

# Nuclear weapons, Gandhi's birthday, and the Nüremberg Principles

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Nuclear weapons, Gandhi's birthday, and the Nüremberg Principles? What do these three things have to do with each other? Let us first look at them separately, and then explore the connection.

## **Nuclear weapons**

During the Cold War, and especially during the Cuban Missile Crisis, the threat of a massive nuclear exchange between the two superpowers caused grave public concern. There was a danger that a third world war fought with nuclear weapons would not only cause hundreds of millions of civilian deaths in the combatant countries, but also, through fallout, additional millions of deaths in neutral countries.

It is understandable that when the Cold War ended, the general public gave a sigh of relief and put the worrying subject of nuclear weapons out of their minds. However, the threat has not really gone away. Because of nuclear proliferation, and because of the Bush Administration's policies, the danger that these inhuman weapons will be used is greater now than ever before.

During the Cold War, a number of international treaties attempting to reduce the global nuclear peril had been achieved after much struggle. Among these, the 1968 Nuclear Non-Proliferation Treaty (NPT) has special importance. The NPT was designed to prevent the spread of nuclear weapons beyond the five nations that already had them; to provide assurance that "peaceful" nuclear activities of non-nuclear-weapon states would not be used

to produce such weapons; to promote peaceful use of nuclear energy to the greatest extent consistent with non-proliferation of nuclear weapons; and finally, to ensure that definite steps towards complete nuclear disarmament would be taken by all states, as well steps towards comprehensive control of conventional armaments (Article VI).

The non-nuclear-weapon states insisted that Article VI be included in the treaty as a price for giving up their own ambitions. The full text of Article VI is as follows: “Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating 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 international control.”

The NPT has now been signed by 187 countries and has been in force as international law since 1970. However, Israel, India, Pakistan, and Cuba have refused to sign, and North Korea, after signing the treaty, withdrew from it in 1993. Israel began producing nuclear weapons in the late 1960’s (with the help of technology provided by France, and with the tacit approval of the United States) and the country is now believed to possess 100-150 of them, including neutron bombs. Israel’s policy is one of “nuclear opacity” - i.e., visibly possessing nuclear weapons while denying their existence.

India produced what it described as a “peaceful nuclear explosion” in 1974. By 1989 Indian scientists were making efforts to purify the lithium-6 isotope, a key component of the much more powerful thermonuclear bombs. In 1998, India conducted underground tests of nuclear weapons, and is now believed to have roughly 60 warheads, constructed from Pu-239 produced in “peaceful” reactors.

Pakistan’s efforts to obtain nuclear weapons were spurred by India’s 1974 “peaceful nuclear explosion”. Zulfikar Ali Bhutto, who initiated Pakistan’s program, first as Minister of Fuel, Power and Natural Resources, and later as President and Prime Minister, declared: “There is a Christian Bomb, a Jewish Bomb and a Hindu Bomb. There must be an Islamic Bomb! We will get it even if we have to starve - even if we have to eat grass!” As early as 1970, the laboratory of Dr. Abdul Qadeer Khan, (a metallurgist who was to become Pakistan’s leading nuclear bomb maker) had been able to obtain from a Dutch firm the high-speed ultracentrifuges needed for uranium enrichment. With unlimited financial support and freedom from auditing requirements, Dr. Khan purchased restricted items needed for nuclear weapon construction from companies in Europe and the United States. In the process, Dr.

Khan became an extremely wealthy man. With additional help from China, Pakistan was ready to test five nuclear weapons in 1998. The Indian and Pakistani nuclear bomb tests, conducted in rapid succession, presented the world with the danger that these devastating bombs would be used in the conflict over Kashmir. Indeed, Pakistan announced that if a war broke out using conventional weapons, Pakistan's nuclear weapons would be used "at an early stage". Early in 2004, it was revealed that Dr. Khan had for years been selling nuclear secrets and equipment to Lybia, Iran and North Korea. As more and more countries obtain nuclear weapons, it becomes increasingly likely that one of them will undergo a revolution, during the course of which nuclear weapons will fall into the hands of subnational organizations.

Article VIII of the Non-Proliferation Treaty provides for a conference to be held every five years to make sure that the NPT is operating as intended. In the 1995 NPT Review Conference, the lifetime of the treaty was extended indefinitely, despite the general dissatisfaction with the bad faith of the nuclear weapon states: They had dismantled some of their warheads but had taken no significant steps towards complete nuclear disarmament. The 2000 NPT Review Conference made it clear that the nuclear weapons states could not postpone indefinitely their commitment to nuclear disarmament by linking it to general and complete disarmament, since these are separate and independent goals of Article VI. The Final Document of the conference also contained 13 Practical Steps for Nuclear Disarmament, including ratification of a Comprehensive Test Ban Treaty (CTBT), negotiations on a Fissile Materials Cutoff Treaty, the preservation and strengthening of the Anti-Ballistic Missile (ABM) Treaty, greater transparency with regard to nuclear arsenals, and making irreversibility a principle of nuclear reductions. Another review conference is scheduled for 2005, a year that marks the 60th anniversary of the destruction of Hiroshima and Nagasaki.

Rather than witnessing progress towards implementation of Article VI of the NPT, recent years have unfortunately shown us dangerous backward steps. The United States election of 2000 brought to power a group of neo-conservatives who have since exhibited a general contempt for international laws, treaties and norms. In 2002, the Bush Administration published its Nuclear Posture Review paper, a document that totally undermines not only the Non-Proliferation Treaty but also the signed but not yet ratified Comprehensive Test Ban Treaty (CTBT).

The 2002 Nuclear Posture Review paper proposed that US nuclear weapons should target seven countries - Russia, China, Libya, Syria, Iraq, Iran and

North Korea. Situations in which the weapons might be used included war in the Middle East, conflict between China and Taiwan, North Korean invasion of South Korea, or responding to “surprising military developments”, a vague phrase that could include many things. Furthermore, the Bush Administration’s 2002 paper called for the development of small and “usable” nuclear weapons, for example a “nuclear robust earth penetrator” that could be used to destroy deeply buried concrete bunkers. Such new nuclear weapons would need testing, and thus a program to develop them would undermine the CTBT. The development of low-yield nuclear weapons would trivialize and legitimize them, thus eroding the taboo that has prevented nuclear tragedies during the half century since the the destruction of Hiroshima and Nagasaki.

There is a danger that the NPT will be fatally weakened by the Bush Administration’s new policies. The signatories are already skeptical because of the nuclear weapon states’ bad faith regarding their own promise of nuclear disarmament. They will now ask, “If the nation with most conventional armaments, a nation whose military expenditures exceed those of all others combined, feels that it needs more nuclear weapons to be secure, do we not need them as well?” The danger of a new nuclear arms race provoked by the Bush Administration’s policies is very real.

In addition to violating the NPT, the Bush Administration’s Nuclear Posture Review paper also violates the advisory Opinion on Nuclear Weapons given in 1996 by the International Court of Justice in the Hague, a ruling that will be discussed in more detail below.

## **Flaws in the concept of nuclear deterrence**

Before discussing other defects in the concept of deterrence, it must be said very clearly that the idea of “massive nuclear retaliation” is completely unacceptable from an ethical point of view. The doctrine of retaliation, performed on a massive scale, violates not only the principles of common human decency and common sense, but also the the ethical principles of every major religion.

The enormous and indiscriminate destruction produced by nuclear weapons formed the background for an historic 1996 decision by the International Court of Justice in the Hague. In response to questions put to it by WHO and the UN General Assembly, the Court ruled that “the threat and use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and particularly the principles and rules of

humanitarian law.” The only *possible* exception to this general rule might be “an extreme circumstance of self-defense, in which the very survival of a state would be at stake”. But the Court refused to say that even in this extreme circumstance the threat or use of nuclear weapons would be legal. It left the exceptional case undecided. In addition, the Court added unanimously that “there exists an obligation to pursue in good faith *and bring to a conclusion* negotiations leading to nuclear disarmament in all its aspects under strict international control.”

Having said said these important things, we can now turn to some of the other defects in the concept of nuclear deterrence. One important defect is that nuclear war may occur through accident or miscalculation - through technical defects or human failings. This possibility is made greater by the fact that despite the end of the Cold War, thousands of missiles carrying nuclear warheads are still kept on a “hair-trigger” state of alert with a quasi-automatic reaction time measured in minutes. There is a constant danger that a nuclear war will be triggered by error in evaluating the signal on a radar screen. For example, the BBC reported recently that a group of scientists and military leaders are worried that a small asteroid entering the earths atmosphere and exploding could trigger a nuclear war if mistaken for a missile strike.

A number of prominent political and military figures (many of whom have ample knowledge of the system of deterrence, having been part of it) have expressed concern about the danger of accidental nuclear war. Colin S. Grey (Chairman, US National Institute for Public Policy) expressed this concern as follows: “The problem, indeed the enduring problem, is that we are resting our future upon a nuclear deterrence system concerning which we cannot tolerate even a single malfunction.” General Curtis E. LeMay (Founder and former Commander in Chief of the United States Strategic Air Command) has written, “In my opinion a general war will grow through a series of political miscalculations and accidents rather than through any deliberate attack by either side.” Bruce G. Blair (Brookings Institute) has remarked that “It is obvious that the rushed nature of the process, from warning to decision to action, risks causing a catastrophic mistake.”... “This system is an accident waiting to happen.”

Another serious failure of the concept of nuclear deterrence is that it does not take into account the possibility that atomic bombs may be used by terrorists. Indeed, the threat of nuclear terrorism has today become one of the most pressing dangers that the world faces, a danger that is particularly

acute in the United States.

Since 1945, more than 3,000 metric tons (3,000,000 kilograms) of highly enriched uranium and plutonium have been produced - enough for several hundred thousand nuclear weapons. Of this, roughly a million kilograms are in Russia, inadequately guarded, in establishments where the technicians are poorly paid and vulnerable to the temptations of bribery. There is a continuing danger that these fissile materials will fall into the hands of terrorists, or organized criminals, or irresponsible governments. Also, an extensive black market for fissile materials, nuclear weapons components etc. has recently been revealed in connection with the confessions of Pakistan's bomb-maker, Dr. A.Q. Khan. Furthermore, if Pakistan's less-than-stable government should be overthrown, complete nuclear weapons could fall into the hands of terrorists.

On November 3, 2003, Mohamed ElBaradei, Director General of the International Atomic Energy Agency, made a speech to the United Nations in which he called for "limiting the processing of weapons-usable material (separated plutonium and high enriched uranium) in civilian nuclear programmes - as well as the production of new material through reprocessing and enrichment - by agreeing to restrict these operations to facilities exclusively under international control." It is almost incredible, considering the dangers of nuclear proliferation and nuclear terrorism, that such restrictions were not imposed long ago. Nuclear reactors used for "peaceful" purposes unfortunately also generate fissionable isotopes of plutonium, neptunium and americium. Thus all nuclear reactors must be regarded as ambiguous in function, and all must be put under strict international control. One might ask, in fact, whether globally widespread use of nuclear energy is worth the danger that it entails.

The Italian nuclear physicist Francesco Calogero, who has studied the matter closely, believes that terrorists could easily construct a simple gun-type nuclear bomb if they were in possession of a critical mass of highly enriched uranium. In such a simple atomic bomb, two grapefruit-sized sub-critical portions of HEU are placed at opposite ends of the barrel of an artillery piece and are driven together by means of a conventional explosive. Prof. Calogero estimates that the fatalities produced by the explosion of such a device in the center of a large city could be several hundred million.

In this dangerous situation, the only logical thing for the world to do is to get rid of both fissile materials and nuclear weapons as rapidly as possible. We must acknowledge that the idea of nuclear deterrence is a dangerous

fallacy, and acknowledge that the development of military systems based on nuclear weapons has been a terrible mistake, a false step that needs to be reversed. If the most prestigious of the nuclear weapons states can sincerely acknowledge their mistakes and begin to reverse them, nuclear weapons will seem less glamorous to countries like India, Pakistan, North Korea and Iran, where they now are symbols of national pride and modernism.

## **Gandhi and non-violence**

Let us now turn to Gandhi and nonviolence.

Mohandas Karamchand Gandhi was born on October 2, 1869, in Porbandar, India. His family belonged to the Hindu caste of shopkeepers. (In Gujarati “Gandhi” means “grocer”.) However, the family had risen in status, and Gandhi’s father, grandfather, and uncle had all served as prime ministers of small principalities in western India.

In 1888, Gandhi sailed for England, where he spent three years studying law at the Inner Temple in London. Gandhi’s exceptionally sweet and honest character won him many friends in England, and he encountered no racial prejudice at all. However, when he travelled to Pretoria in South Africa a few years later, he experienced racism in its worst form. Although he was meticulously well dressed in an English frock coat, and in possession of a first-class ticket, Gandhi was given the choice between travelling third class or being thrown off the train. (He chose the second alternative.) Later in the journey he was beaten by a coach driver because he insisted on his right to sit as a passenger rather than taking a humiliating position on the footboard of the coach.

The legal case which had brought Gandhi to South Africa was a dispute between a wealthy Indian merchant, Dada Abdullah Seth, and his relative, Seth Tyeb (who had refused to pay a debt of 40,000 pounds, in those days a huge sum). Gandhi succeeded in reconciling these two relatives, and he persuaded them to settle their differences out of court. Later he wrote about this experience:

“Both were happy with this result, and both rose in public estimation. My joy was boundless. I had learnt the true practice of law. I had learnt to find out the better side of human nature and to enter men’s hearts. I realized that the true function of a lawyer was to unite parties riven asunder. The lesson was so indelibly burnt into me that a large part of my time during my twenty years of practice as a lawyer was occupied in bringing about compromises of

hundreds of cases. I lost nothing thereby - not even money, certainly not my soul.”

Gandhi was about to return to India after the settlement of the case, but at a farewell party given by Abdullah Seth, he learned of a bill before the legislature which would deprive Indians in South Africa of their right to vote. He decided to stay and fight against the bill.

Gandhi spent the next twenty years in South Africa, becoming the leader of a struggle for the civil rights of the Indian community. In this struggle he tried “...to find the better side of human nature and to enter men’s hearts”. Gandhi’s stay in England had given him a glimpse of English liberalism and English faith in just laws. He felt confident that if the general public in England could be made aware of gross injustices in any part of the British Empire, reform would follow. He therefore organized non-violent protests in which the protesters sacrificed themselves so as to show as vividly as possible the injustice of an existing law. For example, when the government ruled that Hindu, Muslim and Parsi marriages had no legal standing, Gandhi and his followers voluntarily went to prison for ignoring the ruling.

Gandhi used two words to describe this form of protest: “satyagraha” (the force of truth) and “ahimsa” (non-violence). Of these he later wrote: “I have nothing new to teach the world. Truth and non-violence are as old as the hills. All that I have done is to try experiments in both on as vast a scale as I could. In so doing, I sometimes erred and learnt by my errors. Life and its problems have thus become to me so many experiments in the practice of truth and non-violence.”

Because of his growing fame as the leader of the Indian civil rights movement in South Africa, Gandhi was persuaded to return to India in 1914 and to take up the cause of Indian home rule. In order to reacquaint himself with conditions in India, he travelled tirelessly, now always going third class as a matter of principle.

During the next few years, Gandhi worked to reshape the Congress Party into an organization which represented not only India’s Anglicized upper middle class but also the millions of uneducated villagers who were suffering under an almost intolerable burden of poverty and disease. In order to identify himself with the poorest of India’s people, Gandhi began to wear only a white loincloth made of rough homespun cotton. He travelled to the remotest villages, recruiting new members for the Congress Party, preaching non-violence and “firmness in the truth”, and becoming known for his voluntary poverty and humility. The villagers who flocked to see him began to



call him “Mahatma” (Great Soul).

Gandhi organized demonstrations whose purpose was to show the British public that although the British raj gave India many benefits, the toll exacted was too high, not only in terms of money, but also in terms of India’s self-respect and self-sufficiency. All of Gandhi’s demonstrations were designed to underline this fact. For example, in 1930 Gandhi organized a civil-disobedience campaign against the salt laws. The salt laws gave the Imperial government a monopoly and prevented Indians from making their own salt by evaporating sea water. The majority of Indians were poor farmers who worked long hours in extreme heat, and salt was as much a necessity to them as bread. The tax on salt was essentially a tax on the sweat of the farmers.

Before launching his campaign, Gandhi sent a polite letter to the Viceroy, Lord Irwin, explaining his reasons for believing that the salt laws were unjust, and announcing his intention of disregarding them unless they were repealed. Then, on March 12 1930, Gandhi and many of his followers, accompanied by several press correspondents, started on a march to the sea to carry out their intention of turning themselves into criminals by making salt. Every day, Gandhi led the procession about 12 miles, stopping at villages in the evenings to hold prayer meetings. Many of the villagers joined the march, while others cast flower petals in Gandhi’s path or sprinkled water on his path to settle the dust.

On April 5, the marchers arrived at the sea, where they spent the night in prayer on the beach. In the morning they began to make salt by wading into the sea, filling pans with water, and letting it evaporate in the sun. Not much salt was made in this way, but Gandhi’s action had a strong symbolic power. A wave of non-violent civil disobedience demonstrations swept over India, so extensive and widespread that the Imperial government, in danger of losing control of the country, decided to arrest as many of the demonstrators as possible. By midsummer, Gandhi and a hundred thousand of his followers were in prison, but nevertheless the civil disobedience demonstrations continued.

In January, 1931, Gandhi was released from prison and invited to the Viceroy’s palace to talk with Lord Irwin. They reached a compromise agreement: Gandhi was to call off the demonstrations and would attend a Round Table Conference in London to discuss Indian home rule, while Lord Irwin agreed to release the prisoners and would change the salt laws so that Indians living near to the coast could make their own salt.

The salt march was typical of Gandhi’s non-violent methods. Through-

out the demonstrations he tried to maintain a friendly attitude towards his opponents, avoiding escalation of the conflict. Thus at the end of the demonstrations, the atmosphere was one in which a fair compromise solution could be reached. Whenever he was in prison, Gandhi regarded his jailers as his hosts. Once, when he was imprisoned in South Africa, he used the time to make a pair of sandals, which he sent to General Smuts, the leader of the South African government. Thus Gandhi put into practice the Christian principle, “Love your enemies; do good to them that hate you.”

Gandhi’s importance lies in the fact that he was a major political leader who sincerely tried to put into practice the ethical principles of religion. In his autobiography Gandhi says: “I can say without the slightest hesitation, and yet with all humility, that those who say that religion has nothing to do with politics do not know what religion means.”

Gandhi believed that human nature is essentially good, and that it is our task to find and encourage whatever is good in the character of others. During the period when he practiced as a lawyer, Gandhi’s aim was “to unite parties riven asunder”, and this was also his aim as a politician. In order for reconciliation to be possible in politics, it is necessary to avoid escalation of conflicts. Therefore Gandhi used non-violent methods, relying only on the force of truth. “It is my firm conviction”, he wrote, “that nothing can be built on violence.”

To the insidious argument that “the end justifies the means”, Gandhi answered firmly: “They say ‘means are after all means’. I would say ‘means are after all everything’. As the means, so the end. Indeed the Creator has given us control (and that very limited) over means, none over end... The means may be likened to a seed, and the end to a tree; and there is the same inviolable connection between the means and the end as there is between the seed and the tree. Means and end are convertible terms in my philosophy of life.” In other words, a dirty method produces a dirty result; killing produces more killing; hate leads to more hate. But there are positive feedback loops as well as negative ones. A kind act produces a kind response; a generous gesture is returned; hospitality results in reflected hospitality. Hindus and Buddhists call this principle “the law of karma”.

Gandhi believed that the use of violent means must inevitably contaminate the end achieved. Because Gandhi’s methods were based on love, understanding, forgiveness and reconciliation, the non-violent revolution which he led left very little enmity in its wake. When India finally achieved its independence from England, the two countries parted company without ex-

cessive bitterness. India retained many of the good ideas which the English had brought - for example the tradition of parliamentary democracy; and the two countries continued to have close cultural and economic ties.

## The Nüremberg Principles

At the end of the Second World War, when the full extent of the atrocities that had been committed by the Nazi's became known, it was decided to prosecute Nazi leaders for crimes against peace, war crimes, and crimes against humanity (such as extermination camps). There was disagreement about how such trials should be held, but after some debate between the Allied countries, it was agreed that 24 Nazi officials and military leaders would be tried by an International Military Tribunal in Nüremberg, Germany, a former center of Nazi politics. There were originally 24 defendants, but two of them committed suicide. One was presumed dead but was nevertheless tried in absentia. Of the twenty-one remaining defendants, eleven were given the death penalty, eight were sentenced to long prison terms, and three were acquitted. Similar trials also took place in Japan.

In 1946 the United Nations General Assembly unanimously affirmed "the principles of international law recognized by the Charter of the Nüremberg Tribunal and the judgment of the Tribunal". The General Assembly also established an International Law Commission to formalize the Nüremberg Principles, and the result was the following list:

- **Principle I:** Any person who commits an act which constitutes a crime under international law is responsible, and therefore 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 the 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 of responsibility under international law, provided that a moral choice was in fact possible for 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 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: Atrocities and offenses, including but not limited to, murder, extermination, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds, whether or not in violation of the laws of the country where perpetrated.
- **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.

The Nüremberg Principles are being used today as the basis for the International Criminal Court's trials of individuals accused of genocide and war crimes in Rwanda and in the former Yugoslavia.

The Principles throw an interesting light onto the status of soldiers. According to the Nüremberg Principles, it is not only the right, but also the duty of individuals to make moral and legal judgments concerning wars in which they are asked to fight. If a soldier participates in an illegal war (and

all wars, apart from actions of the UN Security Council, are now illegal) then the soldier is liable to prosecution for violating international law. The fact that he or she was acting under orders is not an excuse. The training of soldiers (Appendix A) is designed to remove the burdens of moral and legal responsibility from a soldier's individual shoulders; but the Nüremberg Principles are designed to put these burdens squarely back where they belong - on the shoulders of the individual.

## **The International Criminal Court**

In 1998, in Rome, representatives of 120 countries signed a statute establishing a International Criminal Court, with jurisdiction over the crime of genocide, crimes against humanity, war crimes, and the crime of aggression. Four years were to pass before the necessary ratifications were gathered, but by Thursday, April 11, 2002, 66 nations had ratified the Rome agreement - 6 more than the 60 needed to make the court permanent.

It would be impossible to overstate the importance of the International Criminal Court. At last international law acting on individuals has become a reality! The only effective and just way that international laws can act is to make individuals responsible and punishable, since (in the words of Alexander Hamilton), "To coerce states is one of the maddest projects ever devised." In an increasingly interdependent world, international law has become a necessity. We cannot have peace and justice without it. But the coercion of states is neither just<sup>1</sup> nor feasible, and therefore international laws must act on individuals.

The jurisdiction of the ICC is at present limited to a very narrow class of crimes. In fact, the ICC does not at present act on the crime of aggression, although this crime is listed in the Rome Statute, and although there are plans for its future inclusion in the ICC's activities. The global community will have a chance to see how the court works in practice, and in the future the community will undoubtedly decide to broaden the ICC's range of jurisdiction.

Only 7 nations voted against the Rome Statute of the International Criminal Court in 1998: China, Iraq, Libya, Yemen, Qatar, Israel and the United States. Despite the negative US vote in 1998, President Clinton signed the Rome Statute on December 31, 2000. However, two years later, the George

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<sup>1</sup>because it punishes the innocent as well as the guilty

W. Bush Administration withdrew the US signature and began a comprehensive campaign to undermine the ICC. On August 3, 2002, Bush signed into law the American Servicemembers' Protection Act, which featured a prohibition on US cooperation with the ICC; an "invasion of the Hague" provision, authorizing the President to use military force to free US personnel detained by the ICC; punishment of States that join the ICC; and finally, a prohibition of US participation in peacekeeping activities unless immunity from the ICC is guaranteed for US personnel. Finally, the Bush Administration tried to negotiate a large number of bilateral treaties in which other nations would promise never to hand over US citizens to the International Criminal Court.

The motives behind the Bush Administration's campaign against the ICC are easy to understand. If one wants to maintain an empire, war is a necessity. How else can a powerful nation exert its power? On the other hand, the Nuremberg Principles, the Universal Declaration of Human Rights, the ICC and the United Nations Charter are all aimed at making war illegal and impossible. Especially the Nuremberg Principles and the International Criminal Court aim at placing the responsibility for crimes against peace on individuals. The individual political leader is now responsible. The individual soldier is responsible. Apparently Bush and his colleagues want to continue to start wars, and they seem to feel that their nation has become so militarily powerful that international law no longer serves the US national interests. The other countries of the world will have to decide whether they will allow the United States to place itself outside the law. The American people will have to decide whether they want their nation to be a rogue state.

## **The connection**

So what is the connection between nuclear weapons, Gandhi's birthday, and the Nuremberg Principles? The International Court of Justice has ruled that the use or threat of use of nuclear weapons would generally be contrary to international law. According to Principle VII of the Nuremberg Principles, "Complicity in the commission of a crime against peace, a war crime, or a crime against humanity... is a crime under international law." Therefore all of us have a responsibility, under international law, to oppose the use or threat of use of nuclear weapons. How can we do this? Gandhi's principles of non-violent political protest can perhaps show us how to work in the struggle to rid the world of the terrible threat of nuclear catastrophe.

The Gandhian tradition of nonviolent protest played an important role in

the movement that ended British colonial rule in India, the struggle against apartheid in South Africa, the black civil rights movement in the USA, in protests against the Vietnam war, and the antinuclear protests of the 1960's and 1970's. In all of these campaigns and protests, the final results were achieved by adherence to Gandhi's principle that good means must be used if good ends are to be achieved. He firmly rejected the proposition that "the end justifies the means." While disagreeing with his opponents, he always maintained a friendly attitude towards them, always searching for the good side in human nature, and always believing in the power of truth.

We are fortunate to have as speakers at this symposium two distinguished experts on the Ghandian tradition of nonviolence, Christian Bartolf and Jørgen Johansen, and in addition, two representatives of International Physicians for the Prevention of Nuclear War, winner of the 1985 Nobel Peace Prize. Dr. Povl Revsbech will tell us about the activities of IPPNW, and Dr. Klaus Arnung will discuss the consequences of the use of nuclear weapons. Later in the symposium, there will be a discussion period. We hope in particular to discuss the protests against nuclear weapons made by Ulla Røder, and especially we hope to discuss to what extent these protests fit into the Ghandian tradition.