

Through the Prism of Nonviolence

Experience vs. the Power of Myth: Does the Military Protect Freedom?

By John Heid

From our earliest history, we have insisted that each of us is and must be free to criticize the government... We have insisted upon freedom of speech and the press and, as the First Amendment to the Constitution puts it, upon "the right of the people peaceably to assemble and to petition the government for a redress of grievances." — U.S. Supreme Court Justice Abe Fortas, "Concerning Dissent and Civil Disobedience," 1968

When was the last time you heard someone say, "Thank a soldier for the freedom you have to demonstrate?" Who among us has not gritted our teeth searching for a snappy response? This all-too-familiar remark is not usually an invitation to dialogue. Yet, the quip can be a catalyst for reflection on the roots of free speech.

This spring, Winona, Minnesota has witnessed a "surge" of opposition to the U.S. bloody military occupations of Afghanistan and Iraq. In response, local media, military recruiters and counter-protesters have dusted off and rolled out the weary, timeless myth that the source and guarantor of our freedoms is the very military apparatus we protest. Two specific incidents sufficiently moved me to write this commentary. I recall that "Peaceful picketing is the working person's means of communication." (*Drivers Union v. Meadowmoor Dairies*, U.S. Supreme Court, 1941)

In early April, alongside a group of friends on the median of a Winona shopping mall, I held a banner reading "End The War." We had previously held mall area vigils without incident near the Army/Navy recruiting station. However, this time, a security officer advised us that we were not welcome on private property and that the police would be called if we refused to move. As I was being escorted off the premises, the security officer remarked, "You know, if it weren't for the military you wouldn't even be able to hold that sign." The irony of the moment was too pristine for a comeback. I did not know whether to laugh or scream.

So-called free speech is a privilege, not a right, on private property. The owner's prerogative trumps any semblance of free expression. It has been my experience that anti-war sentiment is mighty unwelcome on most private property, even when it serves a public function, like the local mall.

"Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only the unanimity of the graveyard." (*West Virginia Board of Education v. Barnette*, U.S. Supreme Court, 1943)

Tax day, April 15, followed our mall expulsion by two weeks. A small leafletting vigil was organized in Winona to use this "teachable moment." Our handout was the War Resisters League's "Where Your Income Tax Money Really Goes" (warresisters.org). Its pie chart always attracts some interest. Many people have no idea that military spending uses up 51 percent of their federal tax. The flyer dramatizes former Secretary of State Alexander Haig's comment upon one million people rallying against nuclear weapons in New York City in June 1982. Mr. Haig quipped, "Let them march all they want, as long as they continue to pay their taxes."

For the first time in my 20 years of joining in tax day vigils, the postmaster came out and said, "You can't do that here." I objected, "This is public property, right?" He allowed it

was and said if our tiny contingent didn't move he would call the police. Two squad cars arrived shortly.

One officer said he was not sure if we were violating any law by simply distributing literature outside the post office. Word came down later that we were "trespassing." Our options were to cease and desist or be arrested. The misuse of police power prevailed again.

So, if the drive-by axiom, "You can thank our military for the freedom of speech we enjoy," has any merit, where under our "beautiful for spacious skies" is this freedom?

"Freedom for religious, social and political self-expression is not an appendage to, but rather is at the heart of, our political system." (John Whitehead, *The Right To Picket and the Freedom of Public Discourse*, 1984)

Civil society, by definition, acknowledges, encourages and protects civil liberties. These aspects of human nature are recognized as rights, not merely privileges. A gun can take these rights away, constituting a crime against humanity, but no gun or military can guarantee, let alone give us, what is already hardwired into our being.

Thus, we see vigils, demonstrations and mass protest even in the most overtly oppressive nations. The consequences of such activism are often brutal as evidenced by the Tiananmen Square massacre in 1989 and in Tibet this year. Yet history verifies that the intrinsic seed of free speech needs no military for germination. Conversely, militarism has been a perennial nemesis to freedom.

Freedom of speech in the U.S. has always been legally limited. "Life, liberty and the pursuit of happiness" were reserved for a small circle of men, mostly white, who excluded women, non-land-owners and enslaved peoples. Our civil rights have been pried from the republic's patriarchs only when popular resistance forced the government's hand, not when the military intervened. When they are in

conflict, the armed forces have historically defended the apparatus of the state rather than protecting fundamental human rights.

This December will mark the 60th anniversary of the Universal Declaration of Human Rights. Article 19 declares, "Everyone has the right to freedom of opinion and expression: this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Meanwhile, constitutionally guaranteed freedom of expression in the U.S. has eroded to the geographical equivalent of a postage-stamp-sized piece of real estate. Private property like the mall is off limits and so is most public land. The U.S. Supreme Court has ruled that the First Amendment "does not guarantee access to property simply because it is owned or controlled by the government." (*United States Postal Service v. Greenburg Civic Association*, 1981)

When freedom of expression is denied anyone, its existence is jeopardized for everyone. We have a fundamental right and human responsibility to speak and act out nonviolently when our government behaves illegally, including when civil liberties are denied, current laws notwithstanding. This is as much a matter of the heart as of ideology.

As Terry Tempest Williams says in *The Open Space of Democracy*, "The only space I see truly capable of being



closed is not the land or our civil liberties but our own hearts. The human heart is the first home of democracy. It is where we embrace our questions. Can we be equitable? Can we be generous? Can we listen with our whole beings, not just our minds, and offer our attention rather than our opinions? And do we have enough resolve in our hearts to act courageously, relentlessly, without giving up — ever — trusting our fellow citizens to join with us in our determined pursuit of a living democracy?"

My debt of gratitude for freedom of expression is owed to everyone who struggled to keep the voice of the people audible in the public square — the visionaries, activists, pacifists, suffragettes, abolitionists, poets, musicians, artists and every single person who has dared to speak a word of truth to power against the odds. Gracias!

A Free Country?

In his essay "Civil Liberties During Wartime,"* historian Howard Zinn explains how "the First Amendment, while it looks good in print, becomes inoperable when our nation is at war."

The Supreme Court in *Schenck* even ruled that speaking against the U.S. entry into World War I violated the Espionage Act of 1917, which made it a crime punishable by 10 years in prison to say or write anything that would "discourage recruitment in the armed forces of the U.S." Zinn notes that 2,000 people were prosecuted and 1,000 imprisoned, "for speaking against the conscription law or against the war."

During World War II, when the Smith Act made it a crime to "teach and advocate" overthrow of the U.S. by force, 18 Socialist Workers Party members were sent to prison not for promoting violence, but for distributing literature. At the same time, 120,000 Japanese Americans were shipped to detention camps and had their property confiscated, not for any crime but merely because of their national origin. Today there is a monumental apology in Washington, DC, carved in stone, memorializing this cruel act of wartime hysteria.

The Cold War saw loyalty oaths for government workers, prison for Communists and jail for people refusing to answer questions about their political associations put to them by the House Committee on Un-American Activities. Simultaneously, the FBI compiled lists of hundreds of thousands of U.S. citizens who had publicly criticized government policy. And Congress sanctioned deportation of noncitizens if the Attorney General alleged that they belonged to a "subversive" group.

During the U.S. war in Vietnam, Laos and Cambodia, 75 City and State Police officers on the campus of Jackson State College in Mississippi opened fire on unarmed protesters, killing James Earl Green and Phillip Lafayette Gibbs, and wounding 12 others on May 15, 1970. The Jackson State rally was in part a protest of the May 4th killing at Kent State in Ohio of Alison Krause, Sandra Scheuer, Jeffrey Glenn Miller and William K. Schroeder — all shot by Ohio National Guardsmen.

With the so-called "war on terror," citizens are again being placed on "no fly lists," subjected to illegal domestic spying, threatened with arbitrary, indefinite secret detention, and warned that the Constitution and the Geneva Conventions don't apply to certain "combatants" identified as such solely by the Office of the President.

In the military itself, isolation, harassment, retaliation, demotion, courts martial and even prison await personnel who speak critically about or refuse deployment to the war *du jour*. The military doesn't make the country safe for dissenters, least of all during wartime. —JL

* From Howard Zinn's, *A Power Governments Cannot Suppress*, City Lights Books, 2007, p. 169

Footnotes from cover story Radiation from Lake Superior Barrels?

