... AND STILL THEY DON'T LISTEN!

The Citizen and the Law of Armed Conflict

A two-day conference, 1-2 September 2009

Friends' House, Euston Road, London

Working for a responsive State which listens to citizens and takes the law seriously

The Citizen and the Law of Armed Conflict

INTRODUCTION

Dear Conference member

Our conference is just under a fortnight away. We have some excellent speakers from a variety of backgrounds and they are all very clear about the reason we are meeting – to create something which will develop our dialogue with politicians and decision makers. It will be a very busy two days. We hope that it will be the start of something and not just an end in itself.

I hope you will find this package useful reading in advance. It contains the full programme with details of Discussion Groups and examples and reflections on contact between citizens, politicians and officials. More material for us to use in the Discussion Groups on the second day will be available on the first day. Some of it will be directly referred to by our speakers. Other items are of more general interest.

The package contains details about what we hope to achieve from the Discussion Groups. They will need careful organisation. You will see from the programme that there are six topics and four sessions. You can therefore choose any four of the topics. Some of you might like to take part in the same topic more than once, especially if you have special experience or knowledge to offer. We can certainly be flexible about this, but we would like you to indicate your preferences on the first day so that we can organise the spaces for the Groups effectively.

We have also put in a copy of the INLAP Booklet *The Laws of Armed Conflict*. It is essentially a compendium of the main laws and some linking commentary with a couple of additional articles added. It is not meant to be read cover to cover, but we hope that it provides a useful reference.

We are not charging you for the conference. However, we shall ask you to pay for your own tea or coffee which will be served during the breaks. There is a variety of places to eat nearby and there will be a space in Friends House if you want to bring packed lunches.

We would like to thank Friends House, and especially **Kat Barton** of *Quaker Peace and Social Witness,* for their generosity. They have provided a free venue for us, together with equipment and rooms for the Discussion Groups. Our Steering Group meetings have also been accommodated at no cost. Throughout, Kat has been helpful with advice and practical help, ensuring, for example that news about the conference has been publicised through the Quaker Network. Without this generosity, I don't think the event could have happened.

We must also thank the *Polden-Puckham Charitable Foundation* for the funding they have provided. The Foundation has been notably supportive of several of the organisations represented in our Steering Group. This grant has been supplemented by a sum of money from the *Movement for the Abolition of War,* and we also appreciate this considerably. We have managed to keep the costs to a minimum, but even so we have to pay travelling expenses for some of the speakers and printing costs have also mounted up.

George Farebrother

Is Government listening to Concerned Citizens?
Programme

TUESDAY 1 SEPTEMBER: THE PROBLEM

The usual time for speakers will be 10 minutes minimum, 15 minutes maximum, providing time for discussion.

9.30 **Registration and Coffee**

10.00 **Welcome and Introduction:** The scope and aims of the two-day event, *Pat Haward*

10.10 **Panel 1: Review of International and Domestic Law from the viewpoint of concerned activists:** Chair Pat Haward, *Professor Nick Grief, Rob Manson*

11.10 **Break**

11.30 **Panel 2: Difficulties experienced by citizens in relating to government:** Chair Jim McCluskey

1. Lack of transparency on the part of government, *Ann Feltham*
2. Problems with public representations. e.g. public consultations, *Dr Paul Dorfman*
3. Do the government and officials share the same values and presuppositions about the role and nature of Britain as activists? *Dr Nick Ritchie*
4. Responsiveness or otherwise of Parliament on foreign policy issues, *Dr Andrew Blick*

1.00 **Lunch**

2.00 **Panel 3: How we Relate to Public Opinion:** Chair George Farebrother, *London Assembly Member Jenny Jones, Milan Rai*

1. How far do activists' concerns reflect public opinion?
2. Public apathy and impotence in the face of the issues
3. Need for clarity for activists in understanding how Government works

2.45 **Panel 4: Relating to politicians and decision makers:**

Chair Tony Kempster, *Norman Baker, Clare Short MP, Rosie Houldsworth* George Farebrother

4.00 **Break**

4.20 **Panel 5: Some case studies:** Chair Jenny Maxwell

1. Trident renewal, *Angie Zelter*
2. Torture, Rendition, "War on Terror", *Gareth Peirce*
3. An example of successful interaction between citizens and Government, *Jackie Chase*

5.10 **Closing remarks:** *Pat Haward*

6.00 **Reception at Houses of Parliament: Welcome by Norman Baker MP**

2 SEPTEMBER: THE WAY FORWARD

9.30 **Welcome and Plenary Session:** Chair Peter Nicholls

1. Varieties of dialogue and contact: petitions, face-to-face meetings, events, letters to the press use of media, information technology, *Jenny Maxwell, George Farebrother, Ashley Woods*
2. What we hope to achieve from the discussion groups, *Pat Haward*

DISCUSSION GROUPS: The groups will consider:

1. How best to approach MPs and decision makers.
2. How we can develop a bank of useful responses based on the advice of lawyers?
3. What can we learn from related work carried out by other organisations?
   How can we reach out to like-minded groups and to the public, bearing in mind public opinion?
4. What systems can we set up (IT & other) for developing and monitoring our future work?

10.30 **First Discussion Group**

11.25 **Break**

11.45 **Second Discussion Group**

12.40 **Lunch**

1.40 **Third Discussion Group**

2.35 **Plenary: Audio Visual presentation: *"Morality of Nuclear Deterrence",*** *Martin Birdseye*

3.05 **Fourth Discussion Group**

4.00 **Break (rapporteurs compose their reports)**

4.30 **Plenary Session: Presentation of group reports**

5.15 **Closing remarks: Summary of the way forward and future developments,** *George Farebrother*

5.25 **End**

The Citizen and the Law of Armed Conflict

Discussion Groups (Revised)

These are not meant to be agenda items. They are just pointers for discussion. You will certainly want to add more or you may not be able to cover all of them in any one Group session. Inevitably, some topics will overlap from one Discussion Group to another.

1. How best to approach MPs and decision makers.

A. What authority do we have? Why should officials take any notice of us? We are not elected except, perhaps, from within a very small constituency.

B. What experience do we have of replies to our letters? What seems to work best and are there any guidelines?

C. How well do visits to surgeries go? How should we prepare for letters and visits to MPs?

D. What is the value of Early Day Motions?

E. What about contacting MPs outside your constituency?

F. Are there additional problems with MEPs?

G. How do we deal with MPs who are simply not interested or even aware of the issues involved?

H. Are there ways of approaching politicians indirectly through third parties?

I. Would a central bank of interactions with MPs and useful information be of help?

2. How we can develop a bank of useful responses based on the advice of lawyers?

A. What value is there in arguing from the law? How well do such arguments operate in the face of deeply-held assumptions by many officials and MPs?

B. Do we know of lawyers who would be helpful at fairly short notice?

C. Can we identify MPs who are concerned with the law - e.g. cross-party groups?

D. What information do we need to guide us through the morass of international law?

E. Is the INLAP booklet, "The Laws of Armed Conflict" useful, or do we need something else as well?

F. How can we make sure that what the lawyers say is made accessible to non-lawyers?

G. What use can we make of the Freedom of Information Act?

3. What can we learn from related work carried out by other organisations?
How can we reach out to like-minded groups and to the public, bearing in mind public opinion?

A. How far are politicians influenced by public opinion?

B. How can we encourage them to take a lead and try to bring the public along by arguments?

C. How best can we integrate our activities by, for example, liaising with MPs, the media and setting up events?

D. How do we make sure that the work is shared with ordinary people and not just carried out by full-time workers and dedicated enthusiasts?

E. What other groups are doing similar monitoring work?

F. What sort of structure do we need to make the experiences of each organisation available to the rest?

G. What can we learn from the methods used by groups which have been largely successful in their aims?

4. What systems can we set up (IT & other) for developing and monitoring our future work?

A. What are our needs (specific system features to support collaboration, dialogue and outreach)?

B. Do we need to set up a new organisation or network with a new name? New website / wiki / email lists / blogs / facebook groups / videos / U-Tube etc? Can some needs be met through existing services?

C. Who should be included in which groups, lists or pages: activists only/general public/MPs/interest groups?

D. What form(s) should correspondence archives take? How can we classify responses to identify common threads?

E. What work would be involved in setting up and maintaining such systems? Who has the skills? Do we need to pay people? How much would it cost? Should we seek grant funding?

F. How do we make sure that the work is shared with ordinary people, including people not comfortable with IT, and not just carried out by full-time workers and dedicated enthusiasts?

G. What are the first steps towards following up the results of this conference?

Connections and Contents

In the main the material in this package moves from the general to the particular, aiming to set a context for our dialogue with decision makers.

1. Our Speakers

This is a very full conference, partly because so many speakers have been willing to take part. This is all to the good, but it does mean a very tight schedule. So please be prompt in returning after breaks. We have allowed enough time for questions (but not for long statements) from the floor. In addition many of our speakers will be able to help with our Discussion Groups on the second day.

Several common themes run through what the speakers have to say, the material in this package, and our Discussion Groups. For example, Dr. Grief will be speaking about his interest in the legal status of US bases in Britain and Norman Baker MP has asked a large number of Parliamentary Questions on the same subject - one which also has a special interest for some of our activists.

2. Building a Culture of Trust in Politics

"Fear, uncertainty and doubt" underlie the barriers we constantly meet. We can play our own part in working for the openness and transparency the author calls for. The hidden assumptions he mentions are also explored in Item 4 and in Dr Ritchie's presentation which exposes the presuppositions behind Britain's nuclear policy. Angie Zelter's paper (Item 13) and Items 12 and 14 provide concrete examples of evasiveness in the nuclear weapons issue.

3. Geneva Conventions' struggle for respect

This is a warning to us all. However correct our legal interpretation is, we are faced with the fact that states do not make the law their highest priority. Angie Zelter's long experience of taking up the legality of Trident with the Government tends to confirm this suspicion. It is central to Gareth Peirce's presentation. She has been very much at the sharp end of dealing with those who have been the victims of abuse of law. So, too, has Jackie Chase, most recently in connection with her work in the Save Omar campaign. In a sense, we are fighting with one hand tied behind our back. It is our way to be open, and to be meticulous in our interpretation of the law.

4. Trident and British Identity

We have to take the factors Dr Ritchie explores into account. It is not just a question of fact or logic. Deep feelings are involved. The problem, perhaps, is whether or not we discount these feeling. Or do we recognise them on the basis that we do not want to treat politicians and officials as "the enemy"?

5. Democratic Control Of Nuclear Forces: a United Kingdom Perspective

This is a refreshing example from someone deep in the Nuclear Establishment. It provides a glimpse into the way this establishment works. We have to take account of this if we are to find a way through. It also illustrates some of the presuppositions mentioned by Dr Ritchie.

6. Public Opinion And The Peace Movement

Democratic politicians want to be elected and public opinion therefore matters to them. Milan Rai's paper is relevant to this. In general, public opinion is veering towards endorsement of our concerns. The problem is: are their beliefs strong enough for them to do anything about it? Getting through to politicians in spite of public opinion will form part of Jenny Jones' presentation. She emphasises the need for politicians to lead the public rather than merely follow it. Dr. Blick, who has experience of working for an MP, will also be able to advise us. It is also relevant to Discussion Group 6 where we might well discuss our own authority in a democracy (however limited) as well as to Discussion Group 4 which will try to think about our own work and public opinion. Effective use of the media and Information Technology is also important here, and Ashley Woods, who will be speaking on the second day, will also be able to help us to explore this area in Discussion Group 5.

7. Having An Effect: How Campaigning Can Change Government Policy

Milan Rai points to another factor we cannot ignore - financial pressure on governments. As with the factors referred to by Dr Ritchie, logic and facts are not enough. Milan argues that self-interest must also be addressed.

8. Cluster Bombs, the Citizen and the Law:

This is an example of a success story. We would do well to learn from other groups how they have actually brought about change. Jackie Chase will be able to help with this when she talks about the "Save Omar" campaign and will also be of considerable help in Discussion Group 4. Interestingly, the dialogue with officials about the legal aspects of Cluster Munitions uses similar language and concepts to the dialogue described in Items 12, 13 and 14.

9. Depleted Uranium Munitions

We need to follow the work of the Campaign Against Depleted Uranium carefully. It may well follow a similar path, with similar lessons to us, as the Cluster Munitions story. Once again, we have good examples of evasive and sometimes misleading statements by officials right up to the time when the campaign for abolition is successful.

10. Right to the very end in Iraq, our masters denied us the truth

There are important lessons for us here. We are familiar by now with the barriers against trying to get a straight answer. Once again, responses from officials about legal issues are, to say the least, not very helpful. Here we have a committed and passionate approach taken by Tom Geddes (who is attending this conference). The fact that it has been taken up by a prominent journalist provides added value. We need to discuss how we can do this more effectively in Discussion Group 5. In addition we should examine the fine line between speaking our truth forcefully and the need to be fair and polite emphasised by the Oxford Research Group, as shown in the presentations by Jenny Maxwell and Frank Boulton.

11. Correspondence between Christine Titmus and her MP Andrew Lansley

This is a dismal story. Not all MPs are so outright dismissive. But many are politely disengaged. George Farebrother will provide more examples of this. Workshop 1 will give us an opportunity to discuss the matter in more depth. Norman Baker will be available for Discussion Group 1 on approaching MPs and will also talk about this on Day 1.

12. Dialogue on Trident, Unpredictability and Illegality

This is a prime example of a brick wall - this time about the legal status of Trident under International Humanitarian Law. According to one of our supportive lawyers, this step-by-step argument is very difficult to deal with. The Nuclear Establishment solves this simply by ignoring it. It is possible that somewhere, in some dark cupboard, there lives a riposte to such arguments. We've never been shown a glimpse of it though. One suspects that there is no answer; that the Nuclear Establishment knows this; and doesn't care too much. Even so, we must get our legal arguments right. Nick Grief and Rob Manson will be able to advise us on the best issues to concentrate on and , hopefully, suggest ways of engaging more lawyers to help us - an important part of Workshop 3. Clare Short MP can look at the problems we face from the point of view of a minister and an MP who has fielded several controversial issues. Nuclear Weapons are not alone in meeting official prevarication and resistance. Dr Dorfman will explain how the whole area of public consultation is subject to the same features.

13. Analysis of TP's dialogue with Government officials.

There is letter-writing, meeting officials and politicians; and direct action. Angie Zelter does all three with immense care and responsibility. Trident Ploughshare's letters combine forthright conviction and courtesy. It shows that, to have the best effect, all forms of activity must reinforce each other. This is also apparent in the successes reported by Jackie Chase in her presentation One important lesson for us is not to sell the pass by endorsing the language used to make the unacceptable seem normal. This particular dialogue also shows the importance of keeping records. World Court Project has an archive of letters with officials and MPs over the last ten years and Workshop 2 will give us a chance of finding ways to make this accessible more widely.

