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Remembering the Russell Tribunal

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‘The napalm and pellet bombs, the systematic destruction of a heroic people are a barbarous rehearsal. The starving and the suffering will no longer die in silence. We must discredit the arrogant demand that they protect our comfort with their quiet agony.’¹

Fifty years have passed since the International War Crimes Tribunal for Vietnam was convened by the philosopher and anti-war activist Bertrand Russell. Its goal was to investigate US crimes in Vietnam—not to punish individual perpetrators but to inform public opinion and arouse opposition to the war in ‘the smug streets of Europe and the complacent cities of North America’.² Given the eventual size of the anti-war movement, it is easy to forget just how complacent much of the US public still was in the mid-60s, as the Johnson administration unleashed Operation Rolling Thunder. The obfuscations of the Western media kept the worst of US aggression off front pages and television screens and a large majority of Americans still favoured further escalation.³

A conscientious objector in the First World War, Russell had a long history of anti-war activism and was outspoken in opposition to US aggression in Vietnam. In a 1963 letter to the *New York Times*, Russell wrote that American conduct in Vietnam was ‘reminiscent of warfare as practiced by the Germans in Eastern Europe and the Japanese in South East Asia’.⁴ US actions, Russell was convinced, amounted to war crimes. In June 1966, Russell issued an ‘Appeal to American Conscience’, announcing that he was approaching ‘eminent jurists, literary figures and men of public affairs’ from around the world to constitute an International War Crimes Tribunal. The Tribunal, Russell proclaimed, would provide ‘the most exhaustive portrayal of what has happened to the people of Vietnam. We intend that the peoples of the world shall be aroused as never before, the better to prevent the repetition of this tragedy elsewhere.’⁵ Russell, by then in his mid-90s, would serve as honorary president, while the French philosopher Jean-Paul Sartre would take on the role of executive president, and the Yugoslav historian Vladimir Dedijer that of chairman and president of sessions. They were joined by an international assortment of prominent figures—Simone de Beauvoir, Lelio Basso, James Baldwin, Isaac Deutscher, Mahmud Ali Kasuri, Peter Weiss, Lázaro Cárdenas, Lawrence Daly, and others.

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¹ B Russell, ‘Closing Address to the Stockholm Session’, in P Limquenco & P Weiss (eds), *Prevent the Crime of Silence: Reports from the Sessions of the International War Crimes Tribunal founded by Bertrand Russell* (Allen Lane, 1971) 186, 188.

² B Russell, ‘Opening statement at the International War Crimes Tribunal, Stockholm, 2 May 1967’, below.

³ In mid-1966, some 60 per cent of Americans favoured escalation of the war. WC Gibbons, *The U.S. Government and the Vietnam War: Executive and Legislative Roles and Relationships, Part IV: July 1965-January 1968* (Princeton UP, 1995) 430-31.

⁴ B Russell, *The Autobiography of Bertrand Russell, 1944-1969* (Simon & Schuster, 1969) 242.

⁵ B Russell, ‘Appeal to American Conscience’, in *War Crimes in Vietnam* (Allen & Unwin, 1967) 116.

Five months later, in November 1966, a preliminary meeting was held in London. The Tribunal, Russell told the gathered members, was to be convened ‘so that we may investigate and assess the character of the United States’ war in Vietnam’. There was ‘no clear historical precedent’, although the Nuremberg Tribunal, flawed as it was, offered an example: an expression of outrage at the actions of the Nazis and an attempt to devise criteria against which such actions could be judged and according to which they might be condemned. Nonetheless, the Vietnam Tribunal, if inspired by similar sentiments, would be markedly different. Lacking *force majeure* and backed by no state, it could not hope to compel individuals to stand accused or to impose sanctions. These, though, were not limitations, Russell insisted, but rather virtues: unencumbered by reasons of state, the Tribunal was free to undertake its ‘solemn and historic investigation’ impartially and ‘record the truth in Vietnam’.⁶