¹ Argonne National Laboratory, Argonne, Illinois, "Installation Restoration Program: Preliminary Assessment of the Twin Cities Army Ammunition Plant," February 1988, p. 3-113, by Energy and Environmental Systems Division, received by MPCA, Ground Water & Solid Waste Div. March 2, 1988, in PA/SI, Preliminary Assessment Information, Lake Superior Barrel [file drawer], 1985 - 1988

² Ibid, p. 10-1, Section 10, References, Sec. 10.1, References from the ANL Records Search, #4, Feb. 7, 1955

³ Ibid, p. 1-2

⁴ Environmental Protection Agency, Form 2070-12 (7-81), "Potential Hazardous Waste Site Preliminary Assessment," Part 1 - Site Information and Assessment, Minn. Site Number 980679344, John Pegors, June 23, 1985

⁵ Ibid, Part 2 - Waste Information, Identification

⁶ Minnesota Pollution Control Agency, Solid and Hazardous Waste Division, "Site Safety and Sampling Plan," Project Team Leader: Bob Cross, p.1 of 2, Nov. 13, 1990

⁷ Barbara Reyelts interview, KBJR - TV News broadcast, Channel 6, Duluth, Minnesota, April 12, 1995; Nukewatch telephone interview with Capt. Harold Maynard (Ret.), May 9, 2008

⁸ Mike Stich, All Safe, Inc. (formerly Hazard Control, Aquatic Div.), Minneapolis, letter to former MPCA Region 1 Director John Pegors, August 6, 1991; and Minneapolis *Star Tribune*, October 4, 1990

⁹ Minn. Dept. of Health, "Health Consultation: Barrels Disposed in Lake Superior by U.S. Army," EPA Facility ID: MND908679344, prepared by Carl Herbrandson, Site Assessment and Consultation Unit, Environmental Surveillance & Assessment Sec., March 14, 2008, p.13

Energy\$olutions, Inc. Dumps on Utah

In Utah, Energy\$olutions, Inc. (ESI), formerly "Envirocare," disposes of the nuclear power industry's low-level rad waste at its dump near Clive, in Toole County, 74 miles from Salt Lake City. The company has raised nationwide objections by applying for a license to import 20,000 tons of waste from Italy. ESI wants to process the waste at its Tennessee facility, sell most of the metals as "shielding," and then ship about 1,600 tons of waste to the Clive dump.

Eight western states have rejected ESI's Italian import proposal, and the Nuclear Regulatory Commission has received more than 1,000 comments objecting to any import of foreign radwaste. In addition, the Northwest Interstate Compact on Low-Level Radioactive Waste Management unanimously rejected the plan, and Utah Governor Jon Huntsman says he'll stop all foreign waste from entering the state.

Alaska, Hawaii, Idaho, Montana, Oregon, Washington and Utah make up the Compact, created by Congress in 1985. The Compact wants control of its states' dumps and has adopted a resolution stopping foreign waste from being imported to Utah. ESI contends that since its Clive dump is privately owned, Compact's rules do not apply.

The NRC has agreed that Italian nuclear waste may still enter the U.S. for processing in Tennessee, where ESI has processed Canadian, German and French waste. That waste was allowed to be reclassified as "domestic" and either sold or dumped. Foreign waste may already have been buried at Clive, although ESI claims not to use more than 5 percent of its capacity for imported waste.

While ESI's license application moves forward, a federal bill has been introduced by Representatives Bart Gordon, D-Tennessee, Ed Whitfield, R-Kentucky and Jim Matheson, D-Utah, that would allow only nuclear waste originating in the U.S., or at U.S. bases, to be dumped. And Arjun Makhijani, president of the Institute for Energy and Environmental Research, told the *Salt Lake Tribune* that ESI's application before the NRC suggests the material is so radioactive it should be declared Class-C waste — and too hot to be permitted under Utah law.

In an attempt to skirt these roadblocks, ESI increased its annual congressional campaign contributions to \$400,000, with money going to about 50 representatives. Its political donations totaled only \$40,000 for the previous four years combined. Company CEO Steve Creamer donated the maximum allowed by law last year — \$28,500 — to both Democratic and Republican senatorial campaign committees. Senator Lindsey Graham received the largest share and happens to be a huge supporter of nuclear power. ESI spent \$1 million on lobbying in 2007 — up from \$680,000 in 2006.

ESI claims its reprocessing facility in Tennessee has created a radiological "pedigree" and falls under no current classification for rad waste. The ESI facility accepts waste from 36 states and it buries 99 percent of the U.S. low-level waste in most years. From 104 operating reactors, the U.S. annually produces 12,000 cubic feet of low-level radioactive waste.

Eighteen countries now have nuclear power reactors although none of them have established permanent facilities to deal with the deadly wastes they produce.