14. Correspondence with the Ministry of Defence

We are against nuclear weapons and many other things, such as Cluster Munitions, Depleted Uranium and illegal invasions, not just because they are dangerous, costly and unwise; but because they are wrong. This correspondence attempts to get to the heart of the morality relating to nuclear weapons. This seems to be too much for our officials who fall back all too easily on the defences of security and deterrence. One of our tasks is to find ways of bringing these issues of right and wrong out into the open. Interestingly the the Freedom of Information Act is referred to in this correspondence and Norman Baker MP is interested in how we can best make use of this.

1. Our Speakers

Pat Haward left Oxford in 1954 and joined the *New Statesman* where she became assistant editor. In the 60s she worked in Uganda as a teacher of English. On her return to the UK in 1972 she taught a variety of subjects at Hackney College. She is Chair of World Court Project UK and has worked with the Institute for Law Accountability and Peace for several years.

Pat Haward will outline the aims of our conference, emphasising that it is about the process of interaction between concerned citizens and people with power and that we intend to achieve a result – a structure for exchanging experiences and acting more effectively.

Professor Nick Grief is Professor of Law at Bournemouth University and practises as barrister from Doughty Street Chambers, London. He specialises in public international law and European law with particular emphasis on international human rights and humanitarian law. Notable cases in which he has appeared as counsel include *A v Secretary of State for the Home Department (No 2) (2005) UKHL 71* on the inadmissibility of evidence obtained by torture, and *R v Jones and others (*2006) *UKHL 16* which arose out of the invasion of Iraq. In August 2008, with Caoilfhionn Gallagher of Doughty Street, he successfully defended a protester accused of trespassing on a nuclear site at AWE Aldermaston in the first trial under s. 128 of the Serious Organised Crime and Police Act 2005 as amended by s. 12 of the Terrorism Act 2006. In January 2007 he gave evidence to the House of Commons Defence Committee on the legal implications of the White Paper on the future of the UK's strategic nuclear deterrent.

Professor Grief will use his experience of legal practice and of working with activists, Parliament and Government to highlight law and peace issues which concerned activists can usefully address. He will refer to Trident but pay special attention to the accountability of US bases in the UK and the legal regime under which such bases operate. Although there are opportunities for us to try to make a difference, there are also limitations on what we can achieve.

Robert Manson LLB is a solicitor, researcher, and co-founder of the Institute for Law Accountability & Peace (INLAP). He has represented INLAP on the Coalition for an International Criminal Court in the Special Working Group on the Crime of Aggression. He has acted as the Defence Lawyer in the R. vs. Jones & Milling which arose out of an alleged $80 000 worth of damage at the Fairford US air base in the early stages of the invasion of Iraq. He is the author of *The Pax Legalis Papers***,** described as "essential reading for activist pacifists" and "the first coherent and sustained legal critique of nuclear defence policy under the law of the United Kingdom".

Robert Manson will describe the resistance from the British Government to establishing a secure relationship between the International Criminal Court and the Security Council during the struggle to define and establish the Crime of Aggression under the Court's jurisdiction.

Ann Feltham has been campaigning with the Campaign Against Arms Trade since the late 1970s and on its staff since 1985, most recently as Parliamentary Co-ordinator. She will tell us about CAAT's success in getting greater transparency on some arms trade issues. This is due to painstaking research at the National Archive, the use of the Freedom of Information Act, taking Judicial Reviews which at least can bring issues into the open, and liaison with journalists, both in the UK and overseas. CAAT's work in this area is complemented by local and "activist" campaigning.

Dr. Paul Dorfman is senior research fellow at the national centre for involvement at the University of Warwick, Rowntree research fellow on nuclear aspects of the energy review consultation, and was co-secretary to the UK Governmental Scientific Advisory Committee examining radiation risks from internal emitters.

Dr Dorfman wrote in the Guardian in May 2007: "A general rule of consultation processes is that those who define the scope, remit and function often achieve the outcome they desire". This defines his area of concern. His presentation will refer to his experience of the *Nuclear Consultation Group* (NCG) to examine the way the Government talks to people about the "Nuclear Renaissance" in the UK. We need more clarity and honesty about their intentions. Dr Dorfman will outline what has happened, how the Government has not listened, and why the NCG is calling for a public inquiry into the 'Justification' of new nuclear power in the UK.

Dr Nick Ritchie is a Research Fellow at the Department of Peace Studies, University of Bradford. His current work on British nuclear weapons policy is funded by the Joseph Rowntree Charitable Trust and saw the publication of *Deterrence Dogma? Challenging the Relevance of British Nuclear Weapons* in *International Affairs* in January 2009. His latest book, *US Nuclear Weapons Policy after the Cold War: Russians, 'Rogues' and Domestic Division*, was recently published by Routledge based on his PhD thesis completed at Bradford in 2007. He previously worked as a researcher on international security issues for five years at the Oxford Research Group.

Dr Ritchie will explain his research findings which show that the Labour Government's decision to replace Trident should be seen in the historical context of the political and defence establishment's perception of Britain's self-identity and its role in the world. Nuclear weapons are perceived to underpin Britain's core self-identity as a major 'pivotal' power with a special responsibility for maintaining international order. He believes that Britain needs to accept a non-nuclear identity in order to relinquish nuclear weapons.

Dr. Andrew Blick is Senior Research Fellow for *Democratic Audit* and is working on the Federal UK project for the *Federal Trust*. He is the author of *People Who Live in the Dark: a history of the special adviser in British politics* (second edition forthcoming 2010); and *How to go to war: a handbook for democratic leaders* (2005). He is currently finishing with Prof. George Jones a book on the nature, development and power of the British office of Prime Minister entitled *Premiership* (2010 forthcoming).

Dr Blick will draw on his current research into Parliament and his experience of working for an MP. Change is possible in certain fairly rare circumstances through strong public pressure, especially when an unexpected turn of events makes the previously unthinkable suddenly seem viable. However, most influence on MPs is informal, unseen, and not usually related to the big stories. In addition there are other avenues for activists than their local MP, including Select Committees. The main secret is simply persistence.

Jenny Jones has been a Member of the London Assembly since 2000. She is the leader of the Green Group and was formerly Deputy Mayor of London. She serves on several committees including Planning and Housing, and Transport. She is also a member of the Metropolitan Police Authority. She has worked to secure safer roads, improved facilities for pedestrians and cyclists, reductions in road crimes and traffic, and excellent public transport for all users. In her former role as chair of London Food, she has sought to improve the food that is on offer to Londoners and to reduce its environmental impact. She has raised awareness of the dangers of climate change and the urgent need to reduce greenhouse emissions. In 2004 she was named as one of 200 "women of achievement".

Jenny Jones believes that the Green Party likes to set the agenda for change, for example on peace and climate issues, and try to explain this to people and take them along. However, most politicians tend to be reactive, rather than pro-active, to the public because they want to be re-elected. If an individual member of the public has a concern it is therefore quite difficult to get through to politicians. One good approach is to gain the attention of someone a politician will listen to and who is willing to act as a gateway.

Milan Rai, a writer and anti-war activist from Hastings, is co-ordinator of the anti-war group *Justice Not Vengeance,* and co-editor of *Peace News*. He has also worked with *British Ploughshares,* ARROW (Active Resistance to the Roots of War), CND, and *Voices in the Wilderness UK,* He became politically active in the campaign against Pershing II and Ground-Launched Cruise Missiles in the late 1980s. He has been in conflict with the authorities several times. He was arrested at the Cenotaph in 2005 for refusing to cease reading aloud the names of civilians killed in Iraq. He was convicted under the Serious Organised Crime and Police Act 2005 (SOCPA) for organising an illegal demonstration in the vicinity of Parliament. This was his fourth prison sentence for anti-war protests.

Milan Rai believes that to an unprecedented extent, public opinion is now in tune with the peace movement - not only on issues, but also on the methods that can legitimately be used to achieve change. While recognising the commitment of Government to military Keynesianism to subsidise high technology and to military intervention abroad to safeguard economic and financial "vital interests", the time is right to speak of democratising policy-making as well as changing policy.

Norman Baker has been MP for Lewes since 1997 and has established a reputation as one of the most dogged and persistent parliamentary interrogators the modern House of Commons has known. In 1998 he won an award as "Best Newcomer MP" for his campaigning on environmental issues. In 2003 he received the RSPCA's Lord Erskine Award in recognition of his campaigning for animal welfare. In 2006 he investigated and published a book about the death of Dr David Kelly, the scientist found dead in 2003 after being named as the possible source of a BBC story on the Government's dossier justifying the invasion of Iraq. He has shadowed for the Liberal Democrats in Environment and Rural Affairs and now for Transport which allows him to continue with his environmental interests by campaigning for better and greener public transport.

Norman Baker will draw on his experience of working with concerned citizens both inside and outside his constituency. He will refer in particular to the way he has raised the issue of the status of US bases in the UK on behalf of the Campaign for the Accountability of American Bases. He will also outline the most effective ways of approaching MPs on the issues that concern members of this conference and draw attention to the value of the Freedom of Information Act.

Clare Short was elected as Labour Party MP for Birmingham Ladywood in 1983. She now sits as an Independent Member of Parliament and plans to stand down as a MP at the next general election. She twice resigned from the Labour Front Bench over the Prevention of Terrorism Act in 1988, and then over the Gulf War in 1990. After the 1997 UK general election she served as Secretary of State for International Development and signed the U.K. into the Ottawa Convention, banning the production, handling and use of anti-personnel mines. In March 2003 she threatened to resign from the Cabinet if Britain invaded Iraq without a clear mandate from the United Nations and eventually did so two months later. She has denounced Israeli action in Gaza and condemned that country as being guilty of "bloody, brutal and systematic annexation of land, destruction of homes and the deliberate creation of an apartheid system." Recently she has emphasised the need for the end of our current 'throw away' society and says that we should consider the consequences of today's environmental concerns for future generations.

Clare Short's experience as a civil servant, Opposition front-bencher, and Cabinet minister for the Department for International Development, will allow her to consider the relationship between Government, politicians and concerned activists. Willing to take up controversial positions she is very much aware of the pressures on MPs and ministers to conform. Of special interest to members of the conference is the tension between the citizen's right to know and the restrictions imposed by national security, which came to a head during her involvement with the claim, at the beginning of the Iraq war, that British spies regularly intercept UN communications.

Frank Boulton, a retired physician, is current Chair of Medact (the UK affiliate of the International Physicians for the Prevention of Nuclear War). Until last year he was Secretary of the Oxford Research Group with whose first efforts in the early 1980's to set up a dialogue project he was associated while Chair of the Edinburgh branch of the Medical Campaign Against Nuclear Weapons. He was closely associated with ORG's best-selling booklet, *Everyone's Guide to Achieving Change: A Step-by-Step Approach to Dialogue with Decision-Makers*, and worked with Rosie Houldsworth and the late Janet Bloomfield to promote this.

Frank will describe the dialogue approach as radical, tough, mutually questioning and democratically responsible: he will suggest how to define it as a new contribution in the complex relationships between activists and Government decision-makers.

George Farebrother retired as Head of History at a State Secondary School in 1992. He became UK Secretary of the World Court Project, working with his wife, Jean, from his home in Sussex. The Project worked to obtain the 1996 Advisory Opinion from the International Court of Justice on the legal status of nuclear weapons. He now works to raise awareness of the Court's Advisory Opinion with the media, politicians and the public. He makes a special point of providing information and practical help for supporters on a personal basis. He is now civil society co-coordinator of a coalition of international citizens' groups which is preparing a resolution for the United Nations General Assembly. This will ask the World Court whether the nuclear states are complying with their Good Faith disarmament obligations. He is also linked with several local, national and international peace groups.

George Farebrother will describe his experience of working with World Court Project and various local and national peace organisations to provide examples of correspondence with politicians and officials. Of special concern are the problems met by ordinary activists in raising law and peace issues with those who should be in a position to know about them and to respond with some degree of relevance, attention, and openness.

Angie Zelter is a peace, human rights and environmental campaigner and the author of several books on campaigning and the law. A founder member of the Institute for Law and Peace, Trident Ploughshares and Faslane 365, she is the recipient of the 1997 Sean McBride Peace Prize and the 2001 Right Livelihood Award.

Angie Zelter will analyse the history of dialogue and negotiation between Trident Ploughshares and Government officials, mainly by letter, which started in 1998. She believes that dialogue and resistance to nuclear weapons go hand in hand. She will also describe dialogue with lawyers, the courts and the police. Dialogue with the Government exposes a variety of needs: for clarity, openness, and seriousness on issues of international law. Evasiveness is often shown in glib and unexamined phrases and there are often misleading or incorrect statements.

Gareth Peirce is a solicitor who works for Birnberg Peirce and Partners. She is noted for taking on controversial cases, including high profile human rights issues. Her clients include the Birmingham Six, the Tipton Three, the Guildford Four, former MI5 operative David Shayler, Abu Qatada , Judith Ward, Mouloud Sihali, the family of Jean Charles de Menezes, Mozzam Begg and Bisher Amin Khalil al-Rawi, a detainee at Guantanamo. She has supported specific campaigns for reform of laws and police procedures that permitted the prosecution and conviction of persons solely on identification evidence. She was one of the initial eight people inducted in March 2007 into *Justice Denied* magazine's Hall of Honor, for her lifetime achievement in aiding the wrongly convicted.

Gareth Peirce will show how her experience in working on human rights issues over several years indicates how fragile international treaties in practice when it comes to Government policy and the constant need for our concern and vigilance. The Government has been in denial about its complicit breaches of the Torture and Geneva Conventions. Gareth is very much aware of these issues through her work with Guantanamo detainees and her contesting of torture evidence used in the UK.

Jackie Chase is a music teacher from Brighton, who has been concerned with human rights since her 20s. She has been active in Brighton using music to bring people from different cultures and backgrounds together. She is active on the Racial Harassment Forum, the Community and Voluntary Sector Forum and promotes Brighton's UN Peace Messenger status. She has been pivotal in the Save Omar Campaign. Omar Deghayes is a Libyan born 40 year old man who sought refuge in Brighton. When the war in Afghanistan began in 2001 he fled to Pakistan where he was arrested and subsequently taken to Guantanamo Bay.