Earlier that year, Russell had written to President Johnson inviting him to appear before the Tribunal to defend US actions and answer the evidence of US atrocities.⁷ The invitation went unanswered. When a further invitation was extended, by Sartre to Secretary of State Dean Rusk, the latter remarked glibly to reporters that he had no intention of ‘playing games with a 94-year-old Briton’.⁸ In private, though, US officials expressed concern about the Tribunal and its potential impact. In July 1966, an interagency group chaired by Under Secretary of State George Ball and composed of officials from the State Department, CIA, US Information Agency, and Department of Defense was charged with discrediting Russell and the Tribunal and, if possible, preventing its meetings.⁹ The next month, Ball reported to the President that the group was ‘quietly exploring with the British and French available legal steps that could be taken to forestall this spectacle. We also plan to stimulate press articles criticizing the “trials” and detailing the unsavory and leftwing background of the organizers and judges.’¹⁰

The propaganda campaign was successful in the US, where supplicant media rehearsed State Department aspersions: the Tribunal was ‘a farce’ whose members were ‘not interested in peace’, a group of anti-Americans spreading communist propaganda.¹¹ According to the *New York Times*, Russell was ‘a full-time purveyor of political garbage indistinguishable from the routine products of the Soviet machine’ who had ‘sunk to defending—not just denying or minimizing, but actively defending—the atrocities of the Viet Cong in Vietnam’.¹² The White House, Under Secretary of State Nicholas Katzenbach happily reported to President Johnson, had provided the background for the smear.¹³

Less hyperbolic was the claim that the Tribunal was biased, its members hostile to US policy and their verdict predetermined. In the face of such reproach, Russell remained unapologetic. We must reject the view, Russell insisted at the Tribunal’s London meeting, ‘that only indifferent men are impartial men’. Open minds were not to be confused with empty ones.

⁶ B Russell, ‘Speech to the First Meeting of the War Crimes Tribunal, London, 13 November 1966’, in Limqueco & Weiss (eds) (1971).

⁷ Letter, Russell to Johnson, 25 August 1966 cited in HC Mehta, ‘North Vietnam’s Informal Diplomacy with Bertrand Russell: Peace Activism and the International War Crimes Tribunal’ 37(1) *Peace & Change* (2012) 64, 78-79.

⁸ T Wells, *The War Within: America’s Battle Over Vietnam* (California UP, 1994) 142.

⁹ Gibbons (1995) 433.

¹⁰ Memorandum for the President from Ball, 29 August 1966, quoted in Gibbons (1995) 434.

¹¹ Wells (1994) 142; LJ Stewart, ‘Too loud to rise above the silence: the United States vs. the International War Crimes Tribunal, 1966-1967’, *The Sixties: A Journal of History, Politics and Culture* (2017), available at <http://www.tandfonline.com/doi/full/10.1080/17541328.2017.1415521> (last visited 15 January 2018) 3-4.

¹² B Levin, ‘Bertrand Russell: Prosecutor, Judge and Jury’, *New York Times*, 19 February 1967, VI.24.

¹³ Mehta (2012) 82.

Every day brought new *prima facie* evidence of crimes in Vietnam and the Tribunal's members could not help but have feelings about them. Quite the contrary: '[n]o man unacquainted with this evidence through indifference has any claim to judge it'.¹⁴

For Sartre, too, such complaints misconstrued the nature of the Tribunal. 'There is no question of judging whether American policy in Vietnam is evil', he told *Le Nouvel Observateur* in November 1966. Of this, 'most of us have not the slightest doubt'. The task of the Tribunal was narrower: to determine the *legality* of that policy and its concomitant actions—do they fall, specifically, 'within the compass of international law on war crimes'? On this question, Sartre insisted, 'our judgements cannot be given in advance, even if we are committed, as individuals, in the struggle against imperialism. . . . This war is certainly contrary to the interests of the vast majority of people, but is it *legally* criminal? That is what we will try to determine'.¹⁵

