

CITIZENSHIP AND THE MODERN STATE.
THE SPIRIT OF THOREAU IN THE AGE OF TRIDENT

by Richard Falk¹

Henry David Thoreau went to jail in 1842 rather than pay a poll tax whose revenues were used, in part, to pay for President Polk's colonialist war against Mexico. As long ago as that, Thoreau insisted that a citizen had a civic responsibility to oppose an unjust war: "The soldier is applauded who refuses to serve in an unjust war by those who do not refuse to sustain the unjust government which makes the war" His more general counsel was to "[1]et your life be a counter friction to stop the machine. What I have to do is to see, at any rate, that I do not lend myself to the wrong which I condemn".

These days, rarely noticed except when prison terms are announced, a growing number of Americans are dedicating their lives to stopping the machine. Now the machine has become nuclearized, and threatens, at least in our imagination, the ultimate human crime of omnicide, not an idle threat, given the findings of several groups of scientists about the prospects for "nuclear winter" in the aftermath of nuclear war. Unlike Thoreau who lives on in our tradition for his single night in a comfortable Concord jail (a friend paid his overdue tax to obtain his release), these unsung Americans, our contemporaries, are receiving longish prison sentences, are remaining for years behind bars away from family, freedom, and work, and they are returning over and over again to put their bodies in the way of the machine.

A particular focus of these resistance activities has been "first-strike" weapons systems. It is important to understand why. As moralists, legalists, and strategists have argued ever since Hiroshima, with nuclear weapons in existence, there is no way to disinvent them or to be sure that if we renounce them we won't tempt others to engage in nuclear blackmail, or even surprise attack. Whether deterrence or disarmament is safer, saner, more moral is arguable in a world of hostile states and widespread conflict. Most radical peace activists tend to respect this tragic circumstance, although their definite preference is to take the risks of vulnerability connected with disarmament.

What they refuse to tolerate, however, is the use of nuclear weapons, not for war avoidance roles (deterrence), but for geopolitical power plays. The construction of first-

¹ Milbank Professor of International Law and Practice, Princeton University

strike weapons systems is so objectionable because it strips away the masks of inevitability from the so-called nuclear dilemma, and makes it clear that our leaders have become hypocrites of the most fundamental kind. In essence, a first-strike weapons system is one that is designed to be used to attack, not retaliate. For instance, submarines with many nuclear warheads on their missiles having high degrees of accuracy, yet relatively vulnerable to attack by others, or cruise missiles that are easy to destroy while still on the ground, but hard to stop once launched because they elude radar. If retaliation was the purpose of these systems, then weapons designers would emphasize survivability of their missiles, above all, and strategic doctrine would be clear that the only mission of nuclear weapons was to deter others from using them.

Resisters have been persuaded that the United States Government is building first-strike weapons systems. Robert Aldridge, a former Lockheed engineer, has been important in confirming these suspicions. He had been in charge of the Lockheed unit charged with designing the Trident submarine. He quit an important job and gave up a successful career because he became convinced that the United States was building weapons for a possible war of aggression that might rely on the system he was designing. Aldridge has written a careful book entitled **First-Strike: The Pentagon's Strategy for Nuclear War** that summarizes the technical arguments for so regarding the Trident Submarines.² He has also lectured widely and given his entire life over to informing people about these developments. Aldridge is not a political person in the normal sense. He is a devout Catholic, a family man of quiet ways, and someone who conveys the utmost integrity and credibility.

Those who have been especially activated seem, notably, participants in faith communities with a special concern for bringing justice into the world on a personal and daily basis. They regard the gospels as a call to action, and view Jesus as a divine person who gave his life rather than succumb to unjust authority. There are many variations on tactics and outlook, but two clusters of tendencies stand out. One is associated with Seattle near where the naval base for the Trident submarine is located. The resistance is centered around Ground Zero (the name given to the place of maximum blast effect at the time of a nuclear explosion), a small group of devoutly religious persons whose efforts are known more widely as a result of their excellent newsletter, sympathetic media coverage in the area, a supportive Catholic Archbishop, and the writings and inspiration of James Douglass. Their tactics have been non-violent, influenced by Martin Luther King, Jr.'s civil rights movement and, even more, by the theory and practice of **satyagraha** in India under

² See Appendix I on the concept of first strike

the guidance of Gandhi They have organized blockades of sailboats to prevent the entry into port at the Bangor base of the first Trident class submarines and they have on six or more occasions blocked "the white train" that carries the missiles and warheads for Trident from their place of assembly in Amarillo, Texas. A grassroots monitoring and solidarity network has grown up along the route of the train. For instance, two years ago a half dozen residents of Fort Collins, Colorado blocked the white train as it passed through their city. They were dragged by police from the tracks and charged with criminal trespass, but in the end considerable community support and policy divisions in the local DA's office led the case to be dropped.

