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## Can We Curb the Irresponsibles?

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THE TRIAL OF THE WAR CRIMINALS in Germany is an event of major significance, going far beyond the punishment of those who ordered or committed atrocities. It marks the first formal step toward fixing responsibility upon military men for deliberately planning to make war and to conquer, subjugate, and destroy other nations. It has a direct bearing upon the scientists today.

This is indeed a step with far-reaching consequences, for it boldly approaches the basic problem of curbing the irresponsibles, especially those with the immense power and military authority for making war who can control armies, navies, and air force, and also the full resources, human and natural, of a nation. These are the individuals who wantonly and irresponsibly plot to invade their neighbors, devastate open cities, and unleash death and misery upon the world.

Heretofore the generals and admirals and their staffs, when and as they decided it was necessary or would be safe and advantageous to their country, planned and waged war. They were privileged and protected by the fiction that they were patriotically obeying the orders of their country, which they obediently served, even though it was evident that they had long planned the war and carefully provoked the incidents that started hostilities.

Now, thanks largely to the vision and courage of Justice Robert Jackson, the trial of war criminals moves forward to the unprecedented position of accusing the military and naval leaders of Germany of deliberately plotting war and planning for conquest. They are therefore being tried as war criminals by the International Court at Nürnberg while the lesser command are being tried elsewhere for atrocities and almost unbelievable cruelties inflicted upon helpless, unarmed people and apparently ordered by the higher command.

### THE PRINCIPLE OF RESPONSIBILITY

This trial and the fully documented accusations are based upon the principle, now clearly enunciated and applied for the first time, that the exercise of irrespon-

sible military and naval power is a criminal offense *against world order*—not international law.<sup>1</sup> Any defense they may offer of obeying orders like good, patriotic soldiers, will be stopped by this principle of personal responsibility for exercise of the supreme power they enjoyed and of accountability for using that power to break the peace and disrupt world order deliberately.

It is worth recalling that in earlier centuries, before the rise of the national state, the smaller units of territory in Europe were held by feudal lords who were at once the rulers and also the military leaders of their lands. A lord organized, directed, and led his men at arms, either in defending his land or in attacking others' land. They were involved in an intricate web of feudal relationships in which they were often called upon to help another lord or were themselves aided by another. If defeated, they might call for assistance from their feudal allies or enter into a new alliance with someone who could protect them. But often defeat meant paying the penalty, personally, of losing their land, their stronghold, and even their life. Responsibility and accountability were real, immediate, and inescapable since they had no convenient excuse for obeying orders or being patriotic.

When, however, the professional soldier and sailor began to appear with the rise of the national state, they emerged from this older tradition, retaining the protocol of rights and privileges and honors, but becoming—to speak plainly—hired fighters, however dignified, honorific, and patriotic they claimed to be.

Professional soldiers and sailors at the top ranks thus evolved into a specialized caste, proud and often arrogant in their rank, prestige, and power. Academies arose to train these specialized men, to indoctrinate them with the traditions and protocol, as we

<sup>1</sup> The plea, strongly urged by some in this country, that this is *ex post facto* law, an attempt to convict individuals as criminals for acts which heretofore were not so declared, must also be denied. The prohibition of *ex post facto* laws is a highly desirable, indeed essential, protection of civil liberties in an individual country, but in international affairs it does not have the same claim to validity. Aggressive acts by one nation against others cannot be construed as a right or power to be enjoyed until formally declared illegal. Nor can the individuals who made the plans and decisions for aggressive warfare take refuge in the law of agency, since they were principals before they became agents of war making.

see in our own Navy personnel, and to foster their professional careers. They often languished during the times of peace, but flourished during war, after each of which they accumulated more power and authority in the nation, as the history of Europe shows.

Planning for the next war, including full utilization of national resources, became the accepted national practice, with a general staff continuously engaged in making strategic plans and conducting maneuvers, designing and testing new weapons, and preparing their forces for action. These professionals, *win or lose*, enjoyed their rank and privileges and their irresponsibility. In every large country today, professional military and naval men now exercise these enormous powers with weapons of unprecedented power of destruction, now enlarged by the atomic bomb. They are no longer just *agents* of the national government: they are now the principals who can and do determine policies and make the decisions that commit the whole nation to aggressive warfare and conquest. To permit these individuals to continue their irresponsible careers of deliberately planning, and thereby often provoking, war has become intolerable.

It is clear that the United Nations Organization, made up of representatives of the several national states, will be at the mercy of these irresponsible military men especially in those countries where they can, and do, dictate national policies and international relations. If this attempt to establish some form of world-wide organization for maintaining peace is to function more effectively than the League of Nations, these irresponsible and often ruthless military leaders must be made accountable and brought under some effective world control.

