

19. JEAN-PAUL SARTRE

Summary and Verdict of the Stockholm Session

The International War Crimes Tribunal, during the session held at Stockholm from 2 to 10 May 1967, studied the two following questions included in its programme, adopted in London on 15 November 1966:

Has the United States Government (and the Governments of Australia, New Zealand and South Korea) committed acts of aggression according to international law? Has there been bombardment of targets of a purely civilian character, for example hospitals, schools, sanatoria, dams, etc., and on what scale has this occurred?

Having heard the qualified representatives of the Democratic Republic of Vietnam and noted the official refusal of the government of the United States of America to make known its point of view, and this despite the various appeals addressed to it;

Having heard the various reporters, the experts, numerous witnesses, including members of the investigating teams which it had itself sent to Vietnam, as well as Vietnamese victims of the war;

Having examined several written, photographic and cinematographic documents, together with numerous exhibits... considers itself able to take the following decisions.

On the first question:

Resort to force in international relations has been prohibited by {177} numerous international agreements, the chief of which is the 1928 Pact of Paris, known as the Briand-Kellogg Pact.

In its Article 2, the United Nations Charter solemnly recalled the said principle immediately after the Second World War.

Article 6 of the Statute of Nuremberg qualified as crimes against peace 'the conduct of, preparation for, starting or pursuit of a war of aggression or a war in violation of international treaties, pledges or agreements, or participation in a concerted plan, or plot for the accomplishment of any of the foregoing acts'.

Finally, it must be recalled, as in the United Nations resolution of December 1960, that all peoples have fundamental rights to national independence, to sovereignty, to respect of the integrity of their territory, and that breaches of these fundamental rights may be regarded as crimes against the national existence of a people.

The accession to independence and to national existence of the people of Vietnam dates back to 2 September 1945. This independence was called in question by the old colonial power. The war of national liberation then embarked upon ended with the victory of the Vietnam army.

The Geneva Agreements of 20 and 21 July 1954, intended to put an end to the previous conflict, created in Vietnam a state of law, the respect of which was incumbent on all, and particularly on the United States. These Agreements recognized the guarantees, independence, unity and territorial integrity of Vietnam (Articles 6 and 7 of the final Declaration). Although a line of demarcation divided the country into two parts on a level with the 17th parallel, it was expressly stipulated that the essential aim of this division was to settle military questions, it was of a provisional nature 'and could in no way be interpreted as constituting a political or territorial boundary' (Article 6 of the Final Declaration).

The Geneva Agreements stipulated that general elections should take place over the whole of the country in July 1956 under the supervision of an international commission, and that consultations on this subject were to take place between the competent representatives of the two zones as from July 1955.

The Agreements specifically excluded all reprisals or discrimination against persons and organizations by reason of their {178} activities during the previous hostilities (Article 14 of the Armistice Agreement). They formally prohibited the introduction of fresh troops, of military personnel, fresh arms and munitions, as well as the installation of military bases (Article 16 of the Armistice Agreement) and the inclusion of Vietnam in military alliances, this applying to the two zones (Article 9 of the Final Declaration).

This state of law, intended to create a peaceful situation in Vietnam, was replaced by a state of war in consequence of successive violations and the responsibility for the passage to a state of war lies with the government of the United States of America.

It transpires from the information of a historical and diplomatic nature that has been brought to the knowledge of the Tribunal:

that numerous proofs exist of the American intention prior to 1954 to dominate Vietnam;

that the Diem government was set up in Saigon by American agents several weeks before the conclusion of the Geneva Agreements;

that the Saigon authorities, subservient to the United States, systematically violated the provisions of the Geneva Agreements which prohibited reprisals, as has been established on several occasions by the International Control Commission;

that in defiance of the Geneva Agreements, the United States has, since 1954, introduced into Vietnam increasing quantities of military equipment and personnel and has set up bases there.

The elections that were fixed for July 1956 and which were to be the subject of consultations in July 1955 did not take place, in spite of numerous diplomatic notes from the government of the Democratic Republic of Vietnam calling for the said consultations. Information from United States sources makes it possible to ascribe to the USA the refusal by Saigon of the most essential provisions of the Geneva Agreements.