What of the alleged NLF atrocities of which the *New York Times* complained? Even fervent opponents of imperial machinations reproached the Tribunal for not judging the Vietnamese at the same time as the US. The radical historian Staughton Lynd, outspoken against the war, declined an invitation to participate in the Tribunal, arguing that it was employing a 'double standard' in evaluating the acts of only one side of the conflict.¹⁶ For Sartre, such complaints rang hollow, the implicit equation of US and Vietnamese actions nonsensical. 'I refuse to place in the same category the actions of an organization of poor peasants, hunted, obliged to maintain an iron discipline in their ranks, and those of an immense army backed up by a highly industrialized country of 200 million inhabitants.'¹⁷ Russell was no less impatient with false equivalences. 'Who would compare the 100,000 tons of napalm with a peasant holding a rifle', he would soon ask the Tribunal. 'Who can fail to distinguish the power which destroys the hospitals and schools of an entire people from the defenders who attack the aeroplanes carrying napalm and steel fragmentation bombs?'¹⁸

Nonetheless, Washington's machinations proved effective in impeding the Tribunal's preparations. Russell and Sartre had initially planned to hold the Tribunal in Paris, only for the French to deny its members visas. Such petty obstructions led Sartre, in April 1967, to appeal directly to President de Gaulle. 'Justice of any sort', de Gaulle responded, 'in principle as in execution, emanates from the State'. The Tribunal, 'through its very form . . . would be acting against the very thing which it is seeking to uphold'.¹⁹ Not at all, shot back Sartre: 'Real justice must draw its force both from the state and the masses.' The Tribunal did not claim, whatever de Gaulle affected to believe, to substitute itself for any existing court. It was precisely the institutional vacuum left by self-interested states and a cowed UN that required people of conscience to carry forward the Nuremberg legacy.²⁰ De Gaulle was not to be moved, however unconvincing his dissembling: the Palais de l'Élysée had already assured the US embassy the previous month that the Tribunal would be banned from French soil.²¹

¹⁴ Russell, 'Speech to the First Meeting' (1971).

¹⁵ J-P Sartre, 'Le crime', *Le Nouvel observateur*, 30 November 1966, reprinted in translation as 'Imperialist Morality: Interview with Jean Paul Sartre on the War Crimes Tribunal' I/41 *New Left Review* (1967) 3.

¹⁶ S Lynd, 'The War Crimes Tribunal: A Dissent' 12 *Liberation* (1967) 76, 76-77.

¹⁷ Sartre (1967) 7.

¹⁸ B Russell, 'Closing Address to the Stockholm Session' (1971) 187.

¹⁹ 'Text of de Gaulle's Letter Banning War Crimes Tribunal' 5(19) *World Outlook* (1967) 483.

²⁰ 'Sartre à de Gaulle', *Le Nouvel observateur*, 26 April 1967, reprinted in translation as 'Jean-Paul Sartre's Answer to de Gaulle' 5(19) *World Outlook* (1967) 484.

²¹ Stewart (2017) 10.

In Britain, Harold Wilson's government, faithfully subservient to Washington, followed suit, refusing visas to North Vietnamese witnesses and condemning the Tribunal as one-sided. Russell and Sartre eventually found a reluctant host in Sweden, Prime Minister Tage Erlander confiding to his British counterpart that despite the 'considerable political embarrassment' caused by the Tribunal, he simply lacked the legal power to prevent it.²²

The Tribunal's first session opened finally on 2 May 1967 in Stockholm. Age and ill health prevented Russell from attending, but his opening statement, a passionate indictment of the war and a call for the Tribunal to work diligently to record the truth of Vietnam, was read by his secretary, Ralph Schoenman. Eight days of hearings followed with testimony heard from Vietnamese witnesses as well as a potpourri of experts: lawyers, doctors, biochemists, agronomists, sociologists, historians, journalists. A second session was convened between 20 November and 1 December in Roskilde, Denmark.

To read the Tribunal record today is to read a catalogue of atrocity—'a litany of pain', as one contemporary observer put it.²³ There are the sober reports of weapons experts, doctors, scientists—on the fragmentation or cluster bombs designed specifically to maim; on the medical effects of napalm; on the use and consequences of chemical weapons and defoliation and the destruction of dykes and irrigation systems. There are the reports from members of the Tribunal's fact-finding missions to North Vietnam, first-hand accounts of the ravages of napalm—'his ears just melted'—and evidence of deliberate targeting of civilians—village after village obliterated; hospitals, schools, churches bombed, far removed from any military target. And then there is the testimony of survivors: the prisoner of war tortured; the young school teacher, Ngo Thi Nga, asleep with her pupils in a small village classroom when the American bombs fell; the nine-year-old Do Van Ngoc, herding cattle under a rain of napalm—'on my right hand, the thumb is stuck to the other fingers; large scars remain on my stomach and my thighs'.²⁴ Kenneth Tynan, the English theatre critic and writer, attended the Stockholm session and recalls seeing the young boy's testimony:

He strips off his jacket, shirt and pants, and is suddenly naked, in a blaze of light. Above the waist he's unmarked; but his belly, thighs and groin are burned to a deep-brown crisp, corrugated like the crackling on a roast of pork. . . . Shock inscribes the image on my retina. Mention Vietnam today and that is what I see. If you dismiss it as a mere propaganda display, I can only agree with you, and pity you. It *was* propaganda; but it was propagating a symbolic and demonstrable truth.²⁵

Russell and Sartre had hoped to arouse anger in the West and galvanise opposition to the war. In October, between the Tribunal's two sessions, 100,000 protestors marched on the Pentagon. How many of them knew of the Tribunal and its vast catalogue of US excesses? Media coverage in the US was fleeting and deeply unfavourable, largely indistinguishable from official efforts to delegitimise the hearings. As the Stockholm session drew to a close, the CIA happily reported to President Johnson that the Tribunal 'has gone rather badly', in part due to

²² Ibid 12.

²³ K Tynan, 'Open Letter to an American Liberal' 15(3) *Playboy* (1968) 83, 137. Many of the reports and testimonies presented at both sessions of the Tribunal are collected in J Duffett (ed.), *Against the Crime of Silence: Proceedings of the Russell International War Crimes Tribunal* (O'Hare, 1968) and Limqueco & Weiss (eds) (1971).

²⁴ Limqueco & P Weiss (eds) (1971) 143.

²⁵ Tynan (1968) 138-39.

lack of ‘good press’.²⁶ The Roskilde session went largely ignored by Americans. Indeed, awareness of the atrocities visited on Vietnam remained low in the US where opposition, when it did grow, centred largely around the balance sheet of American lives. Even after My Lai in 1968, most Americans continued to believe their government’s insistence that Pinkville was an isolated incident; William Calley simply, as Vice President Agnew put it, a ‘bad apple’.

If the Tribunal had little immediate impact on *bien pensant* opinion, its effects were felt elsewhere. The Tribunal played a central role in associating international law, and specifically the idea of ‘war crimes’, with the war in Vietnam. A handful of legal challenges had been mounted in the US prior to the Tribunal by conscientious objectors opposing the draft, but these had focused largely on the conscience of the objector, not the legality of US actions.²⁷ As late as 1965, Henry Cabot Lodge, then US Ambassador in Saigon, could tell reporters: ‘As far as I’m concerned, the legal aspect of [the war] is of no significance’.²⁸ The Russell Tribunal placed the question of the war’s legality squarely in the public eye with its insistence that the war was not only morally reprehensible, but also *criminal*.²⁹ Such association, Sartre in particular had felt, was important in arousing opposition amongst the ‘petit bourgeois masses’ who were indifferent to the necessity, crimes or no crimes, of the struggle against imperialism. ‘[I]t is by means of legalism’, he believed, ‘that their eyes can be opened’.³⁰ The juridification of war over the following decades and the over-investment in international law of today’s anti-war movement—to the extent one exists—might, in hindsight, have given him pause.

By far the Tribunal’s most lasting legacy has been the tradition of peoples’ tribunals, which it inaugurated, and which continues to bear Russell’s stamp. In 1973, the Italian jurist Lelio Basso, a participant in Stockholm and Roskilde, organised a second Russell Tribunal focused on human rights violations in Latin America. Subsequent tribunals have investigated rights violations in West Germany (1978-79) and, with respect to native Americans, in the US (1980). Basso, meanwhile, established a Permanent Peoples’ Tribunal in Rome, which sought to institutionalise the tradition. In December 2000, the Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery convened in Tokyo to consider the responsibility of Japanese political and military authorities for sexual slavery and rampant sexual violence in Asia and the Pacific during the 1930s and 40s. In 2005, a World Tribunal on Iraq investigated war crimes charges against British and American political and military leaders. From 2010 to 2014, a Russell Tribunal on Palestine held sessions in Barcelona, London and Cape Town. And in recent years, peoples’ tribunals have been organised on issues ranging from the 1965 Indonesian politicide to the Canadian mining industry in Latin America to Monsanto’s responsibility for ecocide.³¹

To mark the 50th anniversary of the Russell Tribunal, the *London Review of International Law*

²⁶ Stewart (2017) 15.

²⁷ See JF Bannan & RS Bannan, *Law, Morality, and Vietnam: The Peace Militants and the Courts* (Indiana UP, 1974).

²⁸ *US News and World Report*, 15 February 1965 quoted in L Matarasso, ‘Outline of the General Introductory Report’, in Limquenco & Weiss (eds) (1971) 68, 76.

²⁹ Richard Falk had, around the same time, begun to write on international law and the US in Vietnam. See, e.g., R Falk, ‘International Law and the United States Role in the Viet Nam War’ 75 *Yale Law Journal* (1966) 1122.

³⁰ Sartre (1967) 7.

³¹ On people’s tribunals generally, see D Otto, ‘Beyond legal justice: some personal reflections on people’s tribunals, listening and responsibility’ 5(2) *London Review of International Law* (2017); D Otto, ‘Impunity in a Different Register: People’s Tribunals and Questions of Judgement, Law and Responsibility’, in K Engle, Z Miller & DM Davis (eds), *Impunity and Human Rights* (Cambridge UP, 2016) 291; A Byrnes & G Simm, *Peoples’ Tribunals and International Law* (Cambridge UP, 2018).

is reprinting, below, Bertrand Russell's opening statement to the first session of the International War Crimes Tribunal, delivered by Ralph Schoenman on his behalf on 2 May 1967 in Stockholm. We also include in this issue of the journal an interview with the journalist and veteran anti-war campaigner Tariq Ali, in which he reflects on his involvement with the Tribunal including a fact-finding mission to North Vietnam and subsequent testimony in Stockholm.

Bertrand Russell's Opening statement at the International War Crimes Tribunal, Stockholm, 2 May 1967³²

The world is numbed by the arrogant brutality of the United States Government. We meet in this opening session of the International War Crimes Tribunal at an alarming time. The United States is beginning an enormous new onslaught against the people of Vietnam. The sordid military machine which rules Washington is readying itself for greater destruction. In a fever of frustration over the humiliating defeats inflicted on her occupying armies in South Vietnam, the United States Government in hysteria and hate boasts of its intent, and its intent is evil.

Our Tribunal is not a group of disembodied formalists, quibbling over definitions or posturing an immoral lack of decision about these events. There is one reason for this International War Crimes Tribunal: Overwhelming evidence besieges us daily of crimes without precedent. Each moment greater horror is perpetrated against the people of Vietnam. We investigate in order to expose. We document in order to indict. We arouse consciousness in order to create mass resistance. This is our purpose and the acid test of our integrity and honour.

How frantic is the United States Government to stop us. Lies are hurled like napalm bombs. The fragments of these planned untruths find their way into the media of communication so responsible for the deception of ignorant men. The Government of France exposes itself before the world as a pathetic citadel of hypocrisy and spinelessness.

This is no token of our weakness. It is the very opposite. The feverish effort to conceal American crimes is matched by the frantic campaign against those who stand out against them. Let us take this as a tribute.

Hitler's Nazis buried the evidence of their barbarism throughout Europe. This Europe is a vast grave of interred cruelty. Auschwitz did its work for years. The evidence cannot be denied.

When Nazi power was defeated belatedly, did anyone lack knowledge of the extermination and experiment, of the cold cruelty and arrogance of the Nazi war criminals? The evidence was overwhelming.

Must we contort ourselves to deny the equally compelling evidence of war crimes in Vietnam? It is unseemly for men with a particle of self-respect to dissemble about what the United States Government has done to Vietnam. Auschwitz existed. It was all the more incumbent upon men to investigate why it was built, what it did and who was responsible. The vast evidence was no reason to hold back from enquiry; it was a mandate to expose, in the vain hope that men might

³² Due to frail health, Russell was unable to attend the Tribunal in person. Instead, this statement was read at the opening of the Tribunal's first session by his secretary, Ralph Schoenman. A copy was printed in *World Outlook*, 12 May 1967, 482, 488.

learn the shameful lesson of their moral cowardice—for Auschwitz is our responsibility. We failed to stop it. We condemned it too late.

Crimes, barbarous crimes, are reported daily from Vietnam. They are crimes of an aggressor, an occupier, a tormentor. Our task is to display this truth to the people of the world. Our duty is to investigate every fact so that every fact will serve to arouse passionate resistance. We do this because we have knowledge which compels us to act against inhuman behaviour. Those who wish to apologise for US crimes and who would excuse their own failure to act against them will try to impose a distinction between moral clarity and intellectual probity. In doing so they project their own double default. We must state the evidence before our eyes. Without this overwhelming evidence there would have been no Tribunal. Where crime is known, it is cause for enquiry and judgment. The truth compels an exhaustive investigation to document and compile the full record.

The full record includes the moving and unparalleled resistance of the people of Vietnam. Those who would call the rising of the Warsaw Ghetto a crime will consider the resistance in Vietnam in the same light. Those who lack all feeling for the heroism of the partisans in Yugoslavia, Denmark and Norway will seek to equate the relentless annihilation of Vietnam by the U.S. rulers with the valiant resistance of the Vietnamese partisans. Let apologists for Nazism make this equation. There is no truth in it, less honour in its advocacy and complete moral turpitude in its imposition.

The force of our Tribunal lies in the impeccability of its procedures and the thoroughness of its investigation. The evidence we marshal will be undeniable. Let us rest confident in this mission. Let us repudiate the demand that we feign ignorance of the Lidices and Guernicas occurring daily in Vietnam.

Our enquiry is inspired by deep conviction. That is its strength. When brutal crimes are committed, conviction is a test of respect for facts and the courage to display that respect.

It is good that Sweden has received us. To our supporters we owe much gratitude. They deserve the credit for ensuring that the democratic achievements of Sweden are not submerged. This too is part of the struggle of our time. Weak men protect cruel men. Good men are the victims of both. When the Dewey Commission met in the United States no one used the absurd sanctity of a head of state to equate a brave historic enquiry by renowned men with insult. Politesse is not at issue. The right to criticise men of power should be inviolate even if governments are more culpable than any individual spokesmen for them. It is our historic duty to transform cruelty and cowardice by upholding values on which civilization has always depended.

We do not supplicate for the right to investigate the crimes of war committed by Western governments in Vietnam: we demand it. We do not hesitate about the connection between our knowledge of crimes and the necessity to test this knowledge in public enquiry: we proclaim it. Moral purpose cannot be separated from the concern for truth. The burning children of Vietnam are martyred by the Western world. Their suffering, like that of the gassed Jews of Auschwitz, is a basic feature of the civilisation which we have built. There is, however, another part of our culture which has also been built and which has produced our own martyrs over the centuries. This Tribunal is in the tradition of that struggle and of that achievement: our art, our science, our music, our humanity.

It is our culture which is at stake. It is our barbarism which menaces it. It is not possible to organise society for plunder and mass murder without terrifying consequences. Our scientists and engineers, our chemists and researchers, our technology and economic system have been mobilised for murder.

In Vietnam we have done what Hitler did in Europe. We shall suffer the degradation of Nazi Germany unless we act. 'Untermensch' is a word which lives again in the vocabulary of powerful men in Washington who speak of 'yellow dwarfs' and 'coonskins'.

The pity is not in the suffering of Vietnam. Her people resist and are heroic. The pity is in the smug streets of Europe and the complacent cities of North America so debased as to be indifferent even as our own fate is enacted in Vietnam.

The International War Crimes Tribunal is a revolutionary tribunal. We have no armies and no gallows. We lack power, even the power of mass communication. It is overdue that those without power sit in judgement over those who have it. This test we must meet, alone if need be. We are responsible before history.