Jackie Chase will explore how far the Save Omar Campaign was a successful interaction between citizens and Government. There were reams of letters, newspaper articles and short bursts of TV coverage and the campaign embarrassed our Government, local citizens and the media. The campaign was characterised by personal contacts and human interest. The key was getting acceptance that Omar was a resident of Brighton who, like any other Brighton resident had rights. She will describe the bureaucratic barriers and evasions, both British and American, and, in the early stages, apathy from local MPs. The campaign also showed the power of measured behaviour, a clear theme of justice and human rights, and the use of people of all ages from different walks of life and from different cultures.

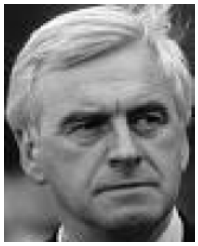
Jenny Maxwell is Chair of West Midlands CND, and has been both Treasurer and Vice-Chair of National CND. For many years she ran the CND letter-writing team, so is well-acquainted with the evasive and often misleading replies received from MPs and diplomats.

Jenny Maxwell will use her experience with CND of encouraging activists to write letters to politicians and officials to outline the best way of reaching Government ministers through MPs. She will emphasise the need to be polite, positive when possible, and concise. It is also important to get the facts right. Questions should be limited and unsatisfactory answers followed up. It is useful to link letters to MPs with reference to the same issue in local newspapers.

Ashley Woods is an independent media consultant with 15 or more years of international media and advertising experience. He is Director of *REAL Exhibition Development,* a non-profit media production company, and is also working on a global advertising campaign entitled *Disarmament for Development* for the International Peace Bureau.

Ashley Woods will give a concise introduction in how to sensibly and cost effectively use new and existing information technology and the internet to provide concrete steps toward creating and running a media campaign to make sure that we reach and influence our audience.

John McDonnell is the son of a Liverpool docker and shop worker. He has worked as a production worker and an official of the National Union of Mineworkers and subsequently the TUC. He has considerable experience in local government. He has been MP for Hayes and Harlington since 1997 and describes himself as a community MP, championing issues such as the threat of expansion at Heathrow airport and its impact on local communities. He is the Chair of the Socialist Campaign Group of MPs, and of the Labour Representation Committee. He has also served on several All Party and Topic groups within Parliament. He is a prominent member of the Stop he War Coalition, and has been a consistent campaigner in Parliament against the invasion and occupation of Iraq.



John McDonnell is not one of our speakers, but we shall be able to take advantage of his experience during our Discussion Groups.

2. Building a Culture of Trust in Politics

Joe Brewer Cognitive Policy Works, May 2009

A culture of trust is vital to solving the big problems of our age. Without trust, there can be no hope of real and lasting positive change in the world. Our challenges are too big to solve on our own. We must be able to work together and collaborate on an unprecedented scale to build a stable economy, restore health to our communities, and manage the tremendous global changes unfolding around us.

And yet we live in a world filled with manipulative messages, the very presence of which threatens the foundation of democracy. From a very early age, our hidden motivations (in the form of emotional tendencies and networks of associated knowledge embedded in our unconscious minds) have been exploited to trick us into thinking we need things that we don't.

And now this pervasiveness of sophisticated commercial marketing has corroded the fabric of political engagement. We no longer trust most of the information we receive. Our skepticism is a cultural pathology - a deeply rooted belief that those in power are trying to trick us. Unfortunately, this distrust is grounded in the truth that we have indeed been tricked many times in the past.

The existence of skepticism is a matter of significance that needs to be addressed in our politics. Lip service is often paid to the need for greater voter turnout, but no solutions are offered that address the malaise of distrust that has stood in the way of progress for decades.

I believe that a culture of trust is desperately needed if we are to address the looming challenges of the modern world. People need to be able to identify deceptive practices and stop them in their tracks, while also having the skills necessary to communicate their real concerns authentically so that others can trust in them.

A starting point in the cultivation of trust is to name the strategy that undermines it. One that has been around for years, but is not in common use, is the acronym **"FUD"** which stands for **Fear, Uncertainty and Doubt** - the standard tactics for deceiving and manipulating people. FUD can be found every time that an insecurity is used to push a product ("Use our acne medication or you won't be attractive"). It is present in misinformation campaigns that undermine legitimate authorities ("Climate has changed in the past, so you can't trust those who claim it is changing now due to human causes."). It is the basic premise of public relations and marketing firms that fill our world with mixed messages in the mass media every day.

Where do FUD practitioners learn their trade? Is there a FUD University that teaches the tactics of deception and redirection? Perhaps not. But these skills are widely deployed and are threatening the public confidence that forms the basis of modern democracy.

What we need is an antidote to FUD - a collection of skills and practices that nullify deception and transcend it. As we move into the 21st Century, we must create new tools for countering deception that instill trust in our capacity as a people to govern ourselves. We need to be able to deconstruct spin in the media so that hidden messages are made explicit. This will require us to think differently about truth and perception. We'll have to understand the psychology of meaning and the nature of our hidden motiv-ations. We need the opposite of FUD, an Open University that teaches the tactics of honesty and authenticity.

The only viable response to FUD is openness and transparency. Our hidden tendencies can only be exploited if they remain hidden. It is vital that we democratize the production of political communications, starting at the most basic level of knowing our own minds. We need a cognitive toolbox - tools for understanding what's going on inside our heads - to be able to see how communication works within us. Only then can we truly open up the production process and invite the public to participate.

This goes much deeper than merely changing the content of our messages in political communications. Rampant distrust in a culture keeps a populace from being able to discern truth for themselves, regardless of how accurate a message might be. Instead, we have to restructure the methods of communication themselves. For example, most people are well aware that digital media can be modified to make things that are fake seem real. We've all experienced this at the movies many times in our lives. So there is a need to make the creation of digital media more transparent - as websites like YouTube do when users typically know what is real because they are making it themselves. This transparency makes it possible for the process of media production to be scrutinized.

The same can be said for other political processes. Currently most legislation is created behind closed doors and under the veil of technocratic language. The obscurity of this process - combined with the fact that bills have been used in the past for purposes different from what we were told (think "Patriot Act" or "No Child Left Behind") - and you get a recipe for widespread skepticism about the legislative process. No wonder so many people disengage!

It is time to start the difficult work of building a better kind of politics, one that works in the 21st Century. We have to open up the political system and make it more participatory. People have to feel like they can take ownership and engage the political world with a mandate for openness and transparency.

The age of elite democracy is behind us. It doesn't serve us any longer. In the days ahead, we'll need a populist politics that recognizes the value of active participation, one that promotes inclusiveness for everyone. Such an open political machine will only work if its "operating system" is visible. We can only trust in the system if we are able to see how it works and make modifications to it when it doesn't. This is analogous to what software developers call "open source" where the source code of a piece of software is open for others to see. When the source code is hidden, it is impossible to truly know what is going on inside the black box of the machine.

The same is true for our politics. Democracy is only real when the political source code is open for everyone to see. Building a culture of trust will require that we get to the heart of this problem, and make visible the methods of production for all the world to see.

3. Geneva Conventions' struggle for respect

By Imogen Foulkes, BBC News, Geneva

The Geneva Conventions are 60 years old on Wednesday, but the anniversary comes amid concern that respect for the rules of war is small.

The three existing Geneva Conventions, which relate to the immunity of medical personnel on the battlefield and the treatment of prisoners of war, were extensively revised in 1949.

The fourth Geneva Convention, which stipulates that warring parties have an obligation to protect civilians, was added. The fourth convention in particular was born out of the horrors of the World War II - not just the appalling atrocity of the concentration camps, but the deliberate starvation of the city of Leningrad, and the indiscriminate bombing of Dresden and Coventry. The conventions received widespread international support from the start, and today all 194 states have ratified them.

Unfortunately, signatures on paper have not led to respect for the conventions, and research conducted by the International Committee of the Red Cross (ICRC) - which is the guardian of the conventions - shows that civilians suffer most in armed conflict.

Little compliance

In World War I, the ratio of soldiers to civilians killed was 10 to one. In World War II it became 50-50, and today the figures are almost reversed - up to 10 civilians killed for every one soldier. Last year's brief war between Georgia and Russia is a case in point. In just a few days, several hundred civilians are believed to have lost their lives and tens of thousands were driven from their homes. Along both sides of the closed "administrative boundary line" between Georgia and the breakaway republic of South Ossetia, dozens of villages are abandoned, the houses burned or bombed.

Mary Gelashvili, an elderly woman from the village of Tserenisi, has lost not just her house, which is destroyed, but her livelihood too. Her fields are along the boundary line, and she can no longer get to them. "No one should have the right to destroy my home," she says. Under international law she is absolutely right. Indiscriminate damage to civilian life and property is forbidden.

"It's true the Geneva Conventions didn't help these people very much," admits Florence Gillette, head of the ICRC office in the Georgian town of Gori. "The conventions actually state that all precautions should be taken to spare civilian lives and property, and not just lives and property but all infrastructure essential to survival. "That's part of the fourth Geneva Convention that all the parties to this conflict, the Russians and the Georgians, signed and ratified a long time ago."

Informal conflicts

One problem the ICRC has, however, in trying to encourage respect for the conventions, is that modern conflicts are often fought not between two identifiable formal armies, but between and among a variety of armed groups, including informal militias and even criminal gangs.

Mary Gelashvili (L) lost her home in the Russia-Georgia conflict

Last year's war between Russia and Georgia was classified by the ICRC as an international armed conflict. Nevertheless, local militias also took part in the fighting and are believed to have been responsible for at least some of the damage to civilian property. "Certain key concepts in today's armed conflicts have to be clarified," says ICRC President Jakob Kellenberger. "It would be desirable to further develop certain aspects of the law, particularly those related to non-international armed conflicts."

The Red Cross insists the real problem with the conventions is not their lack of relevance to modern warfare, but the continued lack of respect for them. That is the big question for all of us," admits Philip Spoerri, the ICRC's head of international law. "We have to find ways to enforce these rules." But enforcement is a very tricky issue. As guardian of the conventions and the world's single most important humanitarian agency, the ICRC has no power to enforce, and would not want it.

"There, we have to turn to bodies like the International Criminal Court," Mr Spoerri adds. "Or the United Nations could enforce them, but of course we see there is not always the willingness to do so."

Obama commitment

At the same time, the ICRC also rejects the suggestions which came from the then Bush administration that the Geneva Conventions are not really applicable in the "War on Terror". "It is extremely significant that the new administration of President Obama reaffirmed US commitment to the conventions," says Mr Kellenberger. "We welcome that."

Nevertheless, the Red Cross knows more needs to be done to encourage respect for the conventions, in particular to strengthen the protection of civilians, and work is under way at ICRC headquarters to find ways of doing that.

In the meantime, Red Cross workers like Joyce Hood, a nurse in South Ossetia, are left to pick up the pieces of civilian lives shattered by conflict. Ms Hood spends much of her time caring for five elderly people, the only remaining inhabitants of the now destroyed village of Satskheneti.

"In almost all these situations it is the elderly, the very young, the vulnerable normal people that bear the brunt of conflict," she says. "They may not be injured by bullets but they suffer for a long time afterwards. They rarely get their life back to what it was before.

"There are so many conflicts, and mostly internal conflicts, not massive wars like we used to see last century - little conflicts to the rest of the world but to these people it's enormous, their whole life is destroyed.

UNIVERSITY OF BRADFORD MAKING KNOWLEDGE WORK School of International and Social Studies

4. Trident and British Identity
Letting go of Nuclear Weapons

Dr Nick Ritchie, September 2008

These are the key points of Dr Ritchie's paper. The full text is on our conference table and can be downloaded at www.brad.ac.uk/acad/bdrc/nuclear/trident/briefing3.html

This report asks why did the Labour government decide to replace Trident?

One of the most important and least examined issues is identity and the role of nuclear weapons in perceptions of Britain's self-identity and its role in the world.

This research paper picks apart the key dimensions of the political and defence establishment's identity that generate a 'national interest' in deploying nuclear weapons and made the Trident replacement decision possible. **It says:**

1. Nuclear weapons are perceived to underpin Britain's core self-identity as a major 'pivotal' power with a special responsibility for maintaining international order.

2. The association between being a major power and possession of nuclear weapons remains strong and that makes thinking about being a non-nuclear weapon state very difficult.

3. Being America's closest ally is crucial to the defence establishment's identity. Possession of nuclear weapons is perceived to enable Britain to maintain political and military credibility in Washington and gain access to the highest levels of policy-making.

4. Britain sees itself as a responsible and leading defender of Europe and cannot conceive of leaving 'irresponsible' France as Europe's sole nuclear weapon state.

5. New Labour's identity and perception of political integrity dictates that it must be strong on defence, and that includes supporting Trident and Britain's status as a nuclear power

6. Possession of nuclear weapons is underpinned by a powerful masculine identity with nuclear weapons associated with ideas of virility, strength, autonomy and rationality. Nuclear disarmament is denigrated as weakness, irrationality, subordination and emasculation. This places a straitjacket on what is considered appropriate and inappropriate for behaviour for Britain

Transforming identity: The report concludes that if Britain is to relinquish its nuclear arsenal these identities will have to be transformed and a 'non-nuclear' identity will have to be accepted and institutionalised in a way that does not undermine the fundamental tenets of these core identities.

Such a **transformation is inherently possible,** particularly given the absence of consensus within the electorate on whether Britain should remain a nuclear weapon state.

For further information please contact Dr. Ritchie at n.ritchie@bradford.ac.uk.

5. Democratic Control Of Nuclear Forces: a United Kingdom Perspective

Sir Michael Quinlan, Geneva Centre for the Democratic Control of Armed Forces conference paper, Washington, DC, 11 April 2005.

Sir Michael was a Civil Servant from 1954 to 1992, primarily in the defence field. He worked on nuclear-weapon policy, doctrine and arms control in several posts. He was Policy Director in the Ministry of Defence from 1977 to 1981, closely concerned with both national and NATO nuclear-force modernization, and was Permanent Under-Secretary of State for Defence from 1988 1992.

The Political and Constitutional Setting

1. Both the possibilities and the performance of democratic control of nuclear forces, for any possessor state, need to be examined in the context of what the political and constitutional realities are in that state. Let me recall some of the main relevant features of the UK environment.

2. The Ministers who form the Government – the executive – are drawn from Parliament, and remain members of it. Parliament does not, however, regard itself as part of government in the way that, for example, the United States Congress does. Its central role in defence as in other matters is constantly to scrutinise and hold to account, not (or at least not normally) to take or impose its own decisions. There are important Parliamentary committees: one, the long-standing Public Accounts Committee, is supported by a large and powerful staff for examining the propriety and wisdom of expenditure; a second, the House of Commons Select Committee on Defence, set up in 1979, is free to examine any defence issue it chooses; and other permanent or temporary committees may from time to time study aspects of defence, not excluding nuclear ones. But though Parliament is formally responsible for voting money, that nowadays scarcely operates below the level of the Defence Budget as a whole; and even then the control is largely theoretical, not exploited in practice – decisions about the size of the Defence Budget are effectively settled within the Government. Contrary to what happens in many other national systems, the Government does not have to secure the specific authority of any Parliamentary committee before committing itself to projects like acquiring nuclear delivery systems. The influence of Parliament in nuclear-weapon issues is in practice exercised almost entirely politically, not by legal or fiscal process.

3. Against this background, the usual pattern of decision-taking – not just in defence matters – is that options and implications are considered more or less privately within Government, and the Government then announces its decision and explains, justifies or amends it according to political need. It is fairly rare for Government to put out options for debate in a purely consultative way, without indicating its own conclusion or preference.

4. One other point, of a rather different kind, is worth noting about the UK environment. For reasons which I shall not attempt to analyse in the time I have available, there has been in the UK a more significant and persistent body of anti-nuclear opinion than (I believe) in any other nuclear-weapon state. This body has never been in the majority, but it has been determined and vocal. That fact, alongside that (at least during the long years of the Cold War) of both a fairly substantial academic community and a wide range of media interested in nuclear issues, has meant that the pressures upon Government for public explanation and justification of policies and decisions in the nuclear-weapon field has usually been fairly strong.

5. Nevertheless, the general concept of maintaining UK nuclear forces usable at independent UK decision, and of endorsing nuclear aspects of NATO strategy, has regularly commanded the support of the major political parties, except the Labour Party for a limited period while out of office in the 1980s.

The Content of Control

6. The creation, maintenance and management of nuclear forces poses issues in the following main categories:

a. Rationales for having nuclear forces;

b. Types to be developed and produced of:

   i. weapons

   ii. delivery vehicles;

c. Numbers of i and ii to be acquired;

d. Deployment of i and ii (including safety and security arrangements);

e. Concepts and plans for use;

f. Systems for taking and communicating decisions on use.

7. In democratic polities, decisions about the above matters arise in two main dimensions:

I . Within executive government;

II. In explanation and justification to legislatures and publics.

8. In Dimension I, key issues are:

a. whether decisions within government are taken by actors of appropriate authority and legitimacy;

b. whether these decision-takers are readily, candidly and objectively given all the relevant information and advice they need and seek.

9. In Dimension II, key issues are:

a. whether adequate and timely information is provided publicly to make effective scrutiny and debate possible;

b. to the extent that the information so provided falls short of the ideal in amount, quality or timeliness, what the reasons are for the shortfall, and whether they are legitimate and sufficient to justify it.

10. In the UK system and practice, there seems little ground for substantial criticism in respect of Dimension I. Decisions in all the categories at A-F above have regularly been taken by relevant Ministers drawn from and accountable to Parliament. They seem rarely to have taken much interest in Category E, but that has been their choice, not something deliberately withheld. There is also an important related point meriting note. The United Kingdom has always been a very active participant in the work of NATO's Nuclear Planning Group. That Group has at various times played a substantial part in shaping concepts for NATO nuclear policy and targeting, and sometimes even in the design of forces, as in the decisions at the beginning of the 1980s on the modernisation of Intermediate-range Nuclear Forces. The fact that numerous diverse governments, each with its own national concepts for public debate and responsibility, took part in this work made, I suggest, a significant contribution to the democratic legitimacy of decisions.

11. Within UK Governments, ministers have consistently been provided with all the relevant information that military personnel and civilian officials (scientists, diplomats, defence generalists like myself) could give – there has been no area or category denied them – and objectivity has been sought in the giving of advice, though naturally, as in almost any collective human activity, institutional inclination, whether conscious or unconscious, cannot be excluded. Prime Ministers have sometimes chosen, for one reason or another, to operate within a fairly small group of Ministers directly concerned with the subject-matter rather than in the full Cabinet; but that has been a choice made politically, not by the bureaucracy, and moreover I am not aware of any instance where any Minister with a proper and significant Departmental interest in the issue under discussion was kept out.

Prime Ministers then put issues out for public debate before they have made up their minds.

12. The picture has been somewhat different in respect of Dimension II (information to Parliament and public). The record needs however to be evaluated against the background noted earlier: that UK constitutional practice – not just in the defence field – is usually that Governments consider and decide policy "in house" and thereafter announce and defend their conclusions.

13. At some stages UK Governments have provided, within the above customary framework of timing, extensive information about their decisions on nuclear forces. For example, special documents were published to explain in considerable detail the choice of the Trident C.4 SLBM in 1980, and the subsequent switch to Trident D.5 in 1982. The statement on the outcome of the 1997-98 Strategic Defence Review provided information on nuclear-weapon matters going in several respects beyond what any other nuclear-weapon state has made public. There have however been other projects and other topics on which information has been disclosed sparsely or not at all, notably (until 1980, at a late stage of development) in respect of the Chevaline project to improve the ability of the Polaris A.3 SLBM system to penetrate ABM defences.

14. Before judgments are attempted on what is the "right" model or standard in the public provision of information, it is appropriate to consider what reasons or motivations there might be for doing anything other than provide the fullest and earliest public information possible. In my experience I believe I have encountered, at one time or another, the following main candidates:

a. A desire not to risk easing the task of an adversary in countering the forces.

b. A desire not to risk eroding deterrence by disclosing possible weaknesses or limitations in nuclear forces which are already of modest size or capability.

c. A desire not to disclose information that might be of use to a proliferant state.

d. A desire not to disclose information that might be of help to those seeking (whether for reasons of protest or more sinister motive) to obstruct or disrupt forces on their bases or during deployment.

e. A desire not to advertise projects under development before their technological success and affordability could be counted upon, lest their subsequent failure or abandonment avoidably weakened deterrent credibility.

f. A desire to avoid or postpone public discussion that might be sensitive internationally, with allies or others.

g. A duty to protect information provided by other governments in confidence.

h. A desire not to prejudice negotiating positions either domestically (e.g. with industry) or with other governments.

i. A desire to avoid controversy within a governing party (as in the Labour Government of 1974-79, when significant figures within the Cabinet were of anti-nuclear inclination).

j. A desire to avoid or limit public argument on matters of awkward domestic political controversy.

15. There would undoubtedly be differing judgments on the validity or weight of any one of the above considerations. Their relevance would vary widely from case to case, and I am by no means suggesting that every one of them has equal or indeed any legitimacy. But I believe that no reasonable observer could dismiss all of them out of hand.

6. Public Opinion And The Peace Movement

Or *'Why Are People So Radical And Yet So Inactive?'* by Milan Rai, *Peace News*

In relation to nuclear weapons, Greenpeace carried out the following poll in 2005, using the same wording as in a 1955 Gallup poll.

'Would you approve of using the nuclear bomb in these cases?'	Approve	Disapprove	Don't know
Q.3 Against an enemy that does not possess it themselves (2005 MORI result)	5%	87%	9%
(1955 Gallup result)	11%	77%	12%
Q.4 Against an enemy that does possess it but is not using it (2005 MORI)	11%	77%	12%
(1955 Gallup)	22%	64%	14%
Q.5 Against an enemy that has it and uses it against us (2005 MORI)	55%	32%	13%
(1955 Gallup)	76%	16%	8%

In July, ICM carried out a poll for the Guardian, asking **'Do you think Britain should replace the [Trident] nuclear weapons system with a new one or should it no longer have any nuclear deterrent?'** 54% of people said Britain should no longer have any nuclear deterrent. (Three years ago, in July 2006, 51% backed renewal of Trident, while only 39% opposed it.)

Historically, the polls tend to indicate that for many decades about a quarter of the British population has believed in unilateral nuclear disarmament. For example, in 1987, the Omnimas poll asked whether Britain should use its nuclear weapons in six specific scenarios, or if 'They are a deterrent so it should never be necessary to use them', or if 'We should never use them in any situation'. 25% of people opted for the latter. The Greenpeace poll above suggests this had risen to a third of the population by 2005. The *Guardian*/ICM poll suggests the figure is now higher.

On the arms trade, the UK Working Group on Arms 2002 poll asked: 'How much do you approve or disapprove of the government selling arms to governments which abuse human rights?' 11% of people disapproved slightly; 74% disapproved strongly. Many if not most recipients of British arms sales are abusers of human rights.

Across a wide spectrum of security issues, British Government policy is out of step with British public opinion. On Afghanistan, 42% of people think troops should be withdrawn now, with an additional 14% thinking they should be out by the end of the year – a total of 56% of people for rapid withdrawal.

Why so quiet?

Given this level of concern and opposition, why is there so little mobilisation? Partly, I suspect, because of the quite rational judgement by most people that the addition of their individual effort to the cause will make little or no difference to British Government policy, while it could bring ridicule, estrangement or hostility from friends, family and workmates. Being involved in campaigning makes the emotional pain of the world harder to avoid, and this may be an even stronger deterrent for many people.

References:

Afghanistan poll: http://tinyurl.com/afghan-poll-uk09

Arms trade poll: http://www.caat.org.uk/resources/surveys.php

Greenpeace/MORI poll, 2005: http://tinyurl.com/nw-poll-greenpeace2005

Guardian/ICM poll, July 2009: http://tinyurl.com/nw-poll-icm2009

Omnimas poll, 1987: Peter Jones and Gordon Reece, British Public Attitudes to Nuclear Defence (1990)

7. Having An Effect: How Campaigning Can Change Government Policy

Or *'Why Are Civil Servants And Politicians So Resistant?'?* by Milan Rai, *Peace News*

Large institutions may have moral entities (people) inside them, but these individuals only hold office because they are fulfilling institutional imperatives – if they fail to put these first, they will fall out of office. This is easy to see with companies, whose basic goals are to increase profits and market share in the short term (the priority for shareowners). If a chief executive officer (CEO) puts another value above these – say, protecting the environment from the CO2 produced by the firm – she will be dismissed because profits and market share will decline relative to competitors.

Investing in Government

A government is not a company. But systems of government tend to come under the control of the most powerful groups within the society concerned. US political scientist Thomas Ferguson'?s 'Investment Theory of Party Competition' (see his 1995 book *Golden Rule*, University of Chicago Press) points out that wealthy elites tend to form coalitions based on their shared economic interests, and these coalitions 'invest' in candidates who meet their objectives. Their financial and logistical support is crucial to candidates for high office.

Where wealthy coalitions differ, there will be a lot of competition between the political parties they are investing in. Where the wealthy have interests in common, however, there will be no competition. As Ferguson puts it, 'on all issues affecting the vital interests that major investors have in common, no party competition will take place'.

Once in power, political leaders in capitalist democracies can come under enormous pressure from investors. The ultimate weapon is 'capital flight', which might be called a general strike by investors – the removal of money from an economy by financial services companies, private importers, foreign exchange brokers and others. This can crash the exchange rate of the national currency, and even collapse the entire financial system.

Harold Wilson's Labour Government felt this threat in November 1964. The Governor of the Bank of England demanded all-round cuts in expenditure and fundamental changes in policy. Wilson later wrote that 'we had now reached the situation where a newly-elected Government with a mandate from the people was being told, not so much by the Governor of the Bank of England but by international speculators, that the policies on which we had fought the election could not be implemented; that the Government was to be forced into the adoption of Tory policies to which it was fundamentally opposed.' The Governor had to admit that was the reality, 'because of the sheer compulsion of the economic dictation of those who exercised decisive economic power.' (*The Labour Government 1964-70: A Personal Record*, p. 37)

The Civil Service operates within the same constraints, and generally has the same educational and/or class background as much of the business and political elite. Civil servants can look forward, after a successful career, to a lucrative position within the private sector.

Cost-benefit analysis

None of this means that campaigning is pointless. But where there is a vital interest of major investors it is very difficult to make headway. In a country like Britain whose high technology sector relies heavily on military spending, and whose global military reach (and nuclear weapons status) is of significance to major transnational corporations, it is very difficult to reduce the high level of military spending, to scale down the massive military intervention machinery, to reduce the use of arms exports as a method of supporting friendly dictatorships and reducing domestic procurement costs, and to limit the lawless use of force against other nations.

Checking the public for the World Court Project

In these areas, it is not possible to change policy with the strength of one's argument. However good our facts, however logical our deductions, the most we can hope to achieve by thought alone is to persuade an individual politician or civil servant, who – if they begin to advocate humane policies – will soon see their career suffer and possibly terminate.

What we need are **good arguments** backed up by **sustained political pressure on a level that cannot be ignored**. Civil servants and politicians will begin to alter policy (or the interpretation of policy) when the political costs of business-as-usual begin to match or outweigh the benefits of continuing as usual.

8. Cluster Bombs, the Citizen and the Law: a Success Story

Provided by Jim McCluskey

An inhumane weapon

On 4th April , 2003 a satirical headline in the Asia Times read **'Cluster Bombs Liberate Iraqi Children'.**

'The new heart of darkness has emerged in the turbulent history of Mesopotamia….After uninterrupted, furious American bombing on Monday night and Tuesday morning, as of Wednesday night there were at least 61 dead Iraqi civilians and more than 450 seriously injured in the region of Hilla, 80 kilometres south of Baghdad. Most are children: 60 percent of Iraq's population of roughly 24 million are children.'

The report tells of the first films shot by western news agencies *'..**babies cut in half, amputated limbs, kids with their faces a web of deep cuts caused by American shell fire and cluster bombs.'***

'According to the Arab cameramen, two trucks full of bodies – mostly children, and women in flowered dresses – were parked outside the Hilla hospital. Dr Nazem El-Adali, trained in Scotland, said almost all the dead and wounded were victims of cluster bombs dropped in the Hilla region and in the neighbouring village of Mazarak.'

*'The Independent's Robert Fisk described the mortuary (at Hilla) as **"a butcher's shop of chopped-up corpses". The International Committee of the Red Cross is adamant : all victims are "farmers, women and children". And Dr Hussein Ghazay, also from Hilla hospital, confirmed that "all the injuries were either from cluster bombing or from bomblets that exploded afterwards when people stepped on them or children picked them up by mistake.***

(www.atimes.com/atimes/Middle_East/EDO4.AK07.html)

What are they and who used them?

Cluster munitions are basically a container that holds a number of sub-munitions such as 'bomblets' or 'grenades' ranging from a few up to 2000. Cluster bombs can be air-delivered or ground-launched. Many of the bomblets do not explode on impact. Unexploded bomblets remain dangerous for decades after a conflict. They are small and often brightly coloured making them particularly attractive to curious children. They kill and maim indiscriminately and those who survive are often blinded, lose limbs or suffer horrible abdominal injuries. The bomblets are consistently left behind after a conflict, spread over a large area (The area affected by a single cluster weapon can be as large as two or three American football fields), resulting in large numbers of civilian casualties.