In this manner there was created in South Vietnam a situation of foreign intrusion by force against which the people of Vietnam had to launch a struggle of national liberation in a political form until 1959 and in the form of an armed struggle since that date, a {179} struggle led by the National Liberation Front of South Vietnam since 1960, which has succeeded in controlling vastly greater territories than those controlled by the United States.

This attack against the South was followed by an attack against the North, begun in 1964, and intensified since 1965 in the form of aerial bombardments and naval and land shellings in circumstances which form the subject of the second question studied by the Tribunal. The United States has not ceased to increase the power of these attacks by practising what it has itself called a policy of escalation.

The Tribunal has made a point of examining scrupulously the arguments put forward in American official documents to justify the legality of their intervention in Vietnam. Special attention has been paid to the document entitled: 'Juridical Memorandum on the Legality of the Participation of the United States in the Defence of Vietnam', which document was submitted to the Senate Foreign Affairs Committee on 4 March 1966. The main argument formulated by this text consists in claiming that the American intervention in Vietnam merely constitutes aid to the Saigon government against aggression from the North. Such an argument is untenable both in law and in fact.

In law, it is hardly necessary to recall that Vietnam constitutes a single nation which cannot be seen as an aggressor against itself.

The fact is that no proof of this alleged aggression has ever been produced. The figures stated of infiltration of personnel from the North into the South, often contradictory, mixing up armed men

and unarmed men, are thoroughly disputable and could in no case justify the plea of legitimate defence provided for in Article 51 of the United Nations Charter, an Article, moreover, none of the other conditions of which is complied with.

From the foregoing it follows that the United States bears the responsibility for the use of force in Vietnam and that it has in consequence committed a crime of aggression against that country, a crime against peace.

It has therefore violated the provisions of International Law outlawing the use of force in international relations, in particular the Pact of Paris of 1928, the so-called Briand-Kellogg Pact, of which it was, however, the author, and the United Nations Charter {180} (Article 2, para. 4). This violation of the general principles has been accompanied by violation of the special agreements relating to the territory in question, Vietnam - that is to say, the Geneva Agreements of July 1954.

In acting thus, the United States has undeniably committed a crime against peace within the meaning of Article 6 of the Statute of Nuremberg, a provision sanctioned by international jurisprudence (Judgements of Nuremberg and Tokyo) and acknowledged as international law by the unanimous resolution of the United Nations of 11 December 1946.

The United States has furthermore committed a crime against the fundamental rights of the people of Vietnam.

It should be added that states such as South Korea, Australia and New Zealand, which have in one form or another provided aid to the American aggression, have rendered themselves accomplices.

The Tribunal has concerned itself with the situation in Cambodia. It has heard the report of the investigating teams which it sent to that country and the depositions of a qualified representative of the General Staff of the Cambodian army. It considers that the forces of the United States and those of the governments subordinate to it at Bangkok and Saigon are engaging in continuous and serious acts of aggression against the kingdom of Cambodia. This aggression constitutes not only an attack on Cambodian neutrality and independence but also an extremely serious threat to the peace in south-east Asia and in the world.

On the second question:

The Tribunal has been convinced that the aerial, naval and land bombardments of civil targets is of a massive, systematic and deliberate nature.

The massive nature of the bombardments is attested by innumerable reports from American sources on the tonnage of bombs dropped and the great number of American aerial sorties.

The systematic and deliberate bombardment of civil targets is established by extensive evidence to the effect that in the vast {181} majority of cases they are preceded by reconnaissance flights: according to a report of American origin, the aircraft stationed at a single base in Thailand alone utilize 300,000 metres of film every month to photograph Vietnam. If it is borne in mind on the one hand that most of the aircraft are equipped with automatic firing devices and, on the other hand, that the aircraft return persistently and furiously to the same targets, which are sometimes already almost completely destroyed, no doubt is possible as to the deliberate intention to strike the targets in question.

