controlling all or some of an area previously left to the exclusive discretion of the Crown (government), e.g. the Armed Services Acts of 1955 and 1957. Once an area has been regulated by Parliament

then the courts are no longer 'bound' (by themselves) to observe a legal no-go zone, indeed they have a duty to take up the potato, be it never so hot.

Some other points about the prerogative need to be noted:

- (a) prerogative powers are common-law powers whose existence, scope and extent are all supposed to be determined by the judges;
- (b) if the government wishes to rely on a legal defence of lawful authority 'it must make out clearly the prerogative' - a prerogative power is a specific power which must be specified;
- (c) it is '300 years and a civil war too late' for the executive to seek to invent new prerogative powers; nor may it see to smuggle activities which are new and different (or old and different and banned) under some recognised heading of prerogative power;
- (d) as common-law powers, prerogatives are supposed to exist for the common-weal and hence they only justify the Crown in doing things like printing money or raising taxes which are forbidden to ordinary folk (mala prohibita); the courts - who themselves judge according to a prerogative power of dispensing justice - have no power to recognise any power to do things which are intrinsically evil, against God, Nature and all custom - Mala Per Se. (See Halsbury's Laws of England, Vol 8, Constitutional Law)

If I am doing two things, one lawful and one unlawful, the fact that I am doing one thing with lawful authority (or no lawful impediment) is not a relevant defence if I am charged with doing the other illegal act. Likewise if I make a conditional agreement with an accomplice to do something lawful in circumstance X and something unlawful (or something lawful unlawfully) in circumstance Y, then again the fact that I can point to a lawful intent does not go to deal with my problem that the prosecution can and will point to my also having a criminal intent.

There exists (for better or worse) an undoubted prerogative in the Crown for Defence of the Realm, also for the Disposition and Armament of the Armed Forces and the Making of War and Peace and for Guarding National Security. Whenever anti-nuclear protesters have run head-first up against these prerogative powers we have lost, e.g. the big sixties case of conspiracy to enter a place prohibited under the Official Secrets Act, where Chandler and others did not deny that they aimed to immobilise a fighter patrol base having a part in the defence of the realm (Weatherfield).

The argument of the present essay is that the verb 'to poison' denotes an entirely distinct activity from the verb 'to defend', etc. The current prohibition in the British Manual of Military Law on the use of poisons has its origins in Articles of War predating the evolution of the defence prerogative in modern times. Albeit that the courts are not entitled to substitute their assessment of what might or might not serve to safeguard the Peace for the exclusive discretion of the executive, nevertheless if the executive is also conspiring in some circumstances to poison the realm and breach the most settled and undisputed customary law of nations, then the courts can and must act!

Nuclear Nihilism breaks out of every paradigm (model) of defence, war, military affairs. Its like going out along the branch of a tree. The bomb as artillery blast (WW1) leads to the bomb as 'strategic' fire-storms (WW2) and now the 'Bomb' as poison-machine is no bomb at all - the branch has broken. Let us work to overthrow the military model of these devices and thus to expose their legal bankruptcy!



EXCERPTS

FROM THE 1957 GENEVA CONVENTIONS ACT INCLUDING THE  
KEY PROVISIONS OF THE FOUR GENEVA CONVENTIONS WHICH  
IT BROUGHT INTO BRITISH STATUTE LAW

# CHAPTER AND VERSE

" MR ERIC FLETCHER (Islington East):....Would the Rt Honour-  
able Gentleman confirm that the provisions of the  
CONVENTIONS WILL APPLY EQUALLY IN NUCLEAR WAR AS IN  
ANY OTHER WAR ?

MR J.E.S. SIMON (HOME DEPT.): CERTAINLY SIR "  
- Final Exchange in Main Commons Debate,  
Hansard: Vol 573, col 1616.

' DISSEMINATION '

On signing the Geneva Conventions Britain promised to disseminate the text of the Geneva Conventions and to acquaint its 'entire population' with the principles thereof. Yet numerous conversations with military, police and the general public show that the principles of non-combatant immunity are not at all well known today. Moreover HMSO refuses to keep them reprinted!

In this situation it falls to conscientious citizens and hopefully local authorities to step into the breach to fulfill the obligations which the various governments have reneged on. Hence this pamphlet and the poster kit that it accompanies.

One further point: the U.K. promised to include instruction in the Geneva Conventions' in their programmes of military and, if possible, civil instruction' (Article 144). The phrase, 'if possible', was added because certain federal and decentralised States felt they couldn't bind their local education authorities. Now that Kenneth Baker is imposing a centralised curriculum we must press the government to honour its promise, while also raising the issue in schools, PTAs, etc.

INCITEMENT OR CONSPIRACY TO

THE GENEVA CONVENTIONS ACT 1957

An Act to enable effect to be given to certain international conventions done at Geneva on the twelfth day of August, 1949....

Punishment of offenders against conventions

Section 1. GRAVE BREACHES OF SCHEDULED CONVENTIONS

(1) Any person, whatever his nationality, who, whether in or outside the United Kingdom, commits, or aids, abets or procures the commission by any other person of, any such grave breach of any of the scheduled conventions as is referred to in the following articles respectively of those convention, that is to say -  
(a) article 50 [of Geneva Convention I i.e. Wounded and Sick]  
(b) article 51 [of G.C.II i.e. Wounded, Sick, Shipwrecked at Sea]  
(c) article 130 [of G.C.III i.e. Prisoners of War]  
(d) article 147 [of G.C.IV i.e. Protection of Civilians],

shall be guilty of felony and on conviction thereof.....

(3) Neither a court of quarter sessions nor, in Scotland, the sheriff shall have jurisdiction to try an offence under this section, and proceedings for such an offence shall not be instituted in England except by or on behalf of the Director of Public Prosecutions or in Northern Ireland without the consent of the Attorney General for Northern Ireland.

(4) If in proceedings under this section in respect of a grave breach of any of the scheduled conventions any question arises under article 2 of that convention (which relates to the circumstances in which the convention applies), that question shall be determined by the Secretary of State....(....)

Sections 2 to 5 : Provisions as to certain legal proceedings  
Section 6 : Prevention of abuse of Red Cross and other emblems  
The Four Geneva Conventions then follow in four 'schedules', which I will excerpt from in reverse order.]

FOURTH SCHEDULE

CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS  
IN TIME OF WAR , GENEVA AUGUST 12th, 1949

The undersigned....for the purpose of establishing a Convention for the Protection of Civilian Persons in Time of War, have agreed as follows:

PART I - GENERAL PROVISIONS

Article 1 The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2 In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognised by one of them...

Article 3 In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for....

Article 4 Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or occupying power of which they are not nationals.

Nationals of a State which is not bound by the Convention are not protected by it...

The provisions of Part II are, however, wider in application, as defined in Article 13... (....)

Article 6 The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2... (....)

#### PART II - GENERAL PROTECTION OF POPULATIONS

##### AGAINST CERTAIN CONSEQUENCES OF WAR

Article 13 The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race, nationality, religion or political opinion, and are intended to alleviate the sufferings caused by war. (....)

Article 16 The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect... (....)

Article 18 Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict... (....)

Article 20 Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and care for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected... (....)

#### PART III - STATUS AND TREATMENT OF PROTECTED PERSONS

##### SECTION I - PROVISIONS COMMON TO THE TERRITORIES OF THE PARTIES TO THE CONFLICT AND TO OCCUPIED TERRITORIES.

Article 27 Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault... (....)

Article 32 The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands...

Article 33 No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited...

Reprisals against protected persons and their property are prohibited.

Article 34 The taking of hostages is prohibited. (....)

#### PART IV - EXECUTION OF THE CONVENTION

##### SECTION 1 - GENERAL PROVISIONS (....)

Article 144 The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population.

Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions. (...)

Article 146 The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each H.C.P. shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts...

Each H.C.P. shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article...

Article 147 Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health..., taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Article 148 No High Contracting Party shall be allowed to absolve itself or any other H.C.P. of any liability incurred by itself or by another H.C.P. in respect of breaches referred to in the preceding Article.

Article 149 At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

#### SECTION II - FINAL PROVISIONS (...)

Article 158 Each of the H.C.P.s shall be at liberty to denounce the present Convention... The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded....

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

(United Kingdom signed Dec 8th 1949 , ratified Sept 23rd, 1957)

\* \* \* \* \*

#### THIRD SCHEDULE

### GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR , AUGUST 12th, 1949

#### PART I - GENERAL PROVISIONS

(Articles 1, 2 and 3 are common to all four Conventions)

Article 4 Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

- (1) Members of the armed forces of a Party to the conflict... (six further categories follow) (...)

#### PART II - GENERAL PROTECTION OF P.O.W.s (...)

Article 13 Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited... (...)

Article 26 The basic food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health... (...)

#### PART IV - EXECUTION OF THE CONVENTION

(This Part follows the broad lines of Part IV of the Civilian Convention. ) (...)

Article 130 Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention. (...)