The Nürnberg trial, therefore, is the first attempt to curb these irresponsible individuals in the interest of establishing world order and limiting militarism, with its conscription of man and woman power and mobilization of all national income and resources for total war.

The military and naval men outside of Germany are not happy over this trial since it strikes at their traditional privileges and threatens to deprive them of their irresponsible power by denying them the protection of the time-honored pleas of obeying orders and being patriotic.

Yet this doctrine of responsibility cannot be limited to the army and navy high command. It is clear that in Germany the owners and managers of large heavy industry and of technical works worked closely with the General Staff to plot and prepare for war and to wage war. Likewise, the financial groups were equally

involved in this plotting and did their full share to expedite the all-out war effort and the looting of conquered countries.

Once this principle is established there is no valid reason for not extending it to all the warmongers, the writers and publicists, legislators, and indeed all those who publicly demand war against any nation they dislike or wish to despoil, or who surreptitiously foment war.

#### SCIENTISTS AND THE PRINCIPLE OF RESPONSIBILITY

Thus, we must ask about extending this principle to the scientists, since it is clear that through research and experimental applications (such as bombs and rockets and radar) they are now the key group in planning and preparing for war. The atomic bomb has made this plainly evident and thereby has clarified the basic issue of responsibility as nothing else has done. The scientists themselves have been shocked into an awareness of their new role and their worldwide responsibilities. Never before have scientists, as a specialized group, been deliberately organized to wage war as they have done during World War II and, now, to prepare for the next war as provided in the National Defense Research Board, set up by the National Academy of Sciences, with the collaboration of the Army and Navy. *If the scientists are to succeed the generals and admirals and take over some or all of the functions of the General Staff, are they to enjoy the irresponsibility of the professional soldier and claim the traditional protection of being obedient, patriotic agent-citizens serving their country?*

This is the crucial question now being discussed by scientists, especially in the United States. Many of the atomic or nuclear physicists, especially the younger men, have become fully aware of this issue and apparently are prepared to take action as a responsible, accountable group. Others are calling for a new world government, apparently as a plea in avoidance, because they will not, or cannot, accept the immense responsibility that goes with the great power of their new knowledge and techniques.

Recently the proposal has been made (*Science*, 1945, 102, 672) that the scientists themselves come together from all lands to form a world association of physicists who will agree among themselves, as scientists, with a full awareness of their unique position, to keep the peace by refusing to lend their knowledge to the making of atomic bombs. (Also see, *Science*, 1946, 103, 158-160.)

If the scientists who, by profession and tradition, are dedicated to disinterested, impersonal research, and who have long accepted the internationality of science, will accept this professional responsibility, then we can begin to arraign all the others who are

irresponsible in their several fields—the political leaders and legislators, newspaper owners and columnists, and commentators; the international manipulators of economic affairs, the cartellists; indeed, all those who are now privileged, as individuals and in groups, to provoke and to contrive war and otherwise to disturb peace.

No nation, as Edmund Burke told us, can be indicted, but we can and must fix responsibility upon the individuals who, in positions of power and authority—military, naval, economic, and financial (and now scientific)—are the active principals and directors of the national, monolithic, aggressive state. If there is to be atomic warfare, it will come by the plans and decisions of specific individuals who have deliberately calculated their preparation and use upon specific targets. If we will accept the principle of accountability, these can be identified and legally tried and convicted for their individual and joint acts, just as the leaders of a mob can be tried and convicted for arousing and directing mob action. A firm declaration of this policy and application of this rule may offer what

the many paper schemes of control and inspection are vainly seeking to achieve for controlling atomic bombs.

Curbing these irresponsibles is not a revolutionary act. It is the continuation of our legal traditions which, over the centuries, have recognized the principle of accountability for actions injurious to others. Just as in the early days of Anglo-Saxon jurisprudence the principle of individual accountability had to be wrought out and then painfully established, to replace the ancient doctrine of group responsibility, so today we face an equally momentous step, of fixing responsibility upon individuals for the disturbance of peace and world order. Today we can now assert and prove that these specific individuals, *with intent*, plotted and planned the war in which they used their nation and its sovereignty for deliberate aggression.

If we can make this clear, perhaps we can enlist the men and women of good will the world over in supporting this first concrete action for establishing the responsible conduct necessary for world order, the indispensable condition for the effective operation of the United Nations Organization or any world state.

Justice Robert H. Jackson's opening statement for the United States, the complete text of the indictment, and the text of the four-power agreement on which the Nürnberg trials are based will be found in Robert H. Jackson, *The case against the Nazi war criminals*, Alfred A. Knopf, N. Y. 1946.

**"I Got Previous Experience With This Stuff"**



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