

ORIGINAL PREFACE (1987)

The year 1985 marked the forty-second anniversary of the bombs dropped on Hiroshima and Nagasaki. For 42 years now, all mankind has lived under the shadow of the bomb. All human beings on the planet have become hostages; their fundamental right to live has been appropriated by those who have the least right to control it—the controllers of nuclear weapons. Every day we live is a day of grace granted to us by these lords of life and death, and we have grown resigned to our fate. There are those who point with satisfaction to the fact that we have not had a World War for 42 years and thank the bomb for this indulgence. The bomb has warped our thinking so grievously that we tend to accept such arguments.

Rationality has long since departed from the scene, and viewers from outer space would no doubt conclude that some grievous epidemic of lunacy has swept over the entire planet. While millions starve, we channel our choicest material and intellectual resources into this quest for death. The possessors of the skills to change this situation—the scientists—only drift along with the current, seemingly helpless to struggle against its force.

The world has spent over three trillion dollars on nuclear weapons and has increased its stockpile from three bombs in 1945 to more than 50,000 in 1985. Some 50% of the skilled scientific manpower in the world is now engaged in military research and development. Less than 1% devotes its skill to solving global problems of underdevelopment which cost millions of lives every year. Though it is not generally understood as such, this is one of the great public issues of our time.

Recent research on the consequences of using nuclear weapons establishes beyond doubt the enormity of the damage which they can cause. They not only threaten humanity, but all life forms on the planet. The unprecedented scale of this capacity for destruction attracts special legal consequences in international law.

The nuclear weapons that have been built since 1945 have a combined firepower of more than a million Hiroshima-type bombs. It is the politicians who have ordered the production of these weapons and the military who are prepared to use them. But they were not made by politicians or generals; they were made by scientists.

Those who play a part in nuclear weapons manufacture cannot shut their eyes to the probable consequences of their activities. Nor can international law fail to hold them responsible for their work. In this work we shall not consider the case of those scientists who are unaware of the part their work plays in nuclear weapons manufacture, or whose primary work lies apart from subsequent weapons applications. Instead we shall deal with the clear-cut case of those who knowingly and deliberately participate in the manufacture or improvement of nuclear weaponry.

Needless to say, in speaking of the illegality of nuclear weapons we do not mean to imply that all other weapons are, or should be, legal. The illegality of biological weapons and chemical weapons deserves a full-scale treatment which lies outside the compass of this book. Also, in speaking of the illegality of nuclear war we do not mean to imply that all other wars are legal.

The legal issues involved in nuclear weaponry have to be understood in their political/military context, both that of the past and that of the present. The first two chapters of this book provide some of the historical background to the present arms race. The next two chapters speak of the present situation, discussing the distinctiveness of nuclear weapons and the status of current arsenals. Chapter 5 provides an introduction to the legal dimension of the problem by discussing the historical background of the international law of war. Chapters 6 through 9 develop, respectively, four propositions that logically proceed from each other. The first proposition, dealt with in Chapter 6, is that nuclear weaponry is illegal under prevailing principles of international law and constitutes a crime against humanity as well as an international delict or tort (i.e., a civil wrong). This proposition has already been the subject of much writing in the field of international law. This book briefly examines the principles from which this proposition comes and attempts to point out the deficiencies of various objections that have been raised to it. Having thus established in Chapter 6 the illegality of *use*, Chapter 7 goes on to show how this illegality also attaches to the *production* of nuclear weapons. Chapter 8 examines the question of responsibility, discussing both the responsibility of private individuals and that of such public figures as statesmen and generals. In Chapter 9, which discusses the specific responsibility of scientists, there is a summing up and focusing of all the issues previously discussed. In that chapter and in the conclu-

sion, which follows, there is an outline of some of the principles of personal responsibility which follow from the legal principles currently applicable in international law.

Although there is a fairly universal sentiment that the use of nuclear weaponry is clearly contrary to morality and that its production is probably so, this position does not go far enough. It is not just a question of morality but a question of law. It is hoped that by showing how the legal issues dovetail with the moral issues, we may find a way to stop this madness before it is too late.

In 1956 President Eisenhower said: "One day both sides must meet at the conference table with the understanding that the era of armaments has ended and the human race must conform its actions to that truth or die." President Carter warned in his farewell address that "The survivors, if any, would live in despair amid the poisoned ruins of a civilization that had committed suicide." On its side, the Soviet Union has officially pronounced that it views nuclear war as a universal disaster which would most probably mean the end of civilization and may lead to the destruction of all mankind. These views are confirmed by the latest scientific research on the effects of nuclear weapons.

Many of the legal principles in this book are adduced on the basis of these same scientific facts. It is hoped that in citing them there will be some counterbalance to those planners who are still proposing strategies based on scenarios of "limited" nuclear war and equations of nuclear weaponry with conventional weaponry. Such plans succeed in being, at one time, both unrealistic and illegal.

Since President Reagan's "Star Wars" announcement in 1983, there has been a major increase in awareness of the problem of nuclear weaponry. Yet neither scientists nor lawyers—two very influential groups—have given it sufficient consideration. Hopefully this can still be remedied. This book will have been worth writing if it manages to persuade even a few scientists. When even a few begin to ask some of the fundamental questions which have been buried beneath the folklore of the nuclear age, there is no telling where it will end.

An old proverb tells us that a journey of a thousand miles begins with the first step. Our journey towards disarmament has not even begun. The scientific community could well enjoy the privilege of taking that vital first step on behalf of all mankind.

This work deals with one of the gravest problems of responsibility that can affect any group of professionals. The principles it examines will therefore be of interest to the members of all professions.

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The Professionals' Network for Social Responsibility in New York City, comprising sixteen professional groups sharing concerns for world peace and human and environmental needs.