These activities are continuing, although the government has tried to adjust by repainting the train and sending it as covertly as possible by a variety of alternate routes. By now several dozen resisters have been arrested, prosecuted, convicted, on various occasions, and have returned to repeat their "crime". There are also physical risks undertaken. The engineers on the train are apparently under orders not to stop even if the tracks are obstructed. This means that if the police fail to remove the protesters from the tracks they could be crushed. So far, no incident of this sort has occurred. Perhaps, the engineers have secret orders, or themselves harbor a grain of disobedience, and would brake the train at the last instant. Yet, from the protesters' perspective they are putting their bodies directly in the way of the machine. They are expressing a commitment unto death, that is, of the utmost seriousness.

In the Eastern portions of the United States there are comparable activities arising for similar reasons. These activities, because of the character of the operations located in the region, are directed at the weapons themselves rather than at their deployment. The most prominent of these protesters have engaged in a series of "Plowshare" activities, such as entering a GE plant where the Mark 12-A missile is assembled or Griffiss Air Force Base in upstate New York where B-52s are being retrofitted for cruise missiles, done some damage to the missiles themselves, sang religious songs at the site of their trespass, and waited for the police to come and arrest them. Others have gone to the submarine base at Groton, Connecticut or to defense plants in the region, to enter and do some physical damage, "disarmament" as they call it, to the weapons themselves. Again there are serious risks taken whenever citizens enter top-secret defense related facilities without authorization. Furthermore, when property is destroyed, especially if it relates to "national security", judges tend to become quite harsh, even vindictive. Sentences of more than five years in jail are common in such cases, and there are a few recent cases where terms of more than ten years have been imposed. In other words, these activists are as serious as it is possible to be in civil society.

II

"No truer American exists than Thoreau", Emerson said of his friend in the course of a eulogy. It remains to this day a puzzling tribute to someone most renowned for his stubborn defiance of authority. For most, to be a true American is to be obedient to the laws and deferential to the government. Patriotism is associated in the popular mind with supporting the foreign adventures of the state, dying for the sake of the flag no matter what moralists might say about the cause at stake.

Yet, surely Emerson knew what he was saying. There has been another idea of America all along, one that is expressive of a different vision of national destiny and another conception of perfect citizenship. This is an America that started out, above all, as the end-point of pilgrimage, a place of sanctuary for the individual conscience. This is also the country that reveres the natural and innocent as qualities that made America appear a promised land. It is not generally appreciated that Thoreau linked his defense of civil disobedience with his retreat to the rustic simplicity of Walden Pond from emerging industrial society in nineteenth century New England. Toward the end of **Walden** there is a passage that expresses Thoreau's attitude toward law and governmental authority; the great aesthetic naturalist there insists that, above all else, an individual is "to maintain himself in whatever attitude he finds himself through obedience to the laws of his being, which will never be one of opposition to a just government, if he should chance to meet with such." Remember that given Thoreau's skepticism about government, to posit a just government was to enchant the mind with a kind of political oxymoron. The proper citizen, then, is the morally activated individual assuming some sort of oppositional stance. Such a credo has many resonances in the American experience including the rags-to-riches saga of Horatio Alger, the often lethal glory of pioneers and cowboys who pushed the frontier into the wilderness, and the dark metaphysical journey of Ahab and Ismael into the lawless watery wilds.