Cluster bombs were vehemently denounced for many years by human rights organisations. These appalling weapons have been used for more than 40 years in 30 countries. They were widely used during the Vietnam war when many thousands of tons of sub-munitions were dropped on Laos, Cambodia and Vietnam. In Kosovo, NATO aircraft dropped around 290,000 sub-munitions over a 10-week period in 1999. Cluster bombs were used in Afghanistan in 2001 and 2002. Over 10,000 cluster weapons were used in Iraq by the US, and 2,200 by the UK, during the US/UK invasion in 2003 (www.usatoday.com). It is estimated that one million cluster bombs were fired on south Lebanon in 2006 during the 34 days of war with Israel. It is thought that the Israeli cluster bombs were 'made in the USA'. Hezbollah also used cluster weapons, said to have been made in Iran. In 2006 it was reported that 34 countries produced cluster bombs and at least 73 states were stockpiling them, with a total of four thousand million in existence (http://towardfreedom.com/home/content/view/920/55/)

Europe's traditional biggest users and stockpiles of these weapons included France Germany and the UK. In 2003 Geoff Hoon, UK Defense Secretary, defended the use of cluster bombs in Iraq saying they were *'perfectly legal'* and had a *'highly legitimate role'*. Mr Hoon said *'they fulfil a particular role on the battle field and if we did not use them we would be putting our own forces at greater and therefore unnecessary risk'.*

The fight against these inhumane weapons

A Cluster Munitions Coalition (CMC) was established to increase pressure on Governments to attend an international treaty on November 13, 2003. The purpose of CMC was to address the impact of cluster munitions on civilians. The launch was organised by Pax Christi Netherlands. The CMC has a membership of around 300 civil society organisations from more than 80 countries. In spite of the efforts of CMC, and even with 30 governments in favour of a ban, a treaty was not agreed at that time.

In November 2006 the UN Secretary General Kofi Annan called for urgent action to address the disastrous impact of cluster munitions. He was addressing the start of the Review Conference on the Convention on Prohibitions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects'. This conference did not agree on the abolition of these weapons.

A leader in the growing number of Non-Government Organisations (NGOs) studying the impact of cluster bombs and calling for a ban was Handicap International which deals directly with the victims. 98% of 13,306 recorded cluster munitions casualties that are registered with Handicap International are civilians. and 27% are children.

Human Rights Watch, the Cluster Munitions Coalition, the Mennonite Central Committee and the International Committee of the Red Cross all played leading roles in seeking a ban.

The public revulsion at the use of napalm in Vietnam reinforced the work of NGOs to ban the use of inhumane weapons.

Success

In February 2006 Belgium announced its decision to ban the weapon by law. Then Norway announced a national moratorium and Austria said it would work for an international instrument on the weapon. Their use in the Israeli/Lebanon war in 2006 increased pressure for a ban. There followed at the end of 2006, an announcement in Geneva that an international conference would be convened in Oslo in early 2007 to work towards a new treaty to ban these weapons. 49 governments attended the meeting. Other meetings followed in 2007, and in Wellington in February 2008 a declaration in favour of negotiations on a draft convention was adopted by more than 80 countries. Then in May 2008, at the Dublin Diplomatic Conference, 107 countries agreed to adopt the text of a new disarmament treaty; the **Convention on Cluster Munitions** (CCM) that banned Cluster Bombs. The treaty was opened for signature in Oslo in December 2009 where it was signed by 94 countries.

It establishes a 6 year deadline for the destruction of all existing stocks and bans the use, production and trade of cluster munitions. Furthermore it establishes a deadline for the clearing of contaminated areas and also provides for assistance to victims and affected communities.

In November 2008, the European Parliament passed a resolution calling on all European Union government to sign and ratify the convention.

This treaty resulted from the sustained efforts of a group of small and medium-sized states, the UN, the International Committee of the Red Cross, and the Cluster Munitions Coalition.

A new report in May 2009 **'Banning Cluster Munitions: Government Policy and Practice',** drawn up by 'Human Rights Watch', 'Landmine Action', and 'Landmine Monitor'shows that the prohibition on cluster munitions is firmly taking hold with more and more nations joining the international treaty banning these weapons. Several states that have signed the treaty have started to destroy their stockpiles even before the treaty comes into force.

So far 96 countries have signed the Convention on Cluster Munitions. A total of 35 countries that have used, produced, stockpiled, or exported cluster munitions have signed the convention and thereby committed to never engaging in those activities again. 20 of the 28 NATO members are signatories. Fourteen of the countries that have been affected by cluster munitions have signed, including some of those most severely contaminated, such as Afghanistan, Laos, and Lebanon.

The May 2009 report tells us:*'By signing, nations have already taken on a legal obligation, under the Vienna Convention on the Law of Treaties, not to undertake any act that would defeat the purpose of the convention - such as use, production, or trade of cluster munitions. At least three signatories have announced that they are provisionally applying Article 1 of the convention (the basic prohibitions) until it enters into force: Norway, the Netherlands, and Spain'*

'The Convention on Cluster Munitions requires 30 ratifications to trigger entry into force six months later. As of April 2009, six signatories had ratified: Holy See, Ireland, Norway, and Sierra Leone during the signing conference on 3 December 2008, and Lao PDR and Austria afterwards.'

'As detailed in the various country entries in this report, many signatories have already initiated the ratification process and expect to conclude soon. A significant number of non-signatories have indicated their intention to join in the future, including some of the 25 nations that participated fully in the negotiations and formally adopted the convention in Dublin'.

The UK position

We learn from the May 2009 report that: *'The UK used cluster munitions in the Falkland Islands in 1982, in Iraq and Kuwait in 1991, in the Federal Republic of Yugoslavia (including Kosovo) in 1999, and Iraq in 2003.'*

However there has been a major change in policy.

'In March 2009, the UK stated, "Since the adoption of the CCM (Convention on Cluster Munitions) on 30 May the UK has taken steps to begin implementing the Convention's provisions on transfers and stockpile destruction.'

'..... the government stated that although it does not deem it to be a legal requirement under the convention, in keeping with its spirit, the UK would seek the removal of all foreign stockpiles of cluster munitions from UK territory within the eight year period allowed for stockpile destruction.'

Major holdouts include the US, Russia, Israel and China.

The US boycotted the Dublin conference and issued a statement saying that *'while the United States shares the humanitarian concerns of those in Dublin, cluster munitions have demonstrated military utility, and their elimination from US stockpiles would put the lives of our soldiers and those of our coalition partners at risk'.* What, one wonders, about the lives of children being put at risk.

However In July 2008 the US Defense Secretary, Robert Gates, implemented a policy to eliminate by 2018 all cluster bombs that do not meet new safety standards. Furthermore, in the beginning of March, 2009, President Obama signed a new permanent law that will make it almost impossible for the US to sell these weapons. This major turnaround in policy was tacked on to a huge budget Bill. This is a major decision since it is believed that the US in the past transferred hundreds of thousands of cluster munitions, containing tens of millions of unreliable and inaccurate bomblets, to 28 countries.

The Cluster Munitions Coalition believes the convention has created a new standard of behaviour, saying rejecting these weapons outright is a powerful deterrent, even to those countries that haven't joined the treaty.

Postscript

It is clear that a massive effort by NGOs played a large part in bringing about the ban on cluster bombs.

Nuclear weapons are immeasurably more dangerous than cluster munitions. There is already a large and active sector in civil society working for nuclear weapons abolition. This will have to become much larger. At the same time it is essential that ways are found by civil society to call politicians to account in this vital matter. It is intolerable that a few governments should put the entire population of the world at risk in order to bolster their outmoded belief that the threat of inhuman destruction somehow gives them prestige in the international arena.

The May 2009 report says '*'In the span of just a few years, many nations have gone from insisting that cluster munitions are wonder weapons vital to their national defense, to proclaiming that cluster munitions must never be used again'* We must achieve a similar turn around in the attitude of the nuclear weapons states. It can and must be done. The ban on cluster bombs finally was achieved, or at least a very substantial advance in the process, after the revulsion against their indiscriminate and unnecessary use in the war against Lebanon. It has taken this revulsion and huge pressure from NGOs among others to finally make definitive progress in ridding the world of these weapons. Some commentators believe that nothing will be done about the intolerable threat from the existence of nuclear weapons until another one is detonated and the resulting revulsion triggers action. We must ensure that this does not happen; that we do not wait that long. We can only ensure this if we make certain that the views of citizens are heeded and acted upon by politicians, our elected representatives. (see *'A Model Outline of Dialogue Between Activists and Government: Trident Unpredictability and Legality'*, also available at this conference).

9. Depleted Uranium Munitions

From material provide by Malcolm Pittock, Bolton CND/Stop the War Campaign

Depleted Uranium projectiles are primarily used to penetrate the armour of tanks on the battlefield. They are superhard and cheap, as the U238 of which they consist is an otherwise unwanted by product of the nuclear weapons and nuclear power industries, which make use of U235. Eighteen countries have DU in their armoury, but only the UK and the US have actually made use of them (in the first Gulf War, the Balkans, and the second Gulf War

Although DU is used in battlefield weapons, its use raises issues of fact and law, which are interconnected. The dust can spread 400 metres from the site immediately after impact. So does it involve a long term health hazard both to soldiers and civilians arising from the fact that depleted uranium is radioactive (with up to 75% of the toxicity of U 235) and is like lead, a heavy metal poisonous to the system?. And if it does, are not such weapons illegal under existing humanitarian law, and, to make doubly sure, should they not be banned by treaty as in the case of landmines ?

The official position of the US and the UK governments in claiming that DU weapons are not a hazard to health is that their toxic effects cannot be proved. This is counter intuitive and since they are determined to continue to use them on the battlefield is likely also to be dishonest

The apparently objective and reassuring reports the US and UK governments rely on never actually deny the possibility that serious effects could exist, but frequently adopt a questionable methodology, omit relevant evidence even pertaining to US or UK personnel. If the official position of the US and UK governments was an honest one, it is difficult to explain why UK and US military personnel venturing into sites contaminated by depleted uranium have to wear special suits to protect themselves against an allegedly virtually non- existent hazard.

Further light is shed on the UK position by the fact that it voted against two UN General Assembly resolutions successfully proposed by Indonesia on behalf of the Conference of Non Aligned States both of which were passed by huge majorities, 136 for the first and 141 for the second. For the First Resolution the UK and the US were in a minority of six opposed and for the second in a minority of four. The Resolution:

> Requests the Secretary General to seek the views of Member States and relevant international organizations on the effects of the use of armaments and ammunitions containing depleted uranium, and to submit a report on this subject to the General Assembly at its sixty -third session.

This is a statement of the reasons given by the FO for voting against the UN resolution of 2008, together with responses by the Campaign Against Depleted Uranium.

Official UK Foreign Office Position on the 2008 UN Resolution — a commentary

`No Significant Impact'

The UK's position on the United Nations (UN) resolution on Depleted Uranium (DU) this year is the same as it was on last year's resolution. The scientific literature contains a substantial number of reports which indicate that DU has not been shown to have, and indeed is very unlikely to have, any significant impact on the local population or on the veterans of conflicts in which these munitions are used. This includes work done by the United Nations Environment Programme and other independent expert groups. The key finding is that none of these studies have found widespread DU contamination sufficient to impact the health of the general population or deployed military personnel. The UK Government therefore opposed the resolution when the vote took place on 31 October.

The real question isn't whether there have been lots of reports; the question is whether they have been able to reach reliable conclusions about whether DU is safe enough to be used in warfare. They have not, and this is quite clear from reading their conclusions which generally stress the need for more research — for example the US Institute of Medicine said of their 2008 literature review:

> Although the committee's overall conclusion is that the data are inadequate and insufficient to determine whether an association between exposure to uranium and a number of long-term health outcomes exists, it judged that several health outcomes should be given high priority for further study. lung cancer, lymphoma, renal disease, respiratory disease, neurologic outcomes (including neurocognitive outcomes), and adverse reproductive and developmental outcomes.

It is disingenuous to imply that by combining multiple reports that reach uncertain conclusions we can somehow approach a state of certainty, much less pronounce something safe. The reports by the UN Environment Programme, which are supposedly part of this body of evidence, recommend decontamination of contaminated areas precisely because of these uncertainties.

`Only limited Concern'

Last year's resolution tasked the UN Secretary-General with submitting a report to this year's session of the General Assembly. The UN Report, "Effects of the use of armaments and ammunitions containing Depleted Uranium" of 24 July suggests there is only limited concern about DU among the international community. This is confirmed in the contributions from the governments of Canada, Finland, Germany and Spain and in contributions from the International Atomic Energy Agency (IAEA) and the World Health Organisation that conclude that there is no definitive evidence that DU munitions have had a significant impact on the local population or veterans of conflicts in which these munitions have been used.

As Finland and Germany voted for the resolution, they are an odd choice to cite as supporting the UK position. Indeed, according to their report Finland "greatly values international efforts to discuss the potential risks of the use of depleted uranium in armaments and ammunitions", and their foreign minister has stated that the Finnish government "considers a ban on weapons containing depleted uranium an important goal." The size of the majority when the resolution was passed — with 35 times as many states voting for it than voted against — speaks for itself.

As the resolution calls for nothing more than the updating of these same UN agencies positions, with a focus on affected countries – there being "no definitive evidence" of harm is not a compelling reason to oppose it, quite the contrary in fact. The UK was amongst only four countries which voted against increasing the research base and the state of knowledge about DU, which gives rise to the obvious conclusion that they are concerned by what may be revealed by further research.

Science 'Adequate'

The adequacy and validity of the scientific work already carried out is demonstrated by the findings of the biological and health monitoring of UK and other veterans of conflicts in which DU munitions have been used. With the exception of a very small number of personnel in or on vehicles at the time they were attacked by DU munitions, none of the almost 1000 UK personnel monitored has been found to have any DU in their urine. Neither has any evidence of ill-health due to DU exposure been found in the 3,400 Gulf veterans who have attended the Ministry of Defence's Medical Assessment Programme. Similar findings have been reported by other countries which have carried out this type of monitoring.

The monitoring of UK veterans was undertaken on the basis of self-referral, where adverts were placed in newspapers and those that came forward were tested for DU contamination. This is no substitute for systematic studies of a population which has been subjected to contamination, and therefore cannot be used to extrapolate wider conclus-ions about the safety of DU: it simply means that there was no DU in the urine of the men tested. To pretend that it can somehow render the body of scientific work, which is quite clear about its limitations, 'adequate' is little more than wishful thinking. Further-more, the serious flaws in the research on US veterans, and government com-pensation totalling €30m recently awarded to Italian peacekeepers, show that serious questions remain about the effect of DU on veterans in other countries.

The UK programme of testing covered just over 2% of the British personnel who participated in the 1991 Gulf War, and the results were doubtless a relief for those involved. However, the really pressing concern is with the health of civilians in DU-affected countries, whose exposure may well be completely different from that of British soldiers, and ongoing. This requires detailed in-country research of the kind mandated by the resolution, and which the government voted against.

`A Legitimate Weapon'

We believe that DU is a legitimate weapon and the use of it is not prohibited under any international agreements, including the Geneva Conventions. UK armed forces only use DU munitions in strict accordance with International Humanitarian Law.

Of course, there is a world of difference between there being an explicit prohibition on something, and it being legal. DU falls into a category not well covered by existing International Humanitarian Law, but there is a strong case to be made that its use violates several of the essential principles of the Geneva Conventions, meaning that it *cannot* be used if one wishes to remain in accordance with International Humanitarian Law. Whatever precautions UK forces may use (and CADU has seen no evidence that there are specific guidelines for the use of DU munitions), in the 2003 conflict there was clear evidence of DU having been used in urban areas by Coalition forces, with obvious implications for the health of civilians.

10. Right to the very end in Iraq, our masters denied us the truth

The sentence 'millions of Iraqis now live free of oppression' is pure public relations

Robert Fisk, The Independent, Saturday, 2 May 2009

'We acknowledge," the letter says, "that violence has claimed the lives of many thousands of Iraqi civilians over the last five years, either through terrorism or sectarian violence. Any loss of innocent lives is tragic and the Government is committed to ensuring that civilian casualties are avoided. Insurgents and terrorists are not, I regret to say, so scrupulous."

This quotation comes from the Ministry of Defence's "Iraq Operations Team, Directorate of Operations" and is signed by someone whose initials may be "SM" or "SW" or even "SWe". Unusually (but understandably), it does not carry a typed version of the author's name. Its obvious anonymity – given the fact that not a single reference is made to the civilians slaughtered by the Anglo-American invasion and occupation of Iraq – is no surprise. I, too, would not want to be personally associated with such Blair-like mendacity. What is astonishing, however, is that this outrageous letter should have been written this year.

I should say at once that I owe this revelatory text (actually dated 20 January) to a very un-anonymous Independent reader, Tom Geddes, who thought I would find its "economy with the truth" interesting. I certainly do. We are now, are we not, supposed to be in the age of Brown-like truth, as we finally haul down the flag in Basra, of near-certainty of an official inquiry into the whole Iraq catastrophe, a time of reckoning for the men who sent us off to war under false pretences. I suspect that this – like the Obama pretensions to change – is a falsehood. Well, we shall see.

Mr Geddes, I hasten to add, is a retired librarian who worked for 21 years at the British Library as head of Germanic collections and is also a translator of Swedish – it turns out that we share the same love of the Finnish-Swedish poet Edith Sodergrund's work – and he wrote to the Ministry of Defence at the age of 64 because, like me (aged 62), he was struck that John Hutton, the Secretary of State for Defence, described those who jeered at British troops returning home as "cretins".

"Such jeering is clearly not meant to denigrate individual bravery and sacrifice," Geddes wrote to Hutton on 28 October – readers will notice it took the Ministry of Defence's "SM" (or "SW" or "SWe") three months to reply – "(but) is a political comment on the general dubious legality and morality of recent military actions."

I'm not so sure the jeering was that innocent, but Geddes's concluding remark – that "unless you or the Government can explain and justify Britain's war activities, you cannot expect to have the country on your side" – is unimpeachable.

Not so "SM's" reply. Here is another quotation from his execrable letter. "It is important to remember that our decision to take action (sic) in Iraq was driven by Saddam Hussein's refusal to co-operate with the UN-sponsored weapons inspections... The former Prime Minister has expressed his regret for any information, given in good faith, concerning weapons of mass destruction in Iraq, which has subsequently proven to be incorrect."

I am left breathless by this lie. Saddam Hussein did not "refuse to co-operate" with the UN weapons inspectors. The whole problem was that – to the horror of Blair and Bush – the ghastly Saddam did co-operate with them, and the UN weapons team under Hans Blix was about to prove that these "weapons of mass destruct-ion" were non-existent; hence the Americans forced Blix and his men and women to leave Iraq so that they and Blair could stage their illegal invasion. I saw Blix's aircraft still on the ground at Baghdad airport just two days before the attack. Note, too, the weasel words. Blair did not give his information "in good faith", as SM claims. He knew – and the Ministry of Defence knew (and I suppose SM knew) – they were untrue. Or "incorrect" as "SM" coyly writes.

Then again: "We can assure you that the Government would not have engaged in military action if it were not satisfied that such a decision was justified and lawful. The former Attorney General, Lord Goldsmith, confirmed on 17 March 2003 that authority to use force against Iraq existed from the combined effect of UN Security Council Resolutions 678, 687 and 1441."

But as an outraged Tom Geddes points out in his reply to this remark, "You must be aware that the decision to wage war on Iraq was neither justified nor lawful. The Attorney General's advice has been widely described as 'flawed'. Given that his previous advice was that an attack would be unlawful, we all know what 'flawed' means. I suspect the MoD (Ministry of Defence) also knows." So do I.

I'm also sure that this is a standard "reply sheet", sent out to all dissenting English people. The sentence "millions of Iraqis now live free of Saddam's oppression and have control of their own destiny" is pure public relations – not least because it fails to mention that up to a million Iraqis have not been able to control their own destiny since 2003 because they happen to be dead as a result of our invasion.

There's a lovely bit at the end of "SM'S" 's letter where he (or I suppose it could be a she) says that "our brave servicemen and women ... are ... preparing Basra airport for transfer to Iraqi control..." Well of course they are, because – since their own retreat from Basra city -- Basra airport is the only square mile of Iraq in which the British are still in occupation.

The letter ends with "SM'S" 's surely sublime hope that this "letter goes some way to addressing your concerns" and I can only repeat Tom Geddes' reply: "I am grateful for the length of your response, but shocked by its contents." So am I. No doubt, when the Brown Government – or the Cameron government – holds its inquiry into this illegal war, "SM" will re-emerge as a witness or at least a spokesperson. By then, I suppose the "Iraqi Operations Team" will have been closed down – even, perhaps, by then transmogrified into the "Afghanistan Operations

11. Correspondence between Christine Titmus and her MP Andrew Lansley

The correspondence dates back to when Christine sent the World Court Project's comments on the legality of Trident Renewal. These included questions along the lines of:

How does the deployment of Trident's successor with the stated conditional intention to use it differ from a threat to use it.

What does the Government mean by "the very survival of a state", and what, precisely does it mean by "vital interests".

The UK might believe that consequences which are inevitable and necessary, but unintended, are not relevant to the legal issue. If this is so, can we have some supporting argument for this?

*Given the unpredictable and widespread effects of nuclear radiation, is there any plausible scenario in which Trident's successor could be used with any certainty that it would comply with the principles of international humanitarian law, in particular the principle of discrimination***?**

20 December 2007 Andrew Lansley

Dear Christine

Thank you for your letter dated 3rd November 2007 regarding your concerns about the legal aspects of Trident renewal.

I do not feel that your questions are succinct enough to be forwarded on to the Ministry of Defence and so I am unable to comply with your request.

Yours sincerely
Andrew Lansley

****

25.1.2007 Christine Titmus

Thank you for your letter dated December 2007.

I regret that you felt my request was in an unsuitable format for the Ministry of Defence.

Therefore, I write again to request that you ask the MOD to respond to the single question, below.

The question is:

> Given the unpredictable and widespread effects of nuclear radiation, is there any plausible scenario in which Trident's successor could be used with any certainty so that it complied with the principles of international humanitarian law, in particular the principles of discrimination and proportionality?
>
> To fully answer this question should pose no security risk, as I ask for legal reasoning only, not military strategy or procedure.

I look forward to hearing from you
Christine Titmus

****

19 2 2008 Andrew Lansley

Dear Mrs Titmus

Thank you for your letter dated 28th January 2008.

I really do not think the Ministry of Defence can be expected to engage in hypothetical scenarios - have you tried looking at the Government's White Paper?

Yours sincerely
Andrew Lansley

12. Dialogue on Trident, Unpredictability and Illegality

George Farebrother

Scope

1. The UK Government has taken the decision, in principle, to replace the Trident submarine-based nuclear weapons system. It remains to be seen which warheads will be deployed on whatever replaces Trident, what its yield would be and its likely effects.

2. This short paper is a step-by step examination of the legality of the threat or use of Trident, or its successor, which comes to a conclusion. Each step builds on the previous one and takes into consideration British Government statements and responses. These are shown in in blocks with a different font.

3. The heat and explosive effects of nuclear weapons are immensely destructive. However, what makes nuclear weapons unique is their radioactive fallout. This can cause widespread death and suffering over a wide area and affect future generations.

Duty of Care

4. The first step is to consider the 1977 *Protocol 1 Additional to the 1949 Geneva Conventions*. Much of this is the expression of the pre-existing International Humanitarian Law which binds all states. Article 57(1) says: *"In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects." Article 57(2)(iii) says that states must "refrain from deciding to launch any 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."(http://www.unhchr.ch/html/menu3/b/93.htm)*

5. So a commander in the field, or his or her political superiors, would have to decide whether the immediate military advantage of a nuclear strike would outweigh the likely civilian suffering it would entail. This is the *Principle of Proportionality*. The commander has a *Duty of Care* to ensure that non-combatant casualties are minimised.

6. Before ratifying Protocol 1 a *Statement of Understanding* declared that the UK did not accept that new parts of the treaty apply to nuclear weapons:

> "It continues to be the understanding of the United Kingdom that the rules introduced by the Protocol apply exclusively to conventional weapons without prejudice to any other rules of international law applicable to other types of weapons. In particular, the rules so introduced do not have any effect on and do not regulate or prohibit the use of nuclear weapons."

7. In 1995 the UK's oral statement to the International Court of Justice in the nuclear weapons case said much the same thing:

> "... any new provisions introduced into the law of armed conflict by the Additional Protocols would apply only to conventional weapons." but added "We fully accept, however, that the use of nuclear weapons is subject to the principles of customary international law, and it is plain that some of the provisions of Additional Protocol I did no more than reaffirm and codify principles of the customary law of armed conflict which already existed and which apply to the use of all weapons, including nuclear weapons." (www.ICJ-cij.org/docket/files/95/5947.pdf)

8. The UK sees the Duty of Care as a binding rule of International Humanitarian Law. *The Manual of the Law of Armed Conflict*, the most authoritative possible expression of official UK opinion. It refers explicitly to the language of Protocol 1. Thus:

> (5.32.1) Additional Protocol 1 lays down a general obligation on the parties to the conflict to take care in the conduct of military operations to spare civilians." and (5.32.1.c) (those who plan or decide upon an attack shall): refrain from deciding to launch any 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.
> (the Rule of Proportionality).
> (2004, Ministry of Defence, Oxford University Press)

9. We can therefore conclude that the UK accepts the Duty of Care, as elaborated in the Protocol, as part of **International Humanitarian Law** and that this applies to nuclear weapons as much as any other weapon.

Targeting and Effects

10. The UK pleadings emphasised the accuracy of small nuclear weapons detonated in isolated areas. These, it was argued, may not violate the International Humanitarian Law principle of discrimination.

> The four scenarios on which the World Health Organization Report focuses address civilian casualties expected to result from nuclear attacks involving significant numbers of large urban area targets or a substantial number of military targets. But no reference is made in the report to the effects to be expected from other plausible scenarios, such as a small number of accurate attacks by low-yield weapons against an equally small number of military targets in non-urban areas. (UK Oral Pleading before the International Court of Justice 1995, p71).

11. We accept that targeting may well be accurate. However, the likely effects of a weapon must also be taken into account when assessing discrimination. No one could reliably forecast the complex atmospheric conditions and the direction of the wind at any given moment. The effects would be so

unpredictable that accurate targeting would be irrelevant. In addition, there has been no military use of nuclear weapons since 1945. No nuclear launch could be made with any assurance that its effects would fall within the bounds of legality.

12. Weapons like the 100 kiloton Trident warhead are designed to detonate as air bursts to cause the maximum damage. Smaller 1-5 kiloton weapons would be exploded on the ground in order to destroy precise targets. It would throw up enormous quantities of radioactive dust which would be sucked into the stratosphere and come down anywhere - even thousands of miles away. This would irradiate unpredictable numbers of people then and well into the future.

13. In addition the yield of Trident, or its successor, certainly exceeds 1-5 kilotons and cannot therefore meet the putative exemption argued for by the UK before the International Court of Justice.

The significance of Radiation

14. Further evidence of Government thinking on this issue is in the 1995 UK written and oral pleadings before the International Court of Justice.

> The prohibitions in both Article 23ia) of the Hague Regulations in the 1925 Protocol were, however, intended to apply to weapons whose prima- effect was poisonous and not to those where poison was a secondary or incidental effect. As one leading commentator says of the 1925 Protocol, its drafting history makes clear that the scope *ratione materiae* of the Protocol is restricted to weapons the primary effect of which is to asphyxiate or poison the adversary. In the case of almost all nuclear weapons, the prime effects are blast and heat and it is these which give the weapon its main military advantages. (UK written pleading before the International Court of Justice,1995, para 3.60).

15. So the UK argued that if nuclear weapons were used the *intention* would be to destroy military targets through their heat and blast. Radiation, said the UK, is only a side effect. There would therefore be no actual intention to "poison" the enemy through radiation. But nuclear weapons are defined as "explosive devices whose energy results from the fusion or fission of the atom". (International Court of Justice Advisory Opinion Para 35). Radiation through fusion or fission is of the essence, not simply an inconvenient side-effect. The UK might believe that consequences which are inevitable and necessary, but unintended, are not relevant to the legal argument. If this is so, it has to be argued, not merely asserted.

Necessary Violation of the Law

16. The UK argued before the International Court of Justice that nuclear weapons would not necessarily violate the Principle of Proportionality.

> Whether the use of nuclear weapons in any given instance would result in the infliction of disproportionate collateral destruction or incidental injury to civilians cannot be judged in the abstract. Such a judgment depends entirely on the circumstances of the contemplated use, including the military necessity of destroying a particular objective. (UK Oral Pleading before the Inter-national Court of Justice 1995, p70).

and

> 17. Any given study rests on static assumptions: assumptions regarding the yield of a weapon, the technology that occasions how much radiation the weapon may release, where, in relation to the earth's surface it will be detonated, and the military objective at which it would be targeted. (UK Oral Pleading before the International Court of Justice 1995, p71).

18. However, the International Court of Justice stated that because of the "*unique characteristics of nuclear weapons ... the use of such weapons in fact seems scarcely reconcilable with respect for (*the principles and rules of law applicable in armed conflict)." (Opinion, para 95). Although nothing can be predicted with certainty we do not have to prove that any threat or use would be inherently illegal under *any* circumstance. We only need to argue the *improbability* of lawful use in any *plausible* scenario.

Lack of Transparency

19. Several attempts have been made to engage the Government on these issues. For example, the question of yield is crucial in view of the above comments by the UK on low-yield weapons. In 2000 a letter from the Foreign Office to an activist said: ...

> As regards the yield of Trident nuclear warheads the Government's position is not to comment. Such information is classified. ...
>
> (Alan Hughes, Ministry of Defence, to Sister Mary Lampard, 26 June 2000)

20. Seven years later we have much the same story.

> Nonetheless, the reasons for refusing disclosure set out in my letter of 22nd March remain valid. It remains our judgment that disclosing the information you seek would reduce the effectiveness of the UK's nuclear deterrent, and that on that basis both sections 24 and26 of the Act apply to the information in question. We have reconsidered the balance of public interest in the light of the points that you make, but have again come to the conclusion that the public interest in withholding the information you seek outweighs the public interest in its release, and that section 2(2)(b) of the Act therefore applies. We therefore conclude that there is no obligation under the Act to disclose this information.

21. The same letter also says:

> The Government has consistently made clear that any use or threat of use of nuclear weapons by the British Government would only occur in accordance with international law. (Letter from Alan Lawson, Ministry of Defence, to Christine Titmus, 13 May 2005)

22. Government responses consistently repeat this assertion in various forms. They are simply stated without support and fail to engage in any detailed legal dialogue. Sometimes we are faced with the argument that speculation is of no value.

> The Government continues to believe that there is no useful benefit to be gained from hypothetical speculation on where precisely the dividing line might lie between circumstances where use is legal and those were it would be illegal. ... (John Spellar, Minister of State for the Armed Forces to Alan Wilkie, 27 July 2000)

23. We do not contend that any use of nuclear weapons would, by its nature, be illegal. The thrust of our argument is that there is no way of predicting the legal outcome of such use; and this is not hypothetical or speculative.

Conclusion

24. *We cannot imagine any plausible scenario in which nuclear weapons could be used with any way of predicting whether or not it could comply with the principles of International Humanitarian Law, in particular the Principles of Discrimination and Proportionality.*

25. Given the steps by which we have reached this conclusion we believe that it deserves a considered response.

13. Analysis of TP's dialogue with Government officials.

Angie Zelter.

TP engaged in dialogue and negotiation from the very start of its campaign with an Open Letter to then Prime Minister Tony Blair on 18th March 1998. We had already clearly stated the reasons for dialogue in our first 'Tri-denting It Handbook' that was published and distributed before the direct disarmament work began.[1]

To quote, 'Dialogue and negotiation with the Government and other state institutions, such as the police and the judiciary, is seen as a very necessary part of the TP campaign. If there is any willingness at all, on the part of the British Government, to actually fulfil their international and humanitarian obligations by disarming Trident themselves, then we will not have to undertake this work ourselves and can stop our ploughshares actions.

We need to have dialogue to make sure that we are listening to the Government and state institutions and continually checking that our aims, objectives and actions remain appropriate within the changing circumstances.

We also need to apply the pressure of rational, logical discussion, to ask awkward questions, show up inconsistencies and hypocrisies, all the abuses which eventually develop in those holding power.

The dialogue of regular letters and contact backs up our active, practical disarmament work and keeps it alive and potent...

Dialogue and resistance go hand in hand in order to create social and political change.' End of quote.

After over 11 years of writing to the Prime Minister, Ministers of Defence and the Foreign Office, plus leaders of the main political parties in the UK, and having received very unsatisfactory replies from most of the letters, nevertheless I still believe this kind of dialogue is an essential part of social change. **It keeps us in touch, keeps our minds focused and our strategies sharp. It confronts the Government with its own inconsistencies and shows up its hypocrisy.**

Most governments and political leaders, including repressive regimes and dictators, but especially those that like to consider themselves 'democratic' like our own, draw much of their power from ensuring law and order by portraying themselves as law keepers and their opponents as law breakers. [2] **Thus our work in showing their acts to be illegal and criminal undermines their power.**

For those of us working on the issue of nuclear disarmament, the past couple of decades have shown the importance of our strategy of civil resistance combined with continued dialogue and negotiation, self-education and advocacy around international humanitarian law.

TP has experience of various different kinds of dialogue, which have intertwined and benefited each other. There has been the dialogue with lawyers who have defended them in court, most of whom knew nothing or very little about international law as it related to nuclear weapons before getting involved in the cases and had not recognised its importance before their involvement. [3] The majority of TP defendants represent themselves in the courts, sometimes in quite high profile cases at the High Court level [4], and **this has ensured a degree of education and dissemination of information about international law in very accessible ordinary**

1 Tri-denting It Handbook, 3rd Edition, 2001 www.tridentploughshares.org/section58 The 1998 edition included the same paragraph but this is no longer on the website (although there are copies of the first edition in the British Library) having been replaced by the 3rd Edition.

2 TP's reliance on law is discussed in the *Right Livelihood Award* acceptance speech to be atwww.rightlivelihood.org/trident_speech.html 'Nuclear weapons have always been unlawful and the Shimoda case in Tokyo, in the sixties, showed very clearly that the Hiroshima and Nagasaki bombings were war crimes... Trident Ploughshares ... based its whole campaign on international law and has used it to de-legitimise nuclear weapons and legitimise our own actions and we have done it in a highly public and confrontational manner so it cannot be ignored. We have kept the moral arguments to the fore as well, by emphasising the links between morality and law... Law is based upon ethical values and is respected in so far, and only in so far, as it conforms to common human morality. Governments, soldiers and armed forces gain their legitimacy and power from the law and thus the law is of immense importance to them. The only thing that distinguishes a soldier from a common murderer is that he has been given legal permission to do certain kinds of killing on behalf of society. This legalised killing is meant to be carefully controlled by laws - the most important of which are international humanitarian laws, which outlaw indiscriminate mass murder..... (The Trident Ploughshares) acquittals at Greenock and the two at Manchester, cleared us of criminal intent and at the same time clearly pointed out the criminal intent of the British nuclear forces.'

3 Comments made by Aidan O'Neill QC in his address to the 3rd February 2009 Edinburgh Conference on 'Trident and International Law: Scotland's Obligations' organised by the Acronym Institute, Edinburgh Peace and Justice Centre and Trident Ploughshares.

4 See 'Trident on Trial – the case for people's disarmament' by Angie Zelter. Luath – ISBN 1-84282-004-4. 5 11 years ago the importance of international law even amongst peace and disarmament campaigners was very controversial and the early work done by Lawyers for Nuclear Disarmament, INLAW and INLAP was regarded as almost irrelevant because whether nuclear weapons were legal or illegal they were morally wrong! The links between morality and law and legitimacy had not then been fully explored.

language, as legalese can be difficult for ordinary folk to understand. This has enabled more of us to gain the understanding and confidence to challenge such remarks coming from prosecuting lawyers as *'International law is not real law and it does not apply in this court'*. Our appeals, amongst others, have led to these kinds of comments being almost unknown now.[5]

In our liaison and negotiation work with the police, in order to facilitate peaceful protests, we have stressed the law enforcement role of the police and asked why they are allowing preparations for war crimes to continue inside the nuclear bases like Faslane or Aldermaston. It is quite common to hear protesters talking to police at demonstrations and blockades and asking why they are not arresting the 'real' criminals. In court, when police are brought as witnesses against us, we cross-question them on international law, asking them for instance if they are aware that the Geneva Conventions Act was passed in the UK in 1957, and other such questions that de-legitimise the position of the State vis a vis the deployment of nuclear weapons.

Thus our dialogue and negotiation and advocacy work, alongside that of other organisations, has helped bring international law issues into general public discourse.

The third strand of our dialogue and negotiation work has been in the form of letters to and from the Government. During the process we get some information and insight into Government thinking and some of the information has proved useful in our cases in court where we can use them as evidence of the criminal activities of various Ministers of State and the military. However, it has not yet led to the courts taking up the challenge of confronting the UK Government for its major breaches of international law nor has it led to the major changes in defence and foreign policy that we desire. We still have Trident and we are at this moment struggling to ensure there is no replacement of Trident. Of the ten visible and verifiable elements that TP listed as being 'indispensable to genuine commitment by the government to a process of de-nuclearising Britain' none have yet been fulfilled.[6] These included for instance, taking Trident off 24-hour patrols, and removing the nuclear warheads and storing them separately. Sometimes we may feel we are getting nowhere but I believe that the steady, consistent dialogue is slowly eroding and exposing the falsehoods we are fed and that this will slowly evolve into practical changes on the ground.

I believe our main task when engaging in dialogue is in challenging the obfuscation, misleading comments, underlying motivations and irrelevancies by trying to clarify what is actually being said or implied and we do this by simplifying the language, and by stating plainly what we think is going on under the surface and by bringing it all into open public discourse.

So, let me be more specific and now give some examples from our correspondence with the Government. The full correspondence can be accessed from our website.[7]

Bringing into public discourse – our letters to officials are either copied to the press in the first instance or used by our supporters for writing letters to the press, or are aired through radio and TV interviews. They are used as evidence in courts[8] and are put on websites. They are included in briefing papers for the general public. The letters are often slow to be answered so we ask supporting MPs to write on our behalf to get decent replies, so our questions are not ignored. This keeps the MPs up to date with the arguments too. Over the last decade there has been a marked increase in the use of international law arguments. Most of the public now understand what a 'war crime' is[9] and are aware of the International Criminal Court. The international war laws and humanitarian law in general are discussed in a variety of contexts ranging from decisions to go to war, the use of torture and rape, the bombing of civilians in Afghanistan and are now part of public discourse. However, although people may recognise the criminality of the bombing of Gaza or the torture of prisoners not many see the deployment of Trident as a crime as it is one step removed from actually having happened – it is a preparation for a war crime. It is not so clear to the public that preparations for war crimes are also criminal acts, though this is slowly getting through.

Asking awkward questions – we try to probe deeper into hidden motivations by asking questions like, *'If zero nuclear weapons are the minimum necessary for the security of most of the world, on what basis do you calculate that this Western European island requires a minimum of four nuclear armed submarines?'* or *'if Trident were essential for our security, how would it be used? It is widely recognised that nuclear weapons do not deter terrorists.'* [10]

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5 11 years ago the importance of international law even amongst peace and disarmament campaigners was very controversial and the early work done by Lawyers for Nuclear Disarmament, INLAW and INLAP was regarded as almost irrelevant because whether nuclear weapons were legal or illegal they were morally wrong! The links between morality and law and legitimacy had not then been fully explored.

6 From the 18th March 1998 open letter to PM Blair, *'i) The British Trident submarine system must immediately be taken off 24-hour patrols. ii) No new Trident missiles are to be purchased from the United States. iii) All British nuclear warheads must be removed from their delivery systems and stored separately by 1 January 2000. iv) No further deployment of US nuclear weapons in Britain. Britain should work with its NATO allies for withdrawal of all tactical nuclear weapons from Europe and for establishment of a policy not to use nuclear weapons first or against nonnuclear-armed adversaries in any circumstances. v) Trident missiles are to be returned to the United States and the warheads to be returned to AWE Aldermaston/ Burghfield by an agreed date. vi) Commitment to a timetable for the decommissioning of British nuclear weapons as fast as is feasible and safe, with a target date for completion of 2010 at the latest. vii) Pledge not to replace Trident or seek to acquire nuclear weapons again. viii) Conversion of Britain's nuclear weapon facilities from research and development for the maintenance and production of the nuclear arsenal towards the decommissioning of nuclear weapons and facilities, safe management and disposal of nuclear materials under strict and effective national and international safeguards and controls, and the enhanced verification of international agreements on weapons of mass destruction. ix) Active and constructive British involvement in the determined pursuit by the nuclear-weapon states of systematic and progressive efforts to reduce nuclear weapons globally, with the goal of negotiating interim agreements leading to a nuclear weapons convention as early as possible. The genuineness and constructiveness of this commitment will be gauged from the positions taken by Britain in United Nations General Assembly resolutions, the Non-Proliferation Treaty review process, the Conference on Disarmament, five-power talks, NATO, and other related fora.'*

7 TP correspondence with Government and Military at www.tridentploughshares.org/article1108

8 I used the TP dialogue and negotiation correspondence in my witness box statement at Greenock in 1998 see my defence notes at www.tridentploughshares.org/article818

9 The war crimes tribunals of the former Yugoslavia and Rwanda and Burundi, the decision to go to war with Iraq, the bombing of Lebanon and Gaza by Israel, the torture of prisoners in Iraq by US and UK forces, the decision to go to war in Iraq in the first place are all examples of war crimes.

10 Letter of 6th Feb 2004 from Angie Zelter on behalf of Trident Ploughshares to PM Tony Blair.

Clarification - we translate officialese into plain language and in the process uncover bare facts – thus we don't talk about *'minimum deterrent'* but clarify that this actually means *'threatening to use nuclear weapons of 100 kts'* and then we go into details of the effects of such use which includes hundreds of thousands of deaths of civilians, poisoning of the environment etc. etc. and that such use would constitute a war crime. We continue by explaining that a threat to commit a war crime is also what is known in international law as a crime against peace.

We try to 'unpack' the glib phrases that are used. For instance, what does the government mean by stating that Trident is a *'deterrent to a potential aggressor who might wish to threaten UK national interests'* – what exactly are our *'national interests'?* It seems, according to the 1995 Defence White Paper[11], that they mean protecting the global financial structures and banks and big business, making sure that our country has cheap access to raw materials (like oil) regardless of the impact on ordinary people in other countries. Whereas, most people think of defence and national security as protecting our country from military attack or invasion and occupation. We try to clarify these differences of perception and then go on to attempt to widen the public debate and talk about what 'real security' might mean.

Omissions - we point out that their unwillingness to answer our questions and engage in open legal argument on the legality of specific uses of Trident, and their refusal to publicly think through the actual options, are because they do not want it to become apparent that they are prepared, if deterrence fails, to use their nuclear weapons. They know this would be unlawful and immoral and so dangerous (as it would likely start a nuclear exchange) that there would be a public outcry. But because they need to keep up the myth that deterrence will never fail as it prevents nuclear weapons from being used, they cannot actually publicly allow an evaluation of the actual use of nuclear weapons, even though we know that the military have these plans and have to practice the targeting and release of the nuclear weapons on Trident. If such a legal examination of nuclear weapons policies were allowed it would become apparent that any use of 100 kiloton nuclear weapons would be unlawful. However, it is probably the case that those civil servants, politicians and military that have thought through the international law implications of Trident probably could not care less about the law as they believe that if deterrence fails and nuclear weapons are exchanged the horror that will be unleashed will be so great that international law will be totally irrelevant. Our dialogue and questions try to uncover these hidden beliefs and attitudes.