Besides the aerial bombardments, intense pounding by the artillery of the US 7th Fleet is progressively ravaging the coastal zones.

All of the witnesses heard, in particular the members of the investigating teams, have confirmed that the greater part of the civilian targets (hospitals, sanatoria, schools, churches, pagodas) are very obvious and very clearly distinguishable from the rest of the Vietnam countryside.

The extent of the bombardments is considerable and the Tribunal has had a close study made by its investigating teams of the results published by the Democratic Republic of Vietnam. Proceeding by the method of sampling, the investigating teams have been able to verify at places of their choice the information received. Thus, for example, so far as hospitals are concerned, out of ninety-five establishments mentioned as destroyed by the Vietnamese Commission of Inquiry

into War Crimes, thirty-four have been verified by the Tribunal's investigating teams, i.e. thirty-six per cent. The great value of these samplings lies in their dispersion, since the thirty-four hospitals checked relate to eight provinces out of the twelve involved in the bombardments.

Apart from the extensive private evidence submitted to it, the Tribunal has heard general reports on the distribution of the various categories of civilian targets: hospitals, schools, places of worship (pagodas and churches) and dams, as well as of the bombardment of the civilian population of urban centres and in the countryside. It has also heard combined reports on the bombardments in the two provinces of Nghe An and Thanh Hoa. All of these reports were accompanied by documented statements and material evidence.

The Tribunal ascertained the vital importance to the people of {182} Vietnam of the dams and other hydraulic works, and the grave danger of famine to which the civilian populations were exposed by the attempted destruction by the American forces.

The Tribunal has received all necessary information in the diversity and power of the engines of war employed against the Democratic Republic of Vietnam and the circumstances of their utilization (high-explosive bombs, napalm, phosphorus and fragmentation bombs, etc.). Seriously injured victims of napalm bombs have appeared before it and medical reports on these mutilated people have been provided. Attention in particular has been drawn to the massive use of various kinds of anti-personnel bombs of the fragmentation type, also called in American parlance, CBU, and in Vietnamese parlance, pellet bombs. These devices, obviously intended to strike defenceless populations, have the following characteristics.

Containers, called by the Vietnamese the 'mother bombs', release hundreds of small oblong or spherical bombs (pineapple bombs, guava bombs) which in turn release hundreds of small pellets. A single mother bomb can therefore cause the dispersion of nearly 100,000 pellets; these pellets can cause no serious damage to buildings or plant or to protected military personnel (for example, civil-defence workers behind their sandbags). They are therefore intended solely to reach the greatest number of persons in the civilian population.

The Tribunal has had medical experts study the consequences of attacks with these pellets. The path of the particles through the body is long and irregular and produces, apart from cases of internal injuries.

The Hague Convention of 4 of 18 October 1907 laid down the principle that belligerents may not have unlimited choice as far as the means of injuring an enemy are concerned (Article 22); the Convention prohibits the use of arms, projectiles and material deliberately destined to cause pointless suffering (Article 23); attacks on or bombardments by any means whatsoever of undefended buildings are prohibited (Article 25). During bombardments all necessary steps must be taken to spare, so far as possible, buildings devoted to religious, artistic, scientific or educational purposes, historical monuments, hospitals or places where sick and injured persons are assembled, provided that these places are not used for military purposes (Article 27).

Article 6 of the Statute of the Tribunal of Nuremberg has qualified as war crimes the destruction without reasonable requirements of towns and villages or devastation not justified by military requirements.

The Geneva Convention of 2 August 1949 also laid down the principle of absolute prohibition of attack on civilian hospitals (Article 18) and private and collective property not rendered absolutely necessary by the conduct of the operations (Article 53).

The government of the United States cannot override such Treaties, to which it has subscribed, since Article 6, para. 2) gives them preeminence over domestic law. The Manual entitled *The Law of Land Warfare* refers to all of the foregoing provisions as being obligatory for all members of the American army.

In consequence, the Tribunal considers that in subjecting the civilian population and civilian targets of the Democratic Republic of Vietