

Know Where You Stand, and Stand There: THE ACTION AND TRIAL OF THE TRIDENT THREE



Larry Kerschner, Bernie Meyer, and Gilberto Perez at the Tacoma Courthouse after Trial

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Ground Zero Center for Nonviolent Action
Poulsbo, Washington

“Know where you stand, and stand there”

Posted in Court on April 15, 2017 by Leonard Eiger, and copied from <http://www.gzcenter.org/2017/04/15/know-where-you-stand-and-stand-there/>

The Trident Three were found guilty in Federal Court on charges of “trespassing” on a U.S. nuclear submarine/weapons base last May.

Larry Kerschner, Gilberto Perez and Bernie Meyer, aka: the Trident Three, appeared in United States District Court, Western District of Washington at Tacoma on Wednesday, April 12th. Magistrate Judge David C. Christel presided over the proceedings. A large number of supporters were in the courtroom to witness the trial.



The defendants had their cases consolidated, meaning that their cases could all be tried at the same time. Attorney Blake Kremer, who has supported and represented many nuclear resisters, represented Larry Kerschner, and acted as standby counsel for Meyer and Perez.

← (from left) Bernie Meyer, Larry Kerschner, Gilberto Perez

All parties had already agreed to and signed the “statement of facts” that defined the events that occurred on May 7, 2016 when, during a vigil held by Ground Zero Center for Nonviolent Action, the three demonstrators engaged in a peaceful protest, entering the main highway and briefly blocking traffic on the

federal side of the Main gate at Naval Base Kitsap-Bangor in Silverdale, Washington. The three demonstrators carried an illustration of Fr. Daniel Berrigan, revered anti-war and anti-nuclear weapons priest, with a statement by Fr. Berrigan: “Know where you stand and stand there.” They also carried a colorful banner with symbols linking nuclear weapons and climate change.

The nonviolent direct action was held in honor of Mother’s Day, which, in the United States was first suggested in 1872 by Julia Ward Howe as a day dedicated to peace. Howe saw the effects on both sides of the Civil War and realized destruction from warfare goes beyond the killing of soldiers in battle.

The three resisters were arrested by base security, booked, and released. They received citations pursuant to Title 18 USC Section 1382 for trespass on a military installation.

The court, as it has done in every case involving nuclear resisters at the Bangor base, granted the government’s motion *in limine*, which disallowed presenting any defense involving the necessity defense, international law regarding the use of nuclear weapons, and the policies of the U.S. government regarding the use of nuclear weapons. At Blake Kremer’s request, however, the court agreed to give some leeway in the defendants’ testimony.

Gilberto Perez and Senji Kanaeda holding photo of a Japanese boy bringing his dead brother to a cremation pyre after the atomic bombing of Nagasaki →

Kremer noted to the court that the defendants have lived lives of service to humanity, and that they are united in the belief that nuclear weapons are illegal and immoral.



On the stand, Gilberto Perez spoke of how he prayed as he and the other defendants crossed the blue line onto the Bangor base. During their action he carried a framed etching of Fr. Daniel Berrigan with one of Berrigan’s famous quotes, “Know where you stand, and stand there.” When asked by Kremer what he would do for the cause of Peace, he replied that, “I would be willing to give my life; to spend the rest of my life in jail.” Perez noted that he is willing to sacrifice himself to get across the message that we can use diplomacy with Russia, North Korea and China and prevent nuclear war. (See *Perez’ statement that was entered into evidence, below, p. 5.*)

Larry Kerschner said that people do not consider the implications of the use of nuclear weapons and their effects. “We tried to wake people up to what Trident can do – the indiscriminate killing of mass numbers of people.” (See *Kerschner’s formal court statement below, pp. 6-9.*)

On the stand, Bernie Meyer said that, “the experts are warning us... we have to give up business as usual,” and that there must be “trust” among world leaders in order to solve the existential problems we face, particularly nuclear weapons and climate change. He also quoted former Secretary of Defense William Perry who recently said that it is up to the people to speak out and demand action on nuclear weapons. (See *below, pp. 10-17, for Meyer’s “Nuke-Climate Nexus” analysis in two parts: “Our Response,” and “Follow-Up Trial Statement.”*)

In part of **Blake Kremer’s closing statement** he said, “These defendants have knowledge that some courts and legal scholars believe they have a right and even an obligation to bring their message of peace and nonviolence to the base commander and the government, and that the importance of this message makes it necessary and legally justifiable for them to stand on base while attempting to deliver this message.” Sadly, the court made it impossible for the defendants to use any defenses that have been recognized in other courts! (See *Kremer’s full closing statement below, p. 18.*)

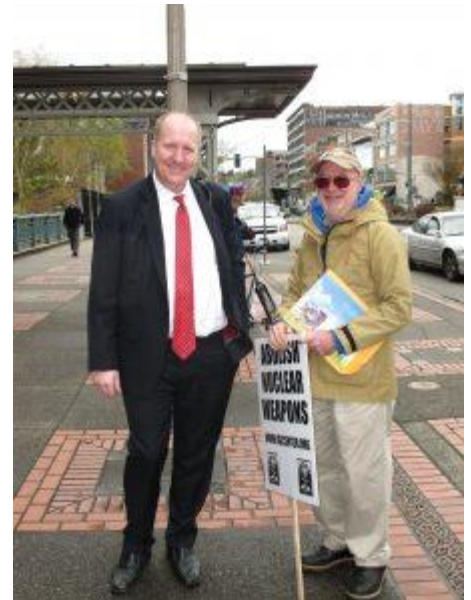
When all was said and done, the judge ruled against the defendants based on the “facts”, and found all three guilty of trespassing. The government asked for one year of supervised probation and 100 hours of community service, referring to the defendants “unrepentant” attitudes. The judge agreed with the sentencing request and in addition to probation and community service, assessed the defendants a \$10 mandatory court assessment plus a \$25 processing fee.

(from left) Blake Kremer, Michael Siptroth →

In a final irony, Judge Christel also noted, in accordance with the government’s request, that the 100 hours of community service must be completed in organizations “unrelated to the prevention of nuclear proliferation.” The judge did, however, note before handing down his decision that the defendants are “highly principled people with deeply held values...”

As much as the defendants attempted to bring light to the real crime – the continuing threat of use of Trident against other nations – justice was not served in the courtroom on this day. Instead, the National Security State protected its narrow interests rather than upholding the Constitution of the United States along with the rights of all humanity to live free of the threat of nuclear annihilation.

The Trident submarine base at Bangor employs the largest concentration of deployed nuclear weapons in the U.S. and is the home port for 8 of the Navy’s 14 Trident nuclear powered submarines. More than 1,300 nuclear warheads are deployed on Trident D-5 missiles on SSBN submarines based at Bangor or stored at Strategic Weapons Facility Pacific (SWFPAC) at the Bangor submarine base.



One Trident SSBN submarine at Bangor is estimated to carry about 108 nuclear warheads. The W76 and W88 warheads at Bangor are equal respectively to 100 kilotons and 455 kilotons of TNT in destructive force. One submarine deployed at Bangor is equal to more than 1,400 Hiroshima sized nuclear bombs.

The nuclear warheads at SWFPAC and on submarines based at Bangor have the combined explosive power equivalent to more than 14,000 Hiroshima bombs.

A March 2017 report from the Bulletin of the Atomic Scientists shows that the U.S. has been upgrading the W76 warhead, and has developed a “super-fuze” that makes the refurbished warhead three times as lethal as before. This huge increase in kill capability makes it appear as if the United States is preparing for a decapitating nuclear attack.

Larry Kerschner has a passion for poetry, and his powerful, poetic indictment of Trident titled *On the blight of Trident* was entered into evidence in his trial. (Read poem below, p. 18.)

Before the trial, supporters vigiled in front of the Tacoma Union Station Courthouse carrying signs that read, “Abolish Nuclear Weapons”, and handed out leaflets about the trial.

In statements (prior to their trial) of the reasons for their collective action against nuclear weapons the Trident



Three said the following:

Bernie Meyer: “We are at a juncture, a juncture that we created, that is of our own doing. We created nuclear weapons, nuclear power, a whole system of radiation dispersal. We created a way of life that spews carbon dioxide, methane, and more chemicals into the atmosphere which circulates into the oceans and onto the continents and heats them up beyond our accustomed tolerance. What do we do? What will you do?”

Gilberto Perez: “A moral consciousness is needed in realizing love and compassion for all. The revolution of the

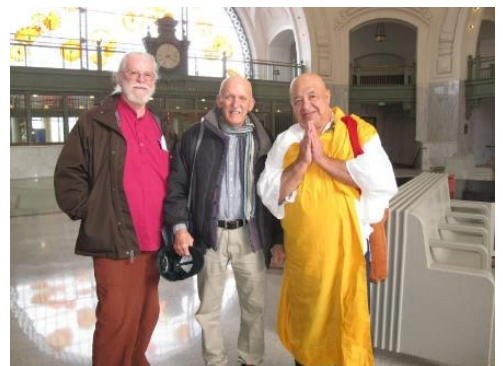
heart melts away the walls of hate, and war. We must love each other, or nuclear annihilation is inevitable. We are not alone.”

Larry Kerschner: “Twenty miles west of Seattle is the largest concentration of deployed nuclear weapons in the U.S. It is clear that the actual use of nuclear weapons would grossly violate the international laws of humanitarian armed conflict under any conceivable circumstances. How can the US threaten the use of nuclear weapons without violating international law? The Nuremberg Principles absolutely proscribe crimes against peace, crimes against humanity, and war crimes. How can the US Government lawfully establish a threat to commit such heinous offenses?” (Read Kerschner’s Op-Ed, “**Will Federal Court Protect International Laws?**”, from *The Chronicle -Lewis County*, below, p. 19.)

May we all “know where we stand, and stand there.”

The Trident Three after their trial →

The Ground Zero Center for Nonviolent Action was founded in 1977. The center is on 3.8 acres adjoining the Trident submarine base at Bangor, Washington. The Ground Zero Center for Nonviolent Action offers the opportunity to explore the roots of violence and injustice in our world and to experience the transforming power of love through nonviolent direct action. We resist all nuclear weapons, especially the Trident ballistic missile system.



Court Statement by Gilberto Perez, 2017-4-12

It was beautiful Mother's Day weekend, May 7th, 2016. The blossoms were out and the birds were happily singing. We were at the Center for Non-Violence located a mile from the Bangor Nuclear Submarine Base. Peacemakers, Buddhist monks and laypersons of our Japanese Buddhist order Nipponzan Myohoji Sangha. Every year we honor Mother's Day with our peaceful vigils and non-violent actions in respect for the life given to us, and in prayer that no lives will be taken by nuclear war. Mother's Day for many years reminds me of the Civil War where perhaps over 620,000 of our brothers died for economic trade reasons, which had little to do with freeing of the slaves.

Julie Ward Howe originated Mother's Day after the Civil War as a protest to the carnage of the war, by women who had lost their sons. In 1872, Julie Howe wrote the "Battle Hymn of The Republic", and proposed an annual day of peace on Mother's Day. Committed to abolishing war, Howe wrote: "We women of one country will be too tender to those of another country to allow our sons to be trained to injure theirs. From the bosom of the devastated earth a voice goes up with our own. It says Disarm, Disarm! The sword of murder is not the balance of justice." The original meaning has been forgotten history. Today Mother's Day has become chocolates, flowers and a phone call to mother. Remembering as I prayed to the Bangor Gate of my visit to the Battle of Shiloh in the late 1960's that it seems to me that those that kill out of the quicksand of bad history, in a strange heroic act still believe that murder is legitimate. Walking in the morning fog to 'Bloody Brook' my heart pounded and the hairs on my arms were straight and I cried. Buddha said, some twenty-five hundred years ago tears of mothers would fill the oceans. I think that father tears would fill a few oceans too.

At the Center for Non-Violence, and after our discussions of world peace. We spoke of the passing of Fr. Daniel Berrigan S.J., which had occurred a week earlier in New York City. His life of peace is and will be my guide until my last breath. At the start of our vigil, we all read out loud our statement of non-violence, and then the monks led the way as we walked in prayerful chanting to the Bangor Gate. On this day in remembrance of Fr. Berrigan, I wore a picture of him as I drummed the Buddhist chant Na Mu Myo Ho Ren Ge Kyo for world peace, and the abolishment of nuclear weapons. I am fully aware that only one person on earth can order the launch of America's nuclear weapons... the president of the United States! Our prayer chant is Japanese from the Lotus Sutra of a nation where not one, but two nuclear bombs were dropped on civilians. In a 1963 interview, President Dwight D. Eisenhower emphatically said, "...it wasn't necessary to hit them with that awful thing". Dwight Eisenhower was not alone and many of the top, mostly conservative military leaders after World War II went public and made similar judgements. The President's Chief of Staff, William D. Leahy, a five-star admiral who presided over the Joint Chiefs of Staff, declared in his 1950 memoir, "It is my opinion that the use of these barbarous weapons at Hiroshima and Nagasaki was of no material assistance in our war against Japan. The Japanese were already defeated and ready to surrender...my own feeling was that in being the first to use it, we adopted an ethical standard common to barbarians of the Dark Ages. I was not taught to make wars in the fashion, and wars cannot be won by destroying women and children." The complete elimination of these awful weapons [is] the only absolute guarantee for all of us to be safe from the threat of nuclear annihilation. I do not want my children, grandchildren and humanity to live under that threat. It pains me deeply to see that President Trump does not share that desire for his children and grandchildren.

Statement to the Court by Larry Kerschner (Re: Violation Number 5213177) April 12, 2017

I respectfully ask the Court to dismiss the charges on the grounds that they are preempted by the international laws and treaties cited herein which are the Supreme Law of the United States under the Supremacy Clause and to publicly define the current nuclear weapons policies of the US Government as an ongoing conspiracy to violate international law and the United States Constitution.

I not asking for this dismissal because of any concern for being convicted of this charge; my concern has never been about avoiding a fine and/or a jail sentence. I was raised to believe that the United States is a nation of law based on the Constitution. My concern is that members of the Executive Branch of the United States continue a criminal conspiracy that could lead to the death of millions if not billions of people. As a citizen who has some understanding of the overwhelming destructive power of nuclear weapons and as a combat veteran who knows how easy it is for one human being to kill another, I must do all that is in my power to call attention to the immensely evil nuclear weapons system being perpetrated in my name and with my tax dollars by the US Government.

It is clear that most elected politicians in this country are under the strong influence of the well-paid war and weapons making lobbyists. However, the United States at Nuremberg urged that individual citizens have an affirmative duty to publicly disassociate themselves from a known violation of international law. Then Chief Prosecutor for the United States, Robert H. Jackson, later United States Supreme Court Justice stated "International law, as such, binds every citizen just as ordinary municipal law."

The most important international law principles related to nuclear weapons exist within the Nuremberg Principles, the Genocide Convention, the Geneva Conventions, the United Nations Charter, and the Supremacy Clause of the United State Constitution. In the Charter of the United Nations; Article 2, paragraphs 3 and 4, specifically state that all members shall settle their international disputes by peaceful means in such manner that international peace and security are not endangered - "All members shall refrain in their international relations from the threat or use of force against territorial integrity or political independence of any state...."

The real hope and purpose of international law is not to punish violators ex post facto but rather to prevent, forestall, and deter these crimes including the use of nuclear weapons....to stop this criminal madness before nuclear weapons are used again. International law established by treaty, such as the conventions and charters mentioned above is the "supreme law of the land" under Article VI, Clause 2 of the United States Constitution ("Supremacy Clause"), and therefore binding on the United States and all States therein. The use or threat of the use of nuclear weapons is a war crime or an attempted war crime because such use would violate

international law by causing unnecessary suffering, failing to distinguish between combatants and noncombatants and poisoning its targets with radiation.

Nuclear weapons are unique in their destructive power and the threat they pose to the environment and human survival. They release vast amounts of energy in the form of blast, heat and radiation. A "limited, regional" nuclear conflict could inject 5 million tons of soot into the upper atmosphere, disrupting the climate and resulting in a decline of global grain production due to: drastic drops in precipitation, reductions in sunlight, lower temperatures, and shorter growing seasons. A significant reduction in grain production (10-30%) over a 10-year period could lead to panic and hoarding on an international scale, further reducing accessible food. Higher mortality rates would first affect the poverty stricken in all countries. The United States has thousands of such nuclear weapons on 'hair trigger' alert. Those persons not incinerated in the vast blast radiance and surviving acute irradiation face death from chronic radiation poisoning and starvation, as well as from violence and trauma caused by the likely breakdown of law and order.

On 8 July 1996, The International Court of Justice (ICJ) handed down an Advisory Opinion on the request made by the General Assembly of the United Nations on the question concerning the Legality of the Threat or Use of Nuclear Weapons. The Court held unanimously, threat or use of force by means of nuclear weapons is contrary to Article 2,

paragraph 4, of the United Nations Charter and that as it fails to meet all the requirements of Article 51, is unlawful; also a threat or use of nuclear weapons should also be compatible with the requirements of the international law applicable in armed conflict particularly those of the principles and rules of international humanitarian law, as well as with specific obligations under treaties and other undertakings which expressly deal with nuclear weapons.

The Statute of the International Court of Justice is an integral part of the United Nations Charter, a treaty ratified by the US Senate. Therefore, the ICJ Statute is vested with the authority of the Supremacy Clause, and is thus binding upon any state or federal court in the US whenever questions of international law are presented. ICJ Statute 38(1) applies to the ICJ but also to any international or domestic tribunal such as this court seeking to determine the rules of international law.

Over the past 50 years we have seen a general US military tendency towards increasing tolerance and even preference for the supposed limited use of nuclear weapons delivered by supposed precision weapons such as drones and 'smart' bombs, allowing military planners to claim that their objectives are achieved with minimal loss of civilian life. This ignores the fact that the entire point of nuclear weapons is their massive, indiscriminate destructive power.

In September 2002, a paper concerning the National Security Strategy of the United States of America, marked the adoption of a pre-emptive strike doctrine: 'While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our right of self-defense by acting preemptively against such terrorists, to prevent them from doing harm against our people and our country.'

A second paper, the National Strategy to Combat Weapons of Mass Destruction (December 2002), referred to the eventual recourse to a nuclear strategy: 'The United States will continue to make clear that it reserves the right to respond with overwhelming force – including through resort to all our options – to the use of WMD against the United States, our forces abroad, and friends and allies'.

The positions presented in both these papers condone and support the policies of continued criminal activity including first-strike threats by the US Government clearly illegal under international law. Individual citizens have an obligation and duty under international law to prevent war crimes, crimes against peace and crimes against humanity.

The willingness to inflict massive destruction on civilian populations and on future generations undermines our deepest human and ethical values. Massive nuclear retaliation is a form of genocide that should be completely unacceptable from any legal or sane point of view. It violates not only the principles of international law, common decency and common sense, but also the ethical principles of every major religion.

Even a cursory application of the jus in bellum criteria (that is justice in war) of the just war theory to the use of nuclear weapons - for example, - wars must be fought with right intention – (i.e. to restore peace or to defend violated rights and must be fought with a view to negotiated peace, not unconditional surrender); - there must be a strong probability of success; - (i.e. conduct in war must be just and civilians cannot be deliberately targeted); - proportionality – (i.e. the good accomplished must outweigh the evil)- leads to the inexorable conclusion that the criteria cannot be met in any nuclear war.

At around 3:30 pm on Mother's Day Saturday, May 7, 2016, as part of a peaceful non-violent protest of the monstrous and illegal weapons kept on the base, I entered the main highway and briefly blocked traffic on the federal side of the Main gate at Naval Base Kitsap-Bangor. I helped carry an illustration of Fr. Daniel Berrigan, revered anti-war and anti-nuclear weapons priest with a statement by Fr. Berrigan, "Know where you stand and stand there." I also helped carry a bright red banner with symbols showing a link between nuclear weapons and climate change. I will not, however, accept that my actions are in any way unethical, illegal or unjustified. These actions are required of each and every person with any compassion for all human beings and the other creatures on this planet.

Mother's Day in the United States was first suggested in 1872 by Julia Ward Howe as a day dedicated to peace. Howe saw the effects on both sides of the Civil War and realized destruction from warfare goes beyond the killing of soldiers in

battle. Nuclear weapons also go far beyond the threat of war to the threat of the destruction of all of humanity. I, as an individual, can really do little to make the changes that are needed in our country. However, as the survival of my children and my grandchildren and the rest of the human race is a stake, I have no other option except to raise my voice in any way I can. If that requires me to commit acts of civil resistance so be it. I accept that there will be consequences of my actions. I believe that these actions are also required by international and domestic law.

US citizens, under the decisions of the Nuremberg Tribunal, which Article VI makes the Supreme Law of the United States, have a legal duty and obligation to prevent the commission of and to remove themselves from any participation in or collusion with the illegal nuclear policies of the United States, to avoid criminal responsibility under international law. General common law defense allows individuals, who are aware of the fact that crimes are ongoing, to undertake reasonable actions to stop that crime and to bring it to the attention of the proper authorities.

International law is binding on the United States and all states therein. The use or threat of the use of nuclear weapons is a war crime or an attempted war crime because such use would violate international law by causing unnecessary suffering, failing to distinguish between combatants and noncombatants and poisoning its targets with radiation. Individual citizens have an obligation and duty under international law to prevent war crimes, crimes against peace and crimes against humanity. Such duty imposed by the United States Constitution and treaties that are the Supreme Law of the United States preempts any lesser duties imposed by federal, state or local law.

The collective criminal collaboration between most judges and security-state managers needs to be identified for what it is and publicly identified. The fundamental constitutional commitment to the separation of powers has seldom if ever been carried out by the judicial system with regard to US foreign policy, and instead the Executive Branch has been given a virtual blank check to continue their criminal activity with impunity. The judiciary needs to be reminded that their overwhelming duty is to maintain an independent judicial construction of legal rights and duties, including where arguments arise from international law.

Every American citizen has the right and the duty to insist upon a lawful foreign policy. A resolution concerning the relationship between citizens and the State was introduced by the United States in the UN General Assembly and unanimously approved. In post-Nuremberg settings, a government that flagrantly violates international law is engaged in criminal activity, and as far as related law is concerned, its policies are not entitled to respect or compliance.

In *People v. Jarka*, No.002170 in the Circuit Court of Lake County, Waukegan, Illinois, Judge Alphonse F. Witt instructed the jury that the threat of use of or the use of nuclear weapons violates international law. He said “The use of or threat of use of nuclear weapons is a war crime or an attempted war crime because such use would violate international law by causing unnecessary suffering, failing to distinguish between combatants and noncombatants and poisoning its targets by radiation”.

US domestic law has expressly incorporated international law by means of article 6 of the US Constitution with respect to treaties, as well as by the decision of the US Supreme Court in *Paquete v. Habana*, 175 US 677 (1900) with respect to customary international law. Since customary international law is a part of both federal and state common law, federal or state criminal statutes must be construed in a manner that would be consistent with the requirements of international law.

Article 6(a) of the 1945 Charter of the International Military Tribunal established to prosecute and punish Nazi war criminals defined the term “crime against peace” to mean “planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing”.

The Nuremberg Charter article 6(b) defines the term “war crime” to include “murder, ill-treatment or deportation of slave labor or 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.” Article 6 also provides that leaders, organizers, instigators,

and accomplices participating in the formulation or execution of a common plan or conspiracy to commit crimes against peace, crimes against humanity, and war crimes are responsible for all acts performed by any persons in execution of such a plan.

It is required by the Geneva Conventions of 1949 that all US military personnel be educated as to the international laws of humanitarian armed conflict. According to the Nuremberg Principles all US military personnel assigned to a nuclear weapons mission are obligated to refuse to perform any such illegal orders for waging strategic nuclear warfare upon pain of suffering personal criminal responsibility, punishment and possibly execution as war criminals. All US government officials and members of the US military who might order or participate in a nuclear attack should be lawfully tried by any government of the world community.

Every President of the United States has taken an oath required by article 2, section 1, clause 7 of the US Constitution to “preserve, protect and defend the constitution of the United States” which expressly includes international treaties and agreements by virtue of article 6. Similarly article 2, section 3 of the US Constitution requires the President to “take care that the laws be faithfully executed”.

The US Government has a 30-year program to “modernize” the US nuclear arsenal and production facilities. The plan is to build a new generation of US nuclear weapons and nuclear production facilities to last the nation well into the second half of the 21st century. This plan, which has received almost no attention by the mass media, includes redesigned nuclear warheads, as well as new nuclear bombers, submarines, land-based missiles, weapons labs and production plants at a cost of \$1 trillion. This plan also includes developing “tactical” nuclear weapons which will be much more likely to be used because they are “small”. This plan is clear evidence of a continuing criminal conspiracy at the highest levels of the US Government.

Article 2(4) of the United Nations Charter prohibits both the threat of and the use of force except in cases of legitimate self-defense under article 51. It is clear that the actual use of nuclear weapons would grossly violate the international laws of humanitarian armed conflict under any conceivable circumstances. How can the US threaten the use of nuclear weapons without violating international law? The Nuremberg Principles absolutely proscribe crimes against peace, crimes against humanity, and war crimes. How can the US Government lawfully establish a threat to commit such heinous offenses?

A citizen has the right to petition the government for a redress of grievances being committed by the President and the Executive branch of the federal government. In this case, these grievances consist of the latter’s ongoing violation of the basic rules of international law, US domestic law (both civil and criminal) and the President’s recognized obligations under the terms of the US Constitution. These crimes against international law would include but not be limited to crimes against peace, crimes against humanity, war crimes, and grave breaches of the Geneva Conventions. Under the Separation of Power Doctrine, the Court must compel the President and other members of the Executive Branch to cease and desist from the continuing criminal activity related to US nuclear weapons policies.

This not a civil disobedience case but a case of civil resistance. In civil resistance cases, individuals are attempting to prevent the ongoing commission of crimes under well-recognized principles of international and domestic law. To resist reasonably a violation of international law is a matter of legal right, possibly even legal duty if knowledge and capacity for action exists.

I respectfully ask the Court to dismiss the charges against us on the grounds that they are preempted by the international laws and treaties cited herein which are the Supreme Law of the United States under the Supremacy Clause and to publicly define the current nuclear weapons policies of the US Government as an ongoing conspiracy to violate international law and the United States Constitution.

Bernie Meyer's "Nuke-Climate Nexus"—(I) Response and (II) Trial Statement

I. NUKE-CLIMATE NEXUS: our response

by Bernie Meyer

May 2016

What do we do when storm clouds well up and are about to wreak havoc on our lives? What do you do? The ultimate storm clouds are welling up for not only human lives, our lives, but all life on our little planet floating in endless space. We are at a juncture, a juncture that we created, that is of our own doing. We created nuclear weapons, nuclear power, a whole system of radiation dispersal. We created a way of life that spews carbon dioxide, methane, and more chemicals into the atmosphere which circulates into the oceans and onto the continents and heats them up beyond our accustomed tolerance. What do we do? What will you do?

I am doing many things. Most prominently now I am confronting the powers taking stands saying we must stop the killing, we must change our ways. On May seventh I was arrested at Sub Base Bangor on the Hood Canal, home of the Trident nuclear submarine. On the weekend of May 13 to 15 I intended to risk arrest to "break free" from fossil fuels. (Emergency surgery on May eighth prevented me from participating.) Both of these human-created entities are murderous and suicidal. Unless we confront them and control them, they will end us, as real as their murderous effects are even now experienced.

As Einstein said, "I don't know what will be used in the next world war, but the 4th will be fought with stones." "The unleashed power of the atom has changed everything except our way of thinking, and thus we drift towards unparalleled catastrophe." Gandhi: "Unless humanity adopts nonviolence, it will be suicidal for mankind."

Scientists name climate change with the words Anthropocentric Climate Destruction (ACD). Anthropocene means the age of human-making, human-caused reality. With the initiation of the industrial age based on fossil fuels humanity invented a way of life dependent upon fuels generated over millions of years. What took millions of years to generate on Planet Earth is being consumed in a few hundred years. And, humanity cannot tolerate the increased heat as the power is continually increased. Humanity has never experienced the likes of this. Can the resilience of humans reverse course to limit the effects? The days are short and getting shorter. April 2016 was the seventh successive month of record global climate temperature increases, causing scientists to gasp. News is that the Arctic will turn from ice to blue heat-absorbing water this 2016 summer, decades ahead of earlier projections.

There are many connections between nuclear weapons/power and the climate crisis besides the fact that humans are creators of each:

- Now, the United States has committed to the next generation of nuclear weapons by allocating one trillion dollars over the next ten years which includes new facilities. Not only that, the development of "small nuclear weapons" causes an appeal to usability. Other nations are following suit, including India and Pakistan. The nuclear club is growing.
- Nuclear war can cause drastic changes in climate. Scientists have studied the effects of a nuclear exchange, whether it is between the US and Russia or between Pakistan and India (both possess 100 plus nuclear weapons.) The wastes sent up into the atmosphere would cause freezing of the earth, farming termination, and two billion deaths.
- Both nuclear war and climate change would cause three inter-generational effects. Nuclear testing has caused birth defects and early deaths already into the third and fourth generations. CO2 into the atmosphere will last hundreds of years. Nuclear wastes have no way of disposal to date.
- Following the European Commission in 2008, the US Department of Defense in 2015 stated that "global climate change will have wide-ranging implications for US national security interests over the foreseeable future because it will aggravate existing problems – such as poverty, social tensions, environmental degradation, ineffectual leadership, and weak political institutions – that threaten domestic stability in a number of countries."
- Non-nation actors are a major concern for nuclear terror.

Is nuclear power an answer to abandoning fossil fuels? No:

- Nuclear power costs and construction time prohibit adequate response, let alone capability of replacing fossil fuels. While nuclear power has a decreasing percentage of energy generations, renewable energy capacity has been growing significantly.
- There are problems related to the nuclear “fuel cycle.” Beginning with the extraction of uranium from the earth leaving radioactive materials or tailings, to development, production, and use, ultimately waste, environmental and human effects remain at every phase.
- Nuclear waste disposal and climate engineering are technical attempts to bury the effects of nuclear technology and climate change.

The necessity of resolving both the climate crisis and nuclear issues demands international cooperation. One cannot be mitigated without the other:

- Long term goals and cooperation require conditions of trust and communication between nations on a world-wide basis. How can the US work towards nuclear abolition or work on the climate crisis while surrounding Russia and China with bases and using NATO to participate?
- International Law is the most obvious tool to generate in conditions needed for mitigation.
- Litigation led by the Marshall Islands is being attempted to move beyond the lethargy preventing nuclear abolition.
- For humanity to overcome its mistakes in creating an unsustainable and suicidal way of life we must create cooperation and sustainable peace.

(This analysis about the nexus between nuclear weapons and the climate crisis was generated by the World Future Council and can be accessed at www.worldfuturecouncil.org.)

Most people in the US are unaware of the nuclear threats that exist, whether from the possibility of accidents, misreading an event for an attack, the weapons on “Cold War” alert in Russia and the US, or—perhaps most important—the growing conflict between the US and Russia. Ignorance abounds. Shortly after the fall of the Soviet Union in 1991 the US adopted the Wolfowitz Doctrine in 1992: *“Our first objective is to prevent the re-emergence of a new rival, either on the territory of the former Soviet Union or elsewhere, that possess a threat on the order of that posed formerly by the Soviet Union. This is a dominant consideration underlying the new regional defense strategy and requires that we endeavor to prevent any hostile power from dominating a region whose resources would, under consolidated control, be sufficient to generate global power.* (Paul Wolfowitz, 1992, according to Paul Craig Roberts, 11 May 2015, in “War Threat Rises as Economy Declines, paulcraigroberts.org.) Since then, the US has fomented a coup in the Ukraine, converted NATO into a political and military force, and armed the nations surrounding Russia. Several people of note have warned about the slide which could result in a nuclear war. (I have been following the developments and have documentation from several sources.)

And, the situation is so deep that most cannot face it and ignore or deny it. What does it mean that we, that we the people, that we as humanity, are in this situation? Yes, humanity has now placed ourselves in this spot where all life on earth is threatened. Not even many of the storm clouds can be seen. Even the signs of destruction appear as hidden, even invisible. Maybe it is better to ignore with the possibility that the threat will go away and disappear! But, ... But, we have children. Generations come after us. What about them? A little thought about the droughts, the fires, the pollution, the melting Arctic, the changing weather, leads to the question, what about us? How vulnerable are we?

The genesis of our situation is revealed in the history of human endeavors to find meaning in seeking survival. We seek the meaning of life because we have the brain capable of reflection on the past and the future. The frontal cortex evolved beyond the primitive amygdala's fight or flight. Now, we can reflect on our bodies and see that they live and they die. What is this all about? Can and does life go on after death? Immortality? Of course, most of the average people circumscribe their thinking to their own self-interests and world-views, attempting to live a secure and ordinary life.

Years of study and reflection lead me to conclude with the words of Earnest Becker. Becker focuses on immortality as the prime human motivation. *“We can see that the self-perpetuation of organisms is the basic motive for what is most distinctive about man—namely, religion. As Otto Rank put it, all religion springs, in the last analysis, ‘not so much from ... fear of natural death as of final destruction.’ But it is culture itself that embodies the transcendence of death in some*

form or other, whether it appears purely religious or not. It is very important for students of man to be clear about this: culture itself is sacred, since it is the 'religion' that assures in some way the perpetuation of its members." (*Escape from Evil*, p. 4.) Religion currently is a term of dispute. I choose to bypass the dispute by saying that world-views regarded as absolute can be regarded as "religions" for those who hold absolute views of the life-symbolizing meanings. At risk of inadequately addressing this point of view I move to an observation about the implications for our present subject.

Robert Jay Lifton puts it in these terms: *"Religious wars and persecutions are, at bottom, expressions of rivalry between contending claims to immortality and ultimate spiritual power. Religious victimization is a one-sided version of that process with the specific psychological functions of finding a target for death anxiety, sweeping away cosmological doubt, and achieving (or maintaining) revitalization."* (*The Broken Connection*, p. 315.)

In other words, The Bomb and/or our fossil-fuel-generated life style maintained by the almighty dollar serve us like god. In fact, those in power and those caught up in the power of power assume the power of god. We act like god when we choose the weapons or choose to attempt control of the environment. Lifton uses the word "nuclearism" for the nuclear weapon mindset. Rene Girard puts it in these words:

"[T]he Bomb does indeed seem like a prince of this world, enthroned above a host of priests and worshipers, who exist, it would seem, only to do it service ... Humans have always found peace in the shadow of their idols ... truly wonderful sense of the appropriate has guided the inventors of the most terrifying weapons to choose names that evoke ultimate violence in the most effective ways: names taken from the direst divinities in Greek mythology, like Titan, Poseidon and Saturn, the god who devoured his own children. We who sacrifice fabulous resources to fatten the most inhuman form of violence so that it will continue to protect us." (Quoted by Terrence J. Rynne in *Gandhi & Jesus, the Saving Power of Nonviolence*, p. 152.)

Humanity is not only at a survival juncture of existence. Humanity is at a moral juncture. Even now, we are tolerating the murderous effects of the nuclear experiment. We may be tolerating the suicidal possibility. (Einstein speaks about not changing our way of thinking.)

Which road do we choose now? Do we even see a way out of this? We created the bomb, we initiated the fossil fuel based way of life. Intended or not, we facilitated the "anthropocene age." Will those of us who see a new way take on those of us who like being gods for whatever reasons? I think we can choose one of three ways: bury ourselves in passivity, join the gods, or with courageous nonviolence and creativity take a stand.

I chose the third way long ago, imperfect as my choice has been. On May seventh I joined in with Ground Zero Center for Nonviolent Action by risking arrest and being arrested with Larry Kerschner, a Vietnam Veteran for Peace, and Gilberto Perez, a member of Nipponzan Myohoji Buddhist community, by blocking the Federal entrance to Sub Base Bangor. Bangor which houses eight Trident nuclear submarines, each with the capacity of twenty-four D-5 missiles capable of targeting six to eight nuclear warheads of destructive power multiple times more than the atom bomb dropped on Hiroshima. We have been resisting the Trident nuclear weapons for 38 years. In addition, I intended to participate in the Break Free actions at Anacortes from May 13 to 15. Due to emergency surgery I had to withdraw my participation. Anacortes is the location of the Shell and Tesoro oil refineries, where oil is processed to be shipped to Asia and around the United States. Unless we wean ourselves from fossil fuels we will send the climate over the edge of tolerance. Many of us think we may be over the edge now, but it can be much worse. By participating in these two actions within a week I intended to say that nukes and fossil fuel use together are mutually reinforcing as the above analysis indicates. We need to change our way of thinking. We need to be responsible. We need not just inventiveness. We need a sense of ethics and humility. We are not gods. We are human beings who have evolved from an animal nature. We are still part of nature. Nature will have the last word. As always, nature is negotiating with us as we give reign to our illusions.

As I was finishing this essay, Amy Goodman interviewed Noam Chomsky about this very subject. The entire program on May 16th is relevant. ([http://www.democracynow.org/2016/5/16/noam_chomsky_climate_change_nuclear_proliferation.](http://www.democracynow.org/2016/5/16/noam_chomsky_climate_change_nuclear_proliferation)) Chomsky touched some of my points too. Humanity faces a situation incomparable to anything in its existence. Add to that the mental state which Chomsky describes, words are totally inadequate. Our actions must speak louder than words in response.

Bernie Meyer's Nexus Follow Up Trial Statement

which he was not allowed to present to the court

II. NEXUS FOLLOW-UP: trial statement

March 23, 2017

Bernie Meyer

I believe it is critical to update my statement for the 2016 Mother's Day action at Sub Base Bangor. Events are moving quickly. Time is of the essence. My Mother's Day statement stipulated that there was a connection between nuclear abolition and reducing the threats from our changing climate, either one of which has the real potential of ending life on earth necessary for civilization. The fundamental condition for human action to realistically address the threats is trust. Trust among the leaders of the nations is what is quickly eroding, making the risks much greater. This addendum will elaborate on the need for trust, identify the warnings by credible people about the dangers underlying the threats, and identify the technological developments making the threats even more salient.

My "Nuke Climate Nexus: our response" statement says that "Long term goals and cooperation require conditions of trust and communication between nations on a world-wide basis. How can the US work towards nuclear abolition or work on the climate crisis while surrounding Russia and China with bases and using NATO to participate?" Trust and communication are key to any progress in relationships. Over the last three years the US/Russia breakdown over the Ukraine has eroded the relationship which created the Start Treaty leading to the reducing of nuclear weapons. Now at this moment in time, events in Korea also make that region a "hot spot" which could lead to nuclear war. (Also, there is an ongoing red hot concern about nuclear armed Pakistan and India hostilities over Kashmir.)

I cite the work of former Secretary of Defense, William Perry, because he led the way to the nuclear weapons reductions in the 1990s and because he firmly believes that establishing trust is the only way to pursue a way to nuclear disarmament, which he continues to dedicate his life to seeking at the age of 89. At this time he states that he is "terrified" by the dangers we find ourselves in. He is using every "trust" relationship he possesses to turn things around. Perry believes that, while it will take a long time to achieve a "secure world" from nuclear weapons, the ultimate goal must be a world free of nuclear weapons. He believes that the process must be based on a United States population who are aware of the dangers. Our population is ignorant of the dangers since the end of the Cold War. Many of my sources believe that a new Cold War is now underway, some that the war began with Syria.

I quote Perry's autobiography to elaborate on this critical issue.¹

This failure of governments arises in the first instance because they are not getting sufficient pressure from their constituents to act. To reiterate a fundamentally important point: people in the United States and around the world simply do not effectively understand the dangers they are facing from today's nuclear weapons arsenals. A considerable part of the general public apparently believes that nuclear dangers ended with the Cold War. ... the lack of awareness and concern of citizens about such a transcendental problem renders it very difficult for democratic governments to take costly and inconvenient actions.

Public ignorance must be addressed. I have and will continue to do my part to counteract the misinformation and outright deception of the public. Perry's book and actions give a good summary of the rise of nuclear weapons during the Cold War since he began his Army career in Hiroshima just after the end of WWII. The dangers now in 2017 must be identified to point out how communication is breaking down.

The situation in Korea is succinctly summarized on Democracy Now, March 13:

¹ Perry, William J., *My Journey at the Nuclear Brink*. Stanford Security Studies, 2015, 195.

AMY GOODMAN: The political upheaval in South Korea comes days after North Korea test-fired several ballistic missiles. In response, the Trump administration announced it would deploy a missile defense system to South Korea. Meanwhile, hundreds of thousands of South Korean and U.S. troops, backed by warships and warplanes, are currently engaging in a massive military exercise. Last week, Chinese officials called for both an end to North Korea's nuclear program and an end to joint U.S. - South Korea military drills. This is the Chinese Foreign Minister Wang Yi.

WANG YI: [translated] As a first step, North Korea should suspend nuclear activity, and the U.S. and South Korea should also suspend large-scale military drills, and, with both sides stopping, avoid the current security dilemma and make all sides to return to the negotiating table. Later, based on a dual-track strategy, we will realize denuclearization and establish a peace mechanism on the peninsula to simultaneously and equally resolve the concerns of all parties.

Wang Yi's remarks point to the solution of talks as a method to resolve the issue. Again, talks require trust and communication. What is not identified here is the installation of the THAAD anti-missile system during this escalation by the United States in South Korea. The rationale used states that THAAD is needed to defend against North Korea's missiles. The perception is that the anti-missile system is to continue surrounding China with bases. The same actions are being taken in Europe where anti-missile systems are being installed surrounding Russia causing breakdowns in communication and trust.

China's concerns followed Russia's over the last three years. Here, Hans Kristensen concludes his report about the United States significantly increasing the targeting ability of the nuclear weaponry with comments by Vladimir Putin:

"We end this article with quotes from Vladimir Putin, talking impromptu to a group of journalists during the St. Petersburg International Economic Forum in June 2016. His unrehearsed remarks are clear and candid predictors of how he will assess the implications of the super-fuze (As Kristensen shows, the super-fuze is a new escalation in very precise targeting of nuclear weapons.): No matter what we said to our American partners [to curb the production of weaponry], they refused to cooperate with us, they rejected our offers, and continue to do their own thing. ... They rejected everything we had to offer. ... the Iranian threat does not exist, but missile defense systems are continuing to be positioned... That means we were right when we said that they are lying to us.

Their reasons were not genuine, in reference to the 'Iranian nuclear threat.' Your people [the populations of the Western alliance] ... do not feel a sense of the impending danger—this is what worries me. A missile defense system is one element of the whole system of offensive military potential. It works as part of a whole that includes offensive missile launchers. One complex blocks, the other launches high precision weapons, the third blocks a potential nuclear strike, and the fourth sends out its own nuclear weapon in response. This is all designed to be part of one system. I don't know how this is all going to end. What I do know is that we will need to defend ourselves.

These comments were taken from "How US nuclear force modernization is undermining strategic stability: The burst-height compensating super-fuze", an article by Hans M. Kristensen, Matthew McKinzie, and Theodore A. Postol.² The Union of Concerned Scientists published this article on March 1, 2017, just two plus months after moving the Doomsday Clock from three minutes to midnight to two minutes and thirty seconds on January 27, 2017. The entire article needs to be studied to understand the working and effectiveness of the "super-fuze." Here are the opening paragraphs of the analysis:

The US nuclear forces modernization program has been portrayed to the public as an effort to ensure the reliability and safety of warheads in the US nuclear arsenal, rather than to enhance their military capabilities. In reality, however, that program has implemented revolutionary new technologies that will vastly increase the targeting capability of the US ballistic missile arsenal. This increase in capability is astonishing—boosting the overall killing power of existing US ballistic missile forces by a factor of roughly three—and it creates exactly what one would expect to see, if a nuclear-armed state were planning to have the capacity to fight and win a nuclear war by disarming enemies with a surprise first strike.

Because of improvements in the killing power of US submarine-launched ballistic missiles, those submarines now patrol with more than three times the number of warheads needed to destroy the entire fleet of Russian land-based

² <http://thebulletin.org/how-us-nuclear-force-modernization-undermining-strategic-stability-burst-height-compensatingsuper10578>.

missiles in their silos. US submarine-based missiles can carry multiple warheads, so hundreds of others, now in storage, could be added to the submarine-based missile force, making it all the more lethal.

The revolutionary increase in the lethality of submarine-borne US nuclear forces comes from a “super-fuze” device that since 2009 has been incorporated into the Navy’s W76-1/Mk4A warhead as part of a decade-long life-extension program. We estimate that all warheads deployed on US ballistic missile submarines now have this fuzing capability. Because the innovations in the super-fuze appear, to the non-technical eye, to be minor, policymakers outside of the US government (and probably inside the government as well) have completely missed its revolutionary impact on military capabilities and its important implications for global security.”

These warnings by former Secretary of Defense William Perry and the Union of Concerned Scientists are representative of similar warnings by other experienced officials or former officials, as are the concerns of China's Wang Yi and Russia's Prime Minister Vladimir Putin.

Listing of Concerns Expressed by these Warnings, with Related Articles:

- **New missile carries smart bomb which can be dialed for size** (1/12/16):
https://www.nytimes.com/2016/01/12/science/as-us-modernizes-nuclear-weapons-smaller-leaves-some-uneasy.html?_r=0
- **USA’s National Nuclear Security Administration approves controversial B61-12 nuclear bomb** (8/24/16) <https://nuclear-news.net/2016/08/24/usas-national-nuclear-security-administration-approves-controversial-b61-12-nuclear-bomb/>
B61-12 (nuclear-news.net) →
- **Controversial New U.S. Nuclear Bomb Moves Closer to Full-Scale Production** (8/23/16):
<http://inewsnetwork.org/2016/08/23/controversial-new-u-s-nuclear-bomb-moves-closer-to-full-scale-production/> By Len Ackland: *The most controversial nuclear bomb ever planned for the U.S. arsenal – some say the most dangerous, too – has received the go ahead from the Department of Energy’s National Nuclear Security Administration. The agency announced on Aug. 1 that the B61-12 – the nation’s first guided, or “smart,” nuclear bomb – had completed a four-year development and testing phase and is now in production engineering, the final phase before full-scale production slated for 2020. This announcement comes in the face of repeated warnings from civilian experts and some former high-ranking military officers that the bomb, which will be carried by fighter jets, could tempt use during a conflict because of its precision. The bomb pairs high accuracy with explosive force that can be regulated. ...*
- **Another arms race between the U.S. and Russia** (3/29/15, *The Nation*, lead editorial): *The likely result of arming Kiev will be not only more lives lost but the very real possibility of another arms race between the United States and Russia. It could also end the last remnants of cooperation between the two on containing the spread of nuclear weapons. That’s why some of those most familiar with the threat are sounding the alarm. According to Jack Matlock Jr., ambassador to the Soviet Union under Presidents Ronald Reagan and George H.W. Bush, the situation “has begun to resemble a renewal of the Cold War with exchanges of harsh accusations, and --- most dangerous --- military muscle-flexing.” Mikhail Gorbachev, the Soviet leader with whom Reagan and Bush worked to build trust (my italics) and ultimately end the Cold War, is similarly troubled. “I can no longer say that this Cold War will not lead to a ‘Hot War,’” he said. “I fear that [that Russia and the United States] could risk it.”*
- **“It all looks as if the world is preparing for war”** (1/26/17, *Time*): Gorbachev states his present sense in *Time Magazine*: Mikhail Gorbachev was the president of the Soviet Union and is the author of *The New Russia*. *The world today is overwhelmed with problems. Policymakers seem to be confused and at a loss. But no problem is more urgent today than the militarization of politics and the new arms race. Stopping and reversing this ruinous race must be our top priority. The current situation is too dangerous. More troops, tanks and armored personnel carriers are being brought to Europe. NATO and Russian forces and weapons that used to be deployed at a distance are now placed closer to each other, as if to shoot point-blank. While state budgets are struggling to fund people’s essential social needs, military spending is growing. Money is easily found for sophisticated weapons whose destructive power is comparable to that of the weapons of mass destruction; for submarines whose single salvo is capable of devastating half a continent; for missile defense systems that undermine strategic stability.*
- **Wolfowitz Doctrine resurfaces** (5/11/15) Dr. Paul Craig Roberts, “War Threat Rises as Economy Declines,” paulcraigroberts.org. Paul Craig Roberts was Assistant Secretary of the Treasury for Economic Policy and associate editor of the



Wall Street Journal, etc.): At the roots of the treaties between the US, Russia, and China, Paul Craig Roberts identifies the Wolfowitz Doctrine set in 1992, which outlined a policy of unilateralism and pre-emptive military action to suppress potential threats from other nations and prevent any other nation from rising to superpower status. after the end of the Cold War. The Wolfowitz doctrine states: *Our first objective is to prevent the re-emergence of a new rival, either on the territory of the former Soviet Union or elsewhere, that poses a threat on the order of that posed formerly by the Soviet Union. This is a dominant consideration underlying the new regional defense strategy and requires that we endeavor to prevent any hostile power from dominating a region whose resources would, under consolidated control, be sufficient to generate global power.* (In March 2015 the Council on Foreign Relations extended this doctrine to China.) Roberts concludes his summary of the economic and military factors resulting from the Wolfowitz Doctrine: *As the years have passed without Washington hearing, Russia and China have finally realized that their choice is vassalage or war. Had there been any intelligent, qualified people in the National Security Council, the State Department, or the Pentagon, Washington would have been warned away from the neocon policy of sowing distrust (BM underline). But with only neocon hubris present in the government, Washington made the mistake that could be fateful for humanity.*

- **“A Stark Nuclear Warning”** (7/6/16 *New York Review of Books*): California governor cites William J. Perry’s memoir, under the headline, “A Stark Nuclear Warning.” *I know of no person who understands the science and politics of modern weaponry better than William J. Perry, the US Secretary of Defense from 1994 to 1997. When a man of such unquestioned experience and intelligence issues the stark nuclear warning that is central to his recent memoir, we should take heed, Perry is forthright when he says: ‘Today, the danger of some sort of a nuclear catastrophe is greater than it was during the Cold War and most people are blissfully unaware of this danger.’ He also tells us that the nuclear danger is ‘growing greater every year’ and that even a single nuclear detonation ‘could destroy our way of life.*
- **“Nuclear winter—the long-suppressed reality of nuclear war”—potential consequences of a nuclear exchange** (1/19/17, *World Socialist Website*): An interview with scientist and anti-nuclear activist Steven Starr, by Bryan Dyne. *For more than three decades, the United States political and media establishment has conducted a coordinated campaign to whitewash the dangers of nuclear war. Using discredited science from the 1980s, US officials have adopted the policy that a nuclear first-strike against Russia could be “successful” and that the environmental dangers posed by multiple atomic or thermonuclear detonations—so-called nuclear winter—have been “disproven.” Such attitudes toward the use of nuclear weapons take on a new and ominous light when one considers the neo-McCarthyite rhetoric being used by congressional Republicans and top Democratic officials against Russia and Russian President Vladimir Putin, as well as provocations like the deployment of 4,000 US troops and accompanying tanks, artillery and armored vehicles in Poland along Russia’s border. As significant sections of the United States government are preparing for war with nuclear-armed Russia, they simultaneously reject 34 years of peer-reviewed scientific research showing that a nuclear exchange threatens humanity’s extinction.*
- **“America still thinks it can win a nuclear war”** (8/18/16), posting by anti-nuclear advocate Helen Caldicott): <http://www.truth-out.org/buzzflash/commentary/helen-caldecott-america-still-thinks-it-can-win-a-nuclear-war>.
- **“World War Three, by Mistake,”** (12/23/16), by Eric Schlosser: “Harsh political rhetoric, combined with the vulnerability of the nuclear command-and-control system, has made the risk of global catastrophe greater than ever.” Eric Schlosser is the author of “Command and Control: Nuclear Weapons, the Damascus Accident, and the Illusion of Safety,” from 2013, and a producer of the documentary “Command and Control,” from 2016.
- **German think tank warns of growing ‘nuclear war’ danger between the U.S. and Russia (October 2016):** “October 2016 – Moscow/Washington – *In September, the German progovernment think tank “Stiftung Wissenschaft und Politik” (SWP) published a study on the implications of US policy towards Russia and European security. The 28-page document is aimed at a professional audience and is written in political and military jargon that couches the annihilation of millions of human lives in matter-of-fact terms, as if dealing with the solution to a technical problem. But this prosaic language conceals a nightmare scenario. American policy towards Russia, as described by the SWP study, focuses primarily on preparation for a nuclear war, which would involve large parts of Europe. If the results of the study are to be taken seriously, then the risk for the present generation of dying in a violent atomic storm is alarmingly high. At its very beginning, the study stresses that the nuclear war danger is not an abstract, hypothetical risk. As “the first and most important structural feature” of US-Russian relations, the study names the “mutual nuclear annihilation capability.”*

- **The Nuclear Threat—U.S. and Russia’s dangerous drift towards global catastrophe**



Posted 10/17/16 by Utopia: the Collapse—see utopiathecollapse.com

- **UN commences nuclear abolition negotiations without Russia and the U.S.**

The nations without nuclear weapons are organizing for nuclear abolition. They know the dangers of the weapons. They know that the weapons know no boundaries when used on any target. They see the threats. In the December UN vote the US and Russia did not concur with the negotiations. At this time the United Nations Working Group is beginning a three session process in pursuit of nuclear abolition due to conclude in July attended by 123 national representatives including to nuclear powers, India and China, but without Russia and the United States.³

These summary highlights conclude my brief analysis of the nuclear threat humanity faces. Many others exist and could be cited.



On 16 February, 2017, approximately 100 countries gathered at the United Nations for the first session of negotiations on a legal agreement to prohibit nuclear weapons. The participants included two nuclear-armed States (China and India) and one NATO country (Netherlands) with the remaining being non-nuclear countries. The negotiations are being undertaken in accordance with UN General Assembly Resolution 71/258 “Taking forward multilateral nuclear disarmament negotiations,” adopted on December 23 by a vote of 113 in favour, 35 opposed and 13 abstaining

³ <http://www.abolition2000.org/en/news/2017/02/24/un-commences-nuclear-abolition-negotiations/> Feb 24, 2017

Closing Statement by Attorney Blake Kremer

We do not believe the government has met their burden of proof and ask you to return a verdict of not guilty. In this case, the entry alone is the violation. There is no allegation that the defendants were illegally fishing or hunting or engaged in acts of terrorism or depredation of property. The entry alone is the violation. In our trial brief we cited to the Cottier decision which states in part: "Where entry alone is the basis of the violation, knowledge that the entry is unauthorized is an essential element of a section 1382 offense." The Cottier decision goes on to discuss about this being important in that only innocent trespassers are excluded from purview of section 1382. The defendants in this case have offered testimony that they were innocent in their belief that their presence at the gate and on the base was not for a prohibited purpose and innocent of any law violation. These defendants have knowledge that some courts and legal scholars believe they have a right and even an obligation to bring their message of peace and nonviolence to the base commander and the government, and that the importance of this message makes it necessary and legally justifiable for them to stand on base while attempting to deliver this message. You've already held that necessity and international law are not defenses to this charge. Your ruling makes it clear that the defendants are mistaken in their belief that they have this right and obligation to stand on base. I'm sure that the government

would agree that my clients are mistaken in their belief that these defenses are relevant here. And that is why this court must find my clients not guilty. As we laid out in our trial brief, an act is not done knowingly if the defendant acts through ignorance or mistake.

I don't believe these defendants are ignorant. I believe they are knowing of certain truths. One truth for them is that it's important to spend a life in service of others, particularly in service of others who cannot act for themselves. Each of these defendants have lead lives of service. Larry Kerschner served our country honorably and with distinction during an unpopular war. He went on to a career as a nurse in part to atone for the violence he had been a part of. Gilberto Perez serves humanity, travelling internationally to serve the poor. Bernard Meyer has dedicated his life to teaching, and has been welcomed internationally to discuss the teachings of Ghandi. None of these three have spent their lives dedicated to the accumulation of wealth or property; the value of such a pursuit is not a truth for them. Another truth that they share is a knowledge that seems to come with a dedication to service, and that is an understanding that our lives are short – too short to do the valuable and important work they've dedicated themselves to. And with this knowledge of the limited time we have comes a sense of urgency, and a sense of the necessity to act with courage and dedication in service of those who cannot act.

These are just some of the truths my clients know. I know that you know people like this. Serious people, dedicated people, honest people of principle. I don't believe these defendants are ignorant. And while they are not wealthy or famous, they are honest. They have earned their credibility. They have told you what they believe, and what they think is true. Their belief that their actions were legal was mistaken, as established by the order this court entered regarding necessity and international law. Perhaps they were even ignorant. Their mistake or ignorance was innocent. They were not knowing that their act of entering and remaining on the base was prohibited by all laws. Even in the face of direction to leave the base, they believed in the truth of their action. They adhered to their belief and mistaken knowledge that they had a right and a duty to be there. Their belief and mistake were as genuine as their dedication to the service of others. Their dedication to service and to others is incontrovertible. I believe the evidence is irrefutable that their mistake was innocent, and that they did not have knowledge that their action was illegal. But we are not here to prove what they knew. We are here to ask if you have any doubts about whether the government has established their case. As you know, my clients are innocent until proven guilty, and not proven guilty unless they are proven guilty beyond a reasonable doubt. Even as we discuss this case in closing arguments, this court is required to maintain a presumption of the innocence of the defendants, until the court begins deliberating.

If you think that the defendants knew or should have known that their presence at the base was illegal and not allowed by necessity or international law, but you have a doubt as to whether they knew they were not entitled to a legal defense to this charge, you have a duty to find them not guilty. On mothers' day in 2016, my clients stepped on to Kitsap Naval Base. They did so in an act they believed to be in service to every person in this courtroom. They did so in a manner they considered to be ethical and legal. Please find them not guilty.

Poem by Larry Kerschner submitted as evidence

On the blight of Trident

Sea-launched nuclear depression
Impressions of midnight dying
Tears streak the skies in your wake

Begone you black-hearted crime!
Mad with fear you react to your demons
Reported, imagined and mythological
Blind from birth blind about life
Missile tubes carry homeless death
To fulfill your boredom you think
Your dance shows guts and manliness
The moxie of the mutated American

You cannot see new possibilities
Beyond the angst of predatory tradition
There is no place for bursts of wonder
There is no place for the soft rhythm

Aboriginal dreams undreamed
Wailing whales can dig Ahab
Sink your ship of never say die
Subtidal beings sing the blues
In the wake of your nuclear game
Of mutual assured destruction

Words are nothing to radioactive you
Nothing renews in your empty space
Morning stars crash lightly against
First-strike hatred you do not recognize
Within the skull of your unquestioned view

Carry urban death crash the farmer's field
Burn all the children you cannot see
Out unto the clear and distant horizon Deadly
melopoeia of Hiroshima and Nagasaki
Screams through our childish history like
The prow of your boat through Puget Sound

Approaching our dreadful simple destiny
Black hour of murder in the moonlight
Detonation creates a bloody environment
Blast, thermal pulse, neutrons, x- and gamma-rays,
Radiation, electromagnetic pulse,
Ionization of the upper atmosphere
Large amounts of dust and radioactive fallout
As the glowing bodies crumple to the floor
Erotic fireballs warm your lunatic heart

By Larry Kerschner

Will Federal Court Protect International Laws?

Posted on "Uncategorized" April 11, 2017 by Leonard Eiger

Editor's Note: The following Op-Ed was written by Larry Kerschner, and published in The Chronicle, Lewis County, Washington, where Larry resides. Larry, along with Bernie Meyer and Gilberto Perez, collectively known as the "Trident Three", will stand trial in Federal court on April 12th for their nonviolent direct action at the Bangor nuclear submarine/weapons base in Silverdale, Washington on Mothers Day weekend in 2016.

Letter: Will Federal Court Protect International Laws?
Apr 6, 2017

Twenty miles west of Seattle is the largest concentration of deployed nuclear weapons in the United States. Most politicians in this country are under the strong influence of the well-paid war- and weapons-making lobbyists.

However, the United States at Nuremberg urged that individual citizens have an affirmative duty to publicly disassociate themselves from a known violation of international law.

Chief Prosecutor for the United States Robert H. Jackson, later a U.S. Supreme Court justice, stated, "International law, as such, binds every citizen just as ordinary municipal law."

International law is the "supreme law of the land" under Article VI, Clause 2 of the U.S. Constitution and therefore binding on the United States and all states therein. The most important international law principles related to nuclear weapons exist within the Nuremberg Principles, the Genocide Convention, the Geneva Conventions and the United Nations Charter. The Charter of the United Nations states, "All members shall refrain in their international relations from the threat of or use of force against territorial integrity of any state. ..."

Over the past 50 years there has been a U.S. military tendency toward increasing tolerance for the limited use of nuclear weapons delivered by weapons such as drones, allowing military planners to claim that their objectives can be achieved with minimal loss of civilian life.

This ignores the fact that the entire point of nuclear weapons is their massive, indiscriminate destructive power.

The use of nuclear weapons is a war crime because such use would violate international law by causing unnecessary suffering while failing to distinguish between combatants and noncombatants and by poisoning its targets with radiation.

In September 2002, a paper concerning the National Security Strategy of U.S. marked the adoption of a pre-emptive strike doctrine: "While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our right of self-defense by acting pre-emptively against such terrorists, to prevent them from doing harm against our people and our country."

Every American citizen has the right and the duty to insist upon a lawful foreign policy. In post-Nuremberg settings, a government that flagrantly violates international law is engaged in criminal activity, and as far as related law is concerned, its policies are not entitled to respect or compliance.

Last Mother's Day, two friends and I were arrested for holding anti-nuclear signs blocking traffic entering the Trident Submarine Base in Kitsap County.

Our trial will be Wednesday at the Federal Court in Tacoma. I will respectfully ask the court to dismiss the charges against us on the grounds that they are pre-empted by the international laws and treaties that are the supreme law of the United States and to publicly define the current nuclear weapons policies of the U.S. government as an ongoing criminal conspiracy to violate international law and the United States Constitution.

It's time for the judicial branch to act as the check on the executive branch it was designed to be.

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