Often we are told the information we seek is 'classified'[12] and the 'secrecy' is necessary for national security[13]. This is frustrating and all we can do is write back and point out that the information is already in the public domain, or is known by the so-called 'enemy' and all such secret classification does is prevent free and informed public discussion in our own country which limits and weakens our democracy.

Corrections - when misleading comments are made we examine them more fully and bring to light the obfuscation. Thus for instance, when the Government baldly states it is complying with the NPT[14] , we write back and state that Article VI of the NPT requires each state to *"pursue **in good** faith negotiations on effective measures ... relating to nuclear disarmament."* And then clarify by explaining that *' "Good Faith"? means negotiating sincerely and flexibly to achieve the desired result - global nuclear disarmament. The International Court of Justice pronounced that the obligation is not just to talk about global nuclear disarmament. It is to make it happen. Good Faith means that this objective should be pursued consistently with real political will. The conclusion should be reached within a reasonable time and the parties must avoid policies which contradict the very purpose of the negotiations'.* This process is then contrasted with the present Government's plans to renew Trident and the current expansion of Aldermaston to enable the research and building of new nuclear weapons – which is hardly an act in good faith.[15] And we continually remind them that the NPT was made in 1968 and more than 40 years is hardly a 'reasonable time'.

To sum up, I think our dialogue with government officials, police, courts, and lawyers is important and has led to a greater knowledge of how our government's policies and actions are undermining international peace and security.

However, we have not been able to generate enough public debate and understanding on these issues as they are complex. And also perhaps because there is a deep cynicism about the willingness of any of the major nuclear powers and their allies to abide by international law when it affects their own nation's actions. It seems as though only the less powerful or the 'vanquished' are taken to international tribunals to answer the charges of war crimes – certainly we have yet to see one of the leaders of the 8 nuclear powers[16] taken before the ICC.

However, it does not end here. Our letter writing and dialogue helps us to update our strategies too.

Informing our strategies - Thus from noticing the Government's insistence that it is in full compliance with the NPT, despite our arguments to the contrary, we could then come up with a strategy for undermining this by, for instance, getting statements from prestigious lawyers and judges backing up our arguments[17]. We can ask other governments (mainly from the non-aligned states) to state internationally that in their opinion the nuclear weapon states are not acting in good faith etc. .....these statements can then be referred to in the next series of letters ..... - a long process maybe, but in my opinion it is one of the essential strands in an overall movement for social change that includes a spectrum of activities from education to voting to lobbying to civil resistance. Each important in itself but all relying upon the work and progress of the others.

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11 Britain's national interests have been listed specifically in the 1995 Defence White Paper as being British trade, the sea routes used by such trade, raw materials from abroad, and British investments abroad worth an estimated $300 billion.

12 *'As regards the yield of Trident nuclear warheads the Government's position is not to comment. Such information is classified.'* Alan Hughes, Ministry of Defence, to Sister Mary Lampard, 26th June 2000.

13 Stephen Willmer, Ministry of Defence, to Angie Zelter, 2 March 2000. *'The threshold for legitimate use of nuclear weapons clearly is, and should be, a very high one... However, an action that is legal in one set of circumstances can be illegal in different circumstances. The Government continues to believe that there is no useful benefit to be gained from hypothetical speculation on where precisely the dividing line would lie. Nor does the Government believe that any conceptual planning on potential use of nuclear weapons carried out by the Ministry of Defence can reasonably be made open to public scrutiny. Secrecy in this area plays an important part in enabling the United Kingdom to maintain a credible minimum deterrent capability at the lowest possible level.'*

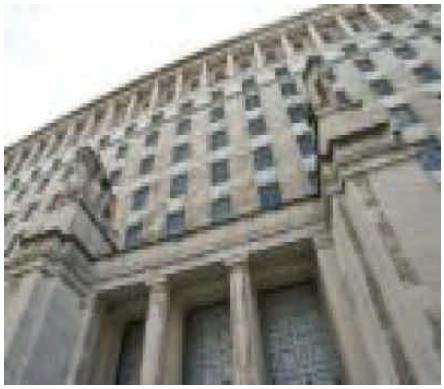
14 *'You called on the Prime Minister to "finally comply with the NPT" - the UK is in full compliance with its obligations under the NPT. Article VI states that "Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a Treaty on general and complete disarmament under strict and effective international control." It does not require the UK to disarm unilaterally nor does it set a timetable for disarmament.'* From: Barnaby Kistruck, Counter Proliferation and Security Cooperation, Ministry of Defence 22-06-09.

15 21/4/09 letter requesting immediate compliance with international law from TP to PM and others www.tridentploughshares.org/article1552

16 I include Israel, India and Pakistan along with the 5 original nuclear powers as they all have known nuclear weapon systems.

17 Judge Bedjaoui's keynote address was given on May 1st 2008 in Geneva; www.lcnp.org/disarmament/2008May01eventBedjaoui.pdf

14. Correspondence with the Ministry of Defence



Following are extracts from a long correspondence between Christine Titmus and the Ministry of Defence (MoD). Christine and George Farebrother (World Court Project) consulted extensively about the material and George Farebrother's comments are shown in blocks. The correspondence started in early 2005, but these extracts start in April.

From Christine Titmus, 20.4.09

Dear Mr. Holderness,

Thank you for your letter of March 22nd. I disagree that it is not in the public interest to disclose information about the mega tonnage and range of the UK's nuclear weapons. As a citizen of this country, I believe I am entitled to know in this information, because all citizens have a moral and legal responsibility for a *conditional* nuclear response. Thus knowledge of the megatonnage and range matters, as does the concept of recklessness. Nuclear weapons are subject to the same legal restraints as am form of weapon. As Trident is the UK's only nuclear weapon, I believe the information I requested is necessary to form criteria and judgments on use: proportionality is central to any decision regarding use of nuclear weapons.

I cite the reference made to possible legal use of Trident, in the submission made by Attorney General Sir Nicholas Lyall at the International Court of Justice in November 1995:

"A state or group of states is faced with invasion by enemy forces. That state or group of states is certainly entitled defend itself. If all the other means at their disposal are insufficient, then how can it be said that the use of a nuclear weapon must be *disproportionate?"*

The US oral statement referred to situations such as "a *small number of accurate attacks by low-yield weapons against an equally small number of military targets in non-urban areas* The UK statement on the World Health Organisation request claimed that *"modem nuclear weapons are capable of precise targeting* and *many are designed for use against military objectives of quite small size."* The emphasis is on limited use of low-yield weapons.

Therefore, it is vital that evidence be produced to assure concerned citizens, who are morally and legally responsible for acts carried out in their name - that the UK's only nuclear weapon system is capable of fulfilling this criterion. I ask again for this information, on these grounds.

Directorate of Chemical, Biological, Radiological and Nuclear Policy –
Deterrence Policy 1 MINISTRY OF DEFENCE
Main Building, Level 4, Zone A
Whitehall, LONDON, SW1A 2HB

Christine Titmus wrote to Mr. Holderness, but the reply was from Alan Lawson. The text has been slightly shortened

13 May 2005

Dear Mrs. Titmus

REOUEST FOR INFORMATION

Thank you for your letter of 20th April, which responded to mine of 22nd March and reached us on 25th April. You say that you disagree that it is not in the public interest to disclose information about the megatonnage and range of the UK's nuclear weapons, and ask for this information to be released

Firstly, on the point of the range of the UK's Trident missiles, which was not addressed in my previous letter, I can say that the range is in the region of 4,000 nautical miles (around 7.300 km).

Why is does it endanger the effectiveness of our deterrent to disclose the yield, but not dangerous to disclose the range?

On the question of megatonnage, we made clear in the Strategic Defence Review (paragraph 64) that the stockpile that was decided in the SDR represented a reduction of more than 70% in the potential explosive power of the nuclear deterrent since the end of the Cold War. We do, of course, hold further information on both this issue of the overall megatonnage of the UK stockpile and on the question of the yield of individual warheads.

It is not necessary for us to know the precise megatonnage of individual weapons. What you asked was whether, in general, the UK weapons are capable of fulfilling the criteria outlined by the UK statement on the World Health Organisation request: *"modem nuclear weapons are capable of precise targeting* and *many are designed for use against military objectives of quite small size".* Does this mean that all UK nuclear weapons are of quite small size? We can ask Alan Lawson meant by "quite small size" and he can answer it as a general question without specifying the precise megatonnage of UK weapons.

In the light of your letter of 20th April, we have reconsidered our previous decision. We note your arguments about the public importance of these issues, and the Government has consistently accepted that nuclear weapons are subject to international humanitarian law and to the laws armed conflict, including the requirements of proportionality, to which you refer. The Government has consistently made clear that any use or threat of use of nuclear weapons by the British Government would only occur in accordance with international law.

This is an assertion. There is no attempt to provide evidence for it. We need to know how they arrive at this conclusion.

Nonetheless, the reasons for refusing disclosure set out in my letter of 22" March remain valid. It remains our judgment that disclosing the information you seek would reduce the effectiveness of the UK's nuclear deterrent, and that on that basis both sections 24 and 26 of the Act apply to the information in question. We have reconsidered the balance of public interest in the light of the points that you make, but have again come to the conclusion that the public interest in withholding the information you seek outweighs the public interest in its release, and that section 2(2 Mb) of the Act therefore applies.

This paragraph seems to go beyond a rote answer. He seems to have thought about it. He admits that there is a balance to be struck and, implicitly, that there is something to be said for your arguments about our responsibility, as citizens, for nuclear policy - although he does not address the issue at all.

There is therefore a value judgment being made between the need for secrecy in retaining the effectiveness of the deterrent, and the need for citizens to know what is being conditionally planned in their name. We can therefore ask for the guiding principles by which these decisions are made.

We therefore conclude that there is no obligation under the Act to disclose this information.

Should you remain dissatisfied, or feel that this request has not been properly handled, you may apply for an internal review by contacting the Director of Information Exploitation, 6th Floor, MOD Main Building, Whitehall, SW1A 2HB.

If you are still unhappy following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the *MOD* internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, http://wwwinformationcommissioner.gov.uk.

Alan Lawson

On 31 July Christine Titmus replied to the above developing the points she had previously made. The next letter from the MoD said:

16th August 2005

Dear Mrs. Titmus

Thank you for your letter, dated 31st July. I am sorry that my response to your request under the Freedom of Information Act failed to satisfy you, but 1 will do my best to answer your latest queries.

Firstly, why do we reveal the range, but not the yield, of the deterrent? This is all to do with enhancing deterrence. We give an indicative range, and not a maximum. Stating a range enhances deterrence, in that the minimum stated range can encompass a very large range of possible target areas from within the deep ocean. We cannot give a maximum range, as this is a very variable number, depending on a large number of factors.

As with ranges, yields can be varied and, to the best of my knowledge, never have been officially publicly released while in service. This is because there is no advantage to revealing these from a deterrence viewpoint, and much to be lost if, for example, a possible adversary considered that they could survive a nuclear retaliation from the UK as the warheads were known to be of a particular size.

As to your second question regarding the UK statement on the WHO request, I have nothing to add to this. The judgment of the Court in this case is well known to both yourself and the Ministry of Defence, and there is little to be gained from re-opening the discussion now.

He has misunderstood this. The point raised in the 31 July letter was not about the Court's judgment on either the WHO or the UNGA request, but about the fact that the UK statement referred only to low-yield weapons. In it the UK seemed to say that low-yield weapons could be used lawfully under certain circumstances. Can we therefore take it that whatever the yield mentioned in para three, no UK nuclear weapon would be used in such a way as to violate the law and in accordance with the sort of parameters – i.e., low yield, not endangering civilians, mentioned in the UK submission in the WHO case?

Thirdly, you ask for evidence that we would we would use nuclear weapons only in accordance with international law. What evidence would satisfy you? The Government have stated this as policy, and we work to this policy.

We need more than a simple assertion. To comply with international law any use of UK nuclear weapons would have to comply with the intransgressible principles of International Humanitarian Law. These include the principles of necessity, proportionality and discrimination.

Does he agree that these principles are, indeed, intransgressible? If so we would not need to know which particular targets might be chosen, but we would need to be assured that their choice would never incur the risk of disproportionate civilian casualties. This means that we need to know more about the general principles by which decisions would be made. The actual future scenarios are themselves hypothetical; but the principles by which they are to be dealt with must exist in the present. What are they? How, for example do we come to a balance between civilian casualties and the military advantage to be gained? This, of course, applies to conventional, as well as nuclear weapons,

An analogy we might use is that of the allocation of resources in the Heath Service. A decision has to be made about the relative funds allocated to expensive, but life-saving state-of-the-art heart operations and the relief of chronic pain. There are guiding principles behind this and these reflect values. They are available to the public. Making the principles behind nuclear decision-making available to would not compromise military secrecy because they are not about actual deployment or military strategies. They are about the way we balance our values in general.

Finally, you ask for the 'guiding principles' by which decisions are made regarding secrecy and me need for public knowledge. I cannot give any definitions, as this is an area considerably outwith my remit, but I will say that the introduction of the Freedom of Information Act, under which your original inquiry was made is now fundamental to how we deal with information, and we work according to its rules.

The above is true of the secrecy point. We are not asking for definitions but for principles. If these are outside his remit, perhaps he could refer the matter to someone who is familiar with these. On the other hand principles are not a matter of expertise but part of our common human concern.

It is not good enough to say that we have to balance the public's right to know with the need to maintain operational secrecy. We need to know the way that values are given weight against each other as a template for decision making about this issue.

The Freedom of Information Act has something, but not much, to say about this matter. For example, an exemption to the right to know can be made when "in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information". [Part I Section 1 (1) (b)]. Similarly, the 1997 document "Your Right to Know", which deals with the Government's proposals for a Freedom of Information Act says in its foreword:

> This White Paper strikes a proper balance between extending people's access to official information and preserving confidentiality where disclosure would be against the public interest. It is a new balance with the scales now weighted decisively in favour of openness.

Later on (3.11/1) it states

> Protection of information whose disclosure could damage the national and international interests of the State is a key requirement of an FOI Act. The integrity of communications received in confidence from foreign governments, foreign courts or international organisations should be protected.

In general, we are told that there should be a "proper balance". But it is not clear what principles underlie the determination of this balance.

Thereafter the correspondence petered out

Compiled and edited by George Farebrother for the Institute for Law Accountability and Peace August 2009
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