Thoreau's specific originality was to turn his grasp of this heroic side of American character into a moral questioning of the state, and then to act accordingly. In this regard, Thoreau accords conscience priority in his arrangement of virtues: "I think we should be men first, and subjects afterward. It is not desirable to cultivate a respect for law, so much as for right". At the end of this seminal essay Thoreau asserts, "There never will be a really free and enlightened State, until the State comes to recognize the individual as a higher and independent power, from which all its own power and authority are derived "

Along with the Mexican War, Thoreau was also deeply troubled by the persistence of slavery as a legitimate social institution. His insistence on a moral course was uncompromising: "This people must cease to hold slaves, and to make war on Mexico, though it cost them their existence as a people". He thought these failures of the republic serious enough to warrant revolution: "I think that it is not too soon for honest men to rebel and revolutionize". This kind of clarity about what the citizen should demand from his government contrasts with the mainstream criteria of victory and wealth: to win is to be vindicated, to lose is to be condemned. Politicians in the United States have received and acted on this message from civil society almost from the beginning. The Vietnam experience reinforced this central understanding. On a more intellectual plane, apologists have rationalized the pursuit of national interests in world affairs by a biblical invocation of the fallen condition of humankind, a kind of tarnished golden rule, that overlooks the evil done unto others because it is the alternative to their doing it unto us.

At the same time, there was an underlying political forbearance in Thoreau's stance. He seemed concerned, in the end, more with the significance of moral purity to fulfill the individual life than with activating a collective process that might overcome the injustice or transform the governing process in directions more to his liking. The essence of what Thoreau demands of a citizen is this: "What I have to do is to see, at any rate, that I do not lend myself to the wrong which I condemn!" To be sure, there is attached to this injunction a kind of absurd confidence in the social consequences of a symbolic act of disobedience:

I know this well, that if one thousand, if one hundred, if ten men whom I could name, -- if ten **honest** men only, -- aye, if one **HONEST** man, in this State of Massachusetts, **ceasing to hold slaves**, were actually to withdraw from copartnership, and be locked up in the county jail therefor, it would be the abolition of slavery in America.

Underneath this rhetorical extravagance is an all-too-American individualism, a wish to be left alone to retreat from society, come what may with respect to slavery.

Of course, also, it is not possible, or useful, to conjecture how Thoreau might have altered his position if trainloads of Trident missiles were passing through his beloved Concord. What continues to matter to us today is that learning to say "No" to the state seems decisively relevant to our prospects as a people

III

Thoreau in his famous essay on civil disobedience centers his concern on the militarism of the organized state: "Government is at best but an expedient; but most governments are usually, and all governments are sometimes, inexpedient. The objections which have been brought against a standing army, and they are many and weighty, and deserve to prevail, may also at last be brought against a standing government." If Thoreau thought so in 1846, one wonders what drastic response he might advocate and undertake in 1985 when billions and billions of dollars are devoted to weapons of mass destruction, when military might is used at the sole discretion of the President to impose America's arbitrary will on a helpless island people of a Caribbean micro-state, when American weapons of mass destruction are deployed throughout the entire globe and American strategists and officials talk grotesquely, but solemnly, about **prevailing** in nuclear war, and prepare in a surreal spirit for "victory" and "recovery". The situation today is, of course, far, far more extreme than anything in Thoreau's reality. Since Thoreau's time history has lost its moorings, making all of human society ridiculously dependent on the whims and wisdom of its main rulers. In the TV docudrama, "The Day After", the likely severity of nuclear war had to be understated to make it even possible to present it as a potential reality, and even then, war thinkers such as Henry Kissinger complained about scaring the American people into a posture of submission by presenting the future in such horrific terms. Power-wielders don't want the reality of our situation to get in their way, no matter what the eventual costs.

Prophetically, Thoreau raised the question of citizen responsibility to oppose an unjust war: "The soldier is applauded who refuses to serve in an unjust war by those who do not refuse to sustain the unjust government which makes the war". The minimum obligation of citizenship in a free society is to separate oneself from supporting those aspects of state power that are destructive and exploitative. Thoreau demands nothing necessarily more, but also nothing less.

But many continue to say, however implausibly, it is not necessary to resist, but merely to register disapproval, to vote, to petition representatives in Congress, to write letters, and to wait for the procedures of constitutional government to make the needed adjustments and achieve the necessary reforms. Thoreau gave an answer to these disciples of normalcy that remains more true than ever: "As for adopting the ways which the State has provided for remedying the evil, I know not of such ways". When our conscience is appalled, then some response by way of non-violent defiant action is required as a message, an appeal, a warning. It is

also a weapon available to society in its struggle to preserve the honor and integrity of its traditions against the menace of the state

It is interesting to realize that Thoreau called his essay, originally given as an oration at the Concord Lyceum, "Resistance to Civil Government", not "On the Duty of Civil Disobedience", a title later invented by the editors of Thoreau's collected works. The distinction between "resistance" and "disobedience" is subtle, yet profound. Disobedience, as a stance, acknowledges the authority of the state and submits to the logic of imprisonment, while resistance raises the question, it seems to me, of who it is that belong in prison, the officials who are acting on behalf of the state or those who resist.

True, Thoreau's resistance was based on conscience, not law. Courts are obliged to enforce the law, and cannot accede to the subjective prescriptions of dissenting citizens. But even here, the case has always been cloudy, especially with respect to criminal law. The underlying idea of trial by jury was to bring the conscience of the community to bear upon the application of the law. Thus, when the conscience of citizens is the essence of an alleged crime, there is a role for what is called "jury nullification", nullifying the law and acceding to claims of conscience. Our courts have generally tried to shut down this function of the jury, and to tie jurors hands by legalistic instructions by judges that disallow conscience to be taken into account, even in situations of symbolic criminality where the actions of those accused of lawlessness are motivated by citizen fervor for a better society.

In the anti-nuclear context, even the "law" is in doubt and, further, the role of community conscience seems plain enough for even the most legalistic sensibility to grasp, but judges find their primary identity as officers of the state as well as men of the law, and seem more likely to serve as guardians of the state than as intermediaries between mandates of the state and challenges from the citizenry. Perhaps, in the end Thoreau is **only** a literary figure. His political acts were so puny and episodic compared to the gravity of the evils addressed. What lives is the rhetoric and the posture, and a vague understanding that Thoreau was willing to become an outlaw to underline his point. No one credits Thoreau with doing anything significant to stop the Mexican War or slavery, or even with persevering. A single night in jail is hardly a struggle to the end. In this sense, too, Thoreau seems very American, honored as a great rebel in our tradition without having really done too much to deserve the status. Yet the honoring has done something inspirational for others--for instance, Tolstoy, Gandhi, Martin Luther King--it has lent legitimacy to their defiance, and established the importance of the non-violent path

IV

There have been some significant changes since the mid-nineteenth century in the legal relationship between citizen and the state. After World War II the victorious powers, led by the United States, established a judicial framework to assess the criminal liability of the defeated leaders of Germany and Japan. The most important of these trials were those held at Nuremberg upholding the basic idea that in the war/peace area leaders of governments were individually responsible for violations of international law even if they were themselves carrying out the policies of superior officials. At Nuremberg "the supreme crime" was held by the tribunal to be planning or waging "aggressive war" (that is, war as an instrument of foreign policy beyond the circumstances of self-defense).

Ever since the Nuremberg proceedings there have been discussions about its quality as a legal precedent. The main criticisms have been associated with its character as victors' justice. In relation to the conduct of the war, the victorious powers engaged in behavior that appeared "criminal" from the perspective of the laws of war. For instance, the strategic bombing of cities in Germany and Japan, the use of atomic bombs, and the wholesale murder of prisoners of war by their Soviet captors.

At the time, the prosecuting governments, especially the United States, emphasized that the effort at Nuremberg was to build a legal structure of accountability for the future. The American prosecutor, Robert Jackson, who took leave from the U. S. Supreme Court to play his historic part at Nuremberg, stated with eloquence that the principles used to assess the responsibility of the German defendants would serve as a basis to judge the victors in the future. Steps were taken to implement this conception of building a reliable legal order. At the United Nations General Assembly the essence of what was achieved at these proceedings, the Nuremberg Principles, were adopted at its very first session in 1946 by a unanimous vote of the states then members in the form of General Assembly Resolution 95(I). In 1950 these Nuremberg Principles were reformulated in authoritative form by the International Law Commission, a UN body of experts that enjoys prestige because it has operated at a technical level without getting drawn into the East-West ideological struggles of the postwar world.³ Throughout this process, it was the United States Government that was the most ardent champion of the effort to extend the Nuremberg concept from

³ The 1950 ILC text of the Nuremberg Principles is set out in Appendix II.

the context of World War II to serve the international community permanently as a framework. Most international law specialists regard the Nuremberg Principles as forming a part of international law that is binding on governments.

It seems probable that Thoreau would have been disturbed by the hypocrisy of Nuremberg, but would have applauded the determined effort to make governmental leaders personally accountable for initiating and waging war, as well as for gross abuses toward people under their control (what was called at Nuremberg "crimes against humanity"). It is also probable that Thoreau would not have expected too much to come from Nuremberg, given the way governments behave toward one another and their tendency to impose their will on the weak. He would not have been wrong. Each of the governments that sat in judgment at Nuremberg has subsequently engaged in at least one instance of aggressive warfare. There have been no subsequent prosecutions. In retrospect, it would seem that from a governmental perspective Nuremberg was "victors' justice", nothing more.

Yet, from a citizen's perspective something new was added to political reality, something perhaps not intended by the architects of Nuremberg. The Nuremberg Principles provide a valid set of yardsticks by which to appraise the legality of governmental conduct on the most vital aspects of human affairs. What is more, the Nuremberg Principles set standards that are designed to guide and determine individual conduct. The underlying idea is that each person in whatever societal position is called upon to avoid complicity in the crimes punished at Nuremberg even if it means violating normal domestic laws. This wider pattern of responsibility has been called "the Nuremberg obligation".

One thing all the anti-nuclear protesters have in common is an awareness and acceptance of the Nuremberg obligation. Over and over again in trials across the country, the defendants explain, and seek to justify, their conduct by claiming its validation under the Nuremberg obligation. Here again, the link with first-strike weapons systems, such as Trident is alleged to be, is quite central. The essence of this first-strike identity is to be shaped for the initiation of nuclear war, and hence, the construction of such submarines is itself "criminal" as it contemplates waging the most destructive aggressive war in all of history. And it relies upon weapons of mass destruction to carry out these aggressive designs, which seem invalid as weapons of warfare and violations of the laws of war, the second category of Nuremberg crimes.

These legal arguments have not been accepted by domestic courts in the United States, although there has been some acknowledgment of their relevance. Experts have often been

allowed to testify about the Nuremberg Principles despite vigorous objection by the prosecutor. Juries have evidently been impressed by the line of reasoning, but have generally been instructed in such a constraining way by the presiding judge as to feel that they had no option other than a verdict of guilty.

Yet, the overall effect of the Nuremberg Obligation is to change the character of the action from Thoreau's symbolic refusal to pay the poll tax. For Thoreau his stand was rooted in conscience, and the moral responsibility of an individual to act on this basis. Thoreau accepted "law" as an expression of the state, to be resisted, as necessary, by "morality". As a result, an opposition between law and morality would inevitably arise whenever a government acted unjustly. For the Trident protesters the priority of morality is also central to their stand, and is their starting-point. At the same time, by invoking Nuremberg, the protesters are claiming that law, properly applied, is on their side: that upholding the Nuremberg Obligation is the paramount legal duty in the context, and that the true lawbreakers are those leaders of government who are building Trident submarines with first-strike missions in mind.

From this outlook, then, it is the institutions that are tainted, not the law. What is more, to oppose the results reached by these tainted institutions is not really "civil disobedience" in Thoreau's sense. It is rather an insistence that citizens have become law enforcement agents in relation to the government. My guess is that Thoreau would have approved, although he might not have been out there on the tracks. Thoreau, as we have said, was a supreme individualist. He was in retreat from the clamoring demands of modern life. He wanted, above all, to be left alone to grow intimate with his natural habitat, to explore the countryside and know its ways. As Emerson gently notes, "I think the severity of his ideal interfered to deprive him of a healthy sufficiency of human society".

The Trident protesters are not so deprived. Their strength comes from community rather than individuality. In this sense, their action is not symbolic as a gesture is symbolic. They are, as actors, closer to Gandhi than Thoreau. Their search is for actions that will mobilize others to join them on the tracks or in "disarmament" actions at defense plants.

Beyond opposing nuclearism their strongest commitment is to renounce violence. Under no conditions will they act violently against another person. Their principled non-violence draws on early Christianity, as well as the call of Jesus not to resist evil. It also follows from Gandhi's and King's success in building movements of opposition

V

It is important, as these particular defendants propose, to give the courts and juries an opportunity to fulfill the Nuremberg Obligation, but it would be foolish and naive to expect dramatic results, although not nearly as foolish as a few years ago. In addition to mushrooming resistance from below, there are important defections from nuclearism at high levels of political leadership, and there exist important statements presenting an emerging societal consensus on nuclearism, statements such as the Bishops' Pastoral Letter on War and Peace and the Lawyers Committee on Nuclear Policy formulations. These formulations definitely validate the reasonableness of non-violent, symbolic resistance which points to governmental illegality and immorality, as well as the hazards posed by the latest phases of the arms race.

These interpretations are strengthened by the paralysis of representative institutions and elective procedures when it comes to national security policy. The situation has regressed from the time of Thoreau's complaint that conscience cannot wait on the rhythms of constitutional government. Today, we are faced with something far more menacing than the encroachment of democracy caused by "a standing army", which was the specific object of the anxiety of anti-militarists in the early life of the Republic. Today, our society has become permanently galvanized to carry out the ultimate war on a few minutes notice. Furthermore, the global stance of the United States calls for wide-ranging interventionary capabilities and campaigns to be mounted on the sole basis of a general Presidential mandate. The procedures of representative democracy have been severely compromised and fundamentally inhibited. Congress has played virtually no role in questioning the moral, legal, and political policies of nuclearism. The courts have been evasive and passive, and have done their best to avoid "embarrassing" results caused by juries doubtful about their restrictive conceptions of legality. Presidential elections are a mockery when it comes to these security concerns. No major candidate can remain "credible" with the media, and hence with the public, if he or she is seen in any way to question the national security consensus that is held by "the state within the state", that is, by the sectors of the Federal bureaucracy associated with war/peace issues, especially the Pentagon, the State Department, and the intelligence agencies.

Representative democracy is now dead when it comes to nuclear national security. Citizens conscious of the Nuremberg Obligation cannot in these circumstances rely on normal political channels. Acts of resistance must be understood, then, both as a reflection of the current failure

of democratic governance and as a creative effort designed to promote the revitalization of democracy. The political implications of the Nuremberg Obligation require, in effect, a new encounter between the citizenry and the state, resulting in a new framework of official accountability in accordance with new legal and moral guidelines, what amounts to a Magna Carta for the Nuclear Age. Nothing less can restore real significance to democratic processes and give real content to the claim that the legitimacy of government rests on the consent of the governed. Citizenship and patriotism in the nuclear age must be increasingly understood as requiring participation in this struggle, to revitalize democracy and to dismantle the nuclear national security state.

With characteristic prophetic power, Leo Tolstoy commented in his old age on "the two wars", that of the state, illustrated by the contemporaneous Spanish-American War (1898) and that of the war against war, illustrated by the militant and persecuted pacifist sect of the Dukoboors in Czarist Russia. It is not enough to be sensitive to the peculiar menace of nuclearism. War itself has become a scandal and an obscenity in a world of mass misery and fairly widespread education. The technology of non-nuclear warfare is becoming increasingly capable of levels of mass, indiscriminate destruction comparable to that of nuclear weapons. Even as early as World War I the mutually destructive character of war led to a questioning of its continued acceptability in organized political life. Until fairly recently, the United States played a leading, if somewhat hypocritical, role in working for the prohibition of non-defensive warfare.

It is foolhardy to look to the modern state, here or elsewhere, to further the goals of the abolition of war. At the same time, such a project, however remote its prospects may seem in our militarized, wired world, is essential if we are to build a hopeful future for our children and grandchildren and create a horizon of possibility that is inspired by more than current preoccupations with **mere survival**. And there are some positive signs of encouragement. Even "realists" are beginning to affirm the abolitionist vision. Stanley Hoffmann and George Kennan have acknowledged that a secure future for human society requires the abolition of war. Kennan makes a particularly moving "confession" of his change of heart. What is more, we now have an ever-increasing technological capacity to reliably verify a disarming process, without undue interference with sovereign rights; new information technologies, combined with sensing and monitoring capabilities, can create confidence that distrust can be reconciled with deep levels of disarmament. And finally, a wider sphere of the public is becoming convinced that "national security" can be upheld by non-violent means, and that responsibility for its discharge needs to be reclaimed, taken away from the exclusive control

of the centralized state, with its dependence on bureaucratic methods and its confidence in technology and violence

Let me revert, in closing, to Tolstoy's war on war. He rests his faith on those who act without limit on the basis of their conviction, those who the mainstream refuses to acknowledge; in Tolstoy's words, "...no one speaks or knows of these heroes of the war against war, who are not seen and heard by anyone". He tells, in particular, of a peasant, named Okhook, who refused military service and while being transported to jail managed to convert to his cause his guard Sereda, whom Tolstoy quotes as saying "I do not want to be with the tormentors, join me to the martyrs".

In this sense, it is important for us to question the technocratic definitions of "useful", "practical", and "realistic" which we are given. Under much less critical circumstances, Tolstoy commented in a manner that remains illuminating:

The people of our time, especially the scholars, have become so gross that they do not understand, and in their grossness cannot even understand, the significance and the influence of spiritual force. A charge of ten thousand pounds of dynamite sent into a crowd of living men--that they understand and in that they see strength; but an idea, truth, which has been realized, has been introduced into life to the point of martyrdom, has become accessible to millions--that is to their conception not force, because it does not boom, and you do not see broken bones and puddles of blood.

I believe that these defendants who are facing trial these days are "martyrs" in Tolstoy's sense; they are teaching us how to be citizens in the nuclear age.

In the end, negating nuclearism is not enough. We also require a wider vision of a human community that handles conflict non-violently, that harnesses production to human needs, and that uses the resources of the planet for the benefit of all. It may seem an impossible journey, but our only solid hope as a species is to muster the courage to get on with it. As W.H. Auden once said "We who are about to die demand a miracle". But this time the miracle will not come from without, if it comes, but from within.

Appendix I

The idea of "first-strike" is a complex one. In essence, a combination of missiles, navigational aid, and operational plans provides war planners with the confidence that it is possible to threaten or actually initiate nuclear war in such a way as to disable, at least in large part, the capacity of the other side to retaliate. One effect of such a first-strike posture is to create pressure on the threatened society to attack first in a period of rising tensions or crisis to avoid the adverse effects of vulnerability to a first strike. Aldridge anticipates that on the basis of present projections the United States will achieve a first-strike posture in 1988 when 18 Navstar satellites will be placed in orbit to provide in-flight guidance for missiles assuring greater accuracy for a strike aiming at Soviet "hard targets" such as silos or command centers.

Trident itself refers both to a new super-class of submarines and to a type of missile that can be also retrofitted into earlier classes of nuclear submarines. By 1988 there are expected to be nine Trident submarines each carrying 24 Trident missiles, with each missile having eight 100-kiloton warheads (about 8 Hiroshima equivalents), for a grand total of 1,728 warheads capable of being separately targeted. It is not surprising that a Trident commander has been called "the third most powerful man in the world". In addition, of course, there are the other classes of submarines, land-based missiles, and the strategic bomber fleet. Anti-nuclear resisters consider any element of this array of weaponry to be part of the first-strike capability and a fair focus for action. Aside from the Trident submarines, a favored target for protest is the Mark 12 or Mark 12-A warhead intended for Minuteman-3 and MX land-based missiles. This material is largely drawn from Aldridge's article "First Strike Breakout in 1988", published in *Ground Zero*, Dec '83/Jan '84, pp.1, 3.

Appendix II

The ILC text of the Nuremberg Principles is as follows.

As formulated by the International Law Commission, June-July 1950.

Principle I

Any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment.

Principle II

The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does

not relieve the person who committed the act from responsibility under international law

Principle III

The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible government official does not relieve him from responsibility under international law.

Principle IV

The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.

Principle V

Any person charged with a crime under international law has the right to a fair trial on the facts and law.

Principle VI

The crimes hereinafter set out are punishable as crimes under international law:

a Crimes against peace:

(i) Planning, preparation, initiation or waging of war of aggression or a war in violation of international treaties, agreements or assurances;

(ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i)

b War crimes:

Violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or deportation to slave-labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

c Crimes against humanity:

Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connexion with any crime against peace or any war crime.

Principle VII

Complicity in the commission of a crime against peace, a war crime, or a crime against humanity as set forth in Principle VI is a crime under international law.