SECOND SCHEDULE

GENEVA CONVENTION II FOR THE AMELIORATION OF THE CONDITION OF WOUNDED, SICK AND SHIPWRECKED MEMBERS OF THE ARMED FORCES AT SEA

- Article 12 imposes a duty of humane care, respect and protection in all circumstances... 'nor shall conditions exposing them to contagion or infection be created'.
- Article 22 protects military hospital ships and
- Articles 24/25 protect the hospital ships of Red Cross societies, relief agencies and private persons from neutral countries.
- Article 36 protects the religious, medical and hospital personnel of hospital ships and their crews.
- Article 47 bans reprisals against any of the above.
- Article 51 Grave breaches... shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, ... wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.'

FIRST SCHEDULE

GENEVA CONVENTION FOR THE AMELIORATION OF THE CONDITION OF THE WOUNDED AND SICK IN ARMED FORCES IN THE FIELD

- Article 12 Members of the armed forces and other persons mentioned in the following Article (auxiliaries, volunteer corps, militias, resistance fighters during an invasion, etc - KM), who are wounded or sick, shall be respected and protected in all circumstances.
- They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any... violence to their persons shall be strictly prohibited;... nor shall conditions exposing them to contagion and infection be created....
- Article 19 Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict. ... unless (Article 22) they are used to commit, outside their humanitarian duties, acts harmful to the enemy.
- Article 24 Protection and respect in all circumstances for Medical personnel, preventive health workers, medical administrators and chaplains attached to the armed services; also members of the armed services who are engaged in auxiliary medical duties when they come into the hands of the enemy; and Red Cross staff and other Voluntary Aid Societies. (Arts. 25; 26)

CHAPTER VIII - EXECUTION OF THE CONVENTION

(This follows the broad lines of Part IV of the Civilian Code.)

Article 50 Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, ... wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Article 51 No High Contracting Party shall be allowed to absolve itself or any other HCP of any liability incurred by itself or by another HCP in respect of breaches referred to in the preceding Article.

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1907 HAGUE CONVENTION V RESPECTING THE RIGHTS AND DUTIES OF NEUTRAL POWERS AND PERSONS IN CASE OF WAR ON LAND.

Article 1 The territory of neutral Powers is inviolable. ←  
Article 16 The nationals of a State which is not taking part in the war are considered as neutrals.

1925 GENEVA PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE.

The Undersigned...:

Whereas the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids materials or devices, has been justly condemned by the general opinion of the civilised world; and

Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and

To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations:

DECLARE: That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration. (...)

Britain Co-Signed on 17th June, 1925, ratified 9th April, 1930.

Both the above Treaties are reprinted in Part III of the British Manual of Military Law, as is the Geneva Conventions Act. Date of Hague Convention V (and XII-Neutrality in Naval War) is Oct. 18th

PART III - METHODS AND MEANS OF WARFARE, COMBATANT AND PRISONER-  
OF-WAR STATUS

SECTION I - METHODS AND MEANS OF WARFARE

Article 35 - Basic rules

1. In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.
2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.
3. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.

Article 36 - New weapons

In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party. (...)

Article 40 - Quarter

It is prohibited to order that there shall be no survivors, to threaten an adversary therewith or to conduct hostilities on this basis.

Article 41 - Safeguard of an enemy hors de combat

1. A person who is recognized or who, in the circumstances, should be recognized to be hors de combat shall not be made the object of attack.

2. A person is hors de combat if:

- (a) he is in the power of an adverse Party;
- (b) he clearly expresses an intention to surrender; or
- (c) he has been rendered unconscious or is otherwise incapacitated by wounds or sickness, and therefore is incapable of defending himself... (...)

SECTION II - COMBATANT AND PRISONER-OF-WAR STATUS

Article 43 - Armed forces

1. The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict.

PART IV - CIVILIAN POPULATION

SECTION I - GENERAL PROTECTION AGAINST EFFECTS OF HOSTILITIES

Chapter I - Basic Rule and Field of Application

Article 48 - Basic Rule

In order to ensure respect for and protection of the civilian

PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949,  
AND RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED  
CONFLICTS (PROTOCOL I)

PREAMBLE

The High Contracting Parties,  
Proclaiming their earnest wish to see peace prevail among  
peoples,

Recalling that every State has the duty, in conformity with  
the Charter of the United Nations, to refrain in its international relations from the threat or use of force against the  
sovereignty, territorial integrity or political independence of  
any State, or in any other manner inconsistent with the purposes  
of the United Nations, (...)

Reaffirming further that the provisions of the Geneva Conventions of 12 August 1949 and of this Protocol must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflict,  
Have agreed on the following:

PART I - GENERAL PROVISIONS

Article 1 - General principles and scope of application

1. The High Contracting Parties undertake to respect and to ensure respect for this Protocol in all circumstances.

2. In cases not covered by this Protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience. (...)

PART II - WOUNDED, SICK AND SHIPWRECKED

SECTION I - GENERAL PROTECTION

Article 8 - Terminology

For the purposes of this Protocol:

- (a) 'wounded' and 'sick' means persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance or care and who refrain from any act of hostility. These terms also cover maternity cases, new-born babies and other(s)...such as the infirm or expectant mothers... (...)

Article 10 - Protection and care

1. All the wounded, sick and shipwrecked, to whichever Party they belong, shall be respected and protected.
2. In all circumstances they shall be treated humanely...(...)

Article 20 - Prohibition of reprisals

Reprisals against the persons and objects protected by this Part are prohibited. (...)

population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

Article 49 - Definition of attacks and scope of application

1. "Attacks" means acts of violence against the adversary, whether in offence or in defence.

2. The provisions of this Protocol with respect to attacks apply to all attacks in whatever territory conducted, including the national territory belonging to a Party to the conflict but under the control of an adverse Party.

3. The provisions of this Section apply to any land, air or sea warfare which may affect the civilian population, individual civilians or civilian objects on land. They further apply to all attacks from the sea or from the air against objectives on land but do not otherwise affect the rules of international law applicable in armed conflict at sea or in the air. (...)

#### Chapter II - Civilians and Civilian Population

Article 50 - Definition of civilians and civilian population

3. The presence within the definition of civilians does not deprive the population of its civilian character.

Article 51 - Protection of the civilian population

1. The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in all circumstances.

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

3. Civilians shall enjoy the protection afforded by this Section, unless and for such time as they take a direct part in hostilities.

4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:

- (a) those which are not directed at a specific military objective;
- (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or
- (c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol;

and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

5. Among others, the following types of attacks are to be considered as indiscriminate:

- (a) 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; and

(b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

6. Attacks against the civilian population or civilians by way of reprisals are prohibited.

7. The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. (...)

8. Any violation of these prohibitions shall not release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians, including the obligation to take the precautionary measures provided for in Art. 57.

#### Chapter III - Civilian Objects

Article 52 - General protection of civilian objects

1. Civilian objects shall not be the object of attack or of reprisals. (...)

2. Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

Article 53 - Protection of cultural objects and of places of worship...

Article 54 - Protection of objects indispensable to the survival of the civilian population...

Article 55 - Protection of the natural environment

1. Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population.

2. Attacks against the natural environment by way of reprisals are prohibited.

Article 56 - Protection of works and installations containing dangerous forces

1. Works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such an attack may cause the release of

dangerous forces and consequent severe losses among the civilian population. Other military objectives located at or in the vicinity of these works or installations shall not be made the object of attack if such attack may cause the release of dangerous forces from the works or installations and consequent severe losses among the civilian population. (...)

#### Chapter IV - Precautionary Measures

##### Article 57 - Precautions in attack

1. In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.
2. With respect to attacks, the following precautions shall be taken:
  - (a) those who plan or decide upon an attack shall:
    - (i) do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives within the meaning of paragraph 2 of Art. 52 and that it is not prohibited by the provisions of this Protocol to attack them;
    - (ii) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
  - (b) an attack shall be cancelled or suspended if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. (...)

##### Chapter V - Localities and Zones under Special Protection

##### Article 59 - Non-defended localities

1. It is prohibited for the Parties to the conflict to attack, by any means whatsoever, non-defended localities. (...)

#### Chapter VI - Civil Defence

##### Article 62 - General protection

1. Civilian civil defence organizations and their personnel shall be respected and protected...

#### SECTION III - TREATMENT OF PERSONS IN THE POWER OF A PARTY TO THE CONFLICT

##### Chapter I - Field of Application and Protection of Persons and Objects

##### Article 75

2. The following acts are and shall remain prohibited at any

time and in any place whatsoever, whether committed by civilian or by military agents:

- (a) violence to the life, health, or physical or mental well-being of persons, in particular:
  - (i) murder;
  - (ii) torture of all kinds, whether physical or mental;
  - (iii) corporal punishment; and
  - (iv) mutilation;
- (b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault;
- (c) the taking of hostages;
- (d) collective punishments; and
- (e) threats to commit any of the foregoing acts. (...)

#### Chapter II - Measures in Favour of Women and Children

##### Article 76 - Protection of women

1. Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.
2. Pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict, shall have their cases considered with the utmost priority. (...)

##### Article 77 - Protection of children

1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.

#### PART V - EXECUTION OF THE CONVENTIONS AND OF THIS PROTOCOL

##### SECTION I - GENERAL PROVISIONS

##### Article 80 - Measures for execution

1. The High Contracting Parties and the Parties to the conflict shall without delay take all necessary measures for the execution of their obligations under the Conventions and this Protocol.
2. The High Contracting Parties and the Parties to the conflict shall give orders and instructions to ensure observance of the Conventions and this Protocol, and shall supervise their execution.

##### Article 81 - Activities of the Red Cross and other humanitarian organizations (...)

##### Article 82 - Legal advisers in armed forces

The High Contracting Parties at all times, and the Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriate instruction to be given to the armed forces on this subject. (...)

##### Article 83 - Dissemination [similar to Art 144 of G.C.IV, 1949]

SECTION II - REPRESSION OF BREACHES OF THE CONVENTIONS AND OF

Article 85 - Repression of breaches THIS PROTOCOL

3. ...the following acts shall be regarded as grave breaches of this Protocol, when committed wilfully, in violation of the relevant provisions of this Protocol, and causing death or serious injury to body or health:

- (a) making the civilian population or individual civilians the object of attack;
- (b) launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Art. 57, para. 2 (a) (iii). (...)

5. Without prejudice to the application of the Conventions and of this Protocol, grave breaches of these instruments shall be regarded as war crimes.

Article 86 - Failure to act

1. The High Contracting Parties and the Parties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches, of the Conventions or of this Protocol which result from a failure to a when under a duty to do so.

2. The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach.

Article 87 - Duty of commanders

1. The High Contracting Parties and the Parties to the conflict shall require military commanders, with respect to members of the armed forces under their command and other persons under their control, to prevent and, where necessary, to suppress and to report to competent authorities breaches of the Conventions and of this Protocol.

2. In order to prevent and suppress breaches, High Contracting Parties and Parties to the conflict shall require that, commanders ensurate with their level of responsibility, commanders ensure that members of the armed forces under their command are aware of their obligations under the Conventions and this Protocol. (...)

Article 88 - Mutual assistance in criminal matters...

Article 89 - Co-operation

In situations of serious violations of the Conventions or of this Protocol, the High Contracting Parties undertake to act, jointly or individually, in co-operation with the United Nations and in conformity with the United Nations Charter.

Article 90 - International Fact-Finding Commission... (...)

NOTES : (1) Protocol II deals with Non-International conflicts.

(2) In convening the diplomatic conferences leading up to the Protocols, the International Committee of the Red Cross described two different categories of treaty - those which concentrate on regulating or banning specific weapons and methods of warfare and those which deal with the effects of warfare. The conference they proposed would work towards a treaty of the second kind.

Using this as a pretext, the governments of the UK and USA entered the following 'understandings' as formal reservations on signing : ' that the new rules introduced by the Protocol are not intended to have any effect on and do not regulate or prohibit the use of nuclear weapons'. (U.K.)

There are laws against guns and explosives and there are laws against murder and GBH. Killing people with shotguns is criminal from the perspective of both kinds of ban. There is no specific ban against rolling pins. But that doesn't render it lawful if I kill someone with a rolling pin !

Most of the Protocol is merely declaratory of pre-existing customary and conventional international law. Hence the "Martens clause" which was included in Protocol I at Article 1, (2), applies independently of the British reservation (made by David Owen following the American lead). Note the force of 'new rules'.

Under the terms of the Vienna Convention on Treaties, 'reservations' and amendments which violate the basic thrust and aim of a treaty are themselves considered to be legally null and void.

(3) The U.K. government also attempted to dilute the force of some other articles:

e.g. with reference to Articles 41, 57 and 58 it declared that " 'feasible' means that which is practicable... taking into account all the circumstances at the time including those relevant to the success of military operations." However Britain insisted at Nuremberg that 'The rules of international law must be followed even if it results in the loss of a battle or even a war'. In any case, by poisoning the realm for a thousand generations, the use of these cancer machines can only lose a war, they cannot contribute to any kind of military success.

e.g. with reference to Articles 51 to 58 Britain wanted due consideration for military commanders and planners who have to reach decisions 'on their assessment of the information from all sources which is available to them at the relevant time'. But most wars start with lives successfully spread by 'intelligence services'. Every invading column thinks it is merely defending against imminent attack. Invaders can withdraw, but no one can reverse nuclear effects. Note also British buying of the U.S. lies about the Berlin disco bombing to 'justify' bombing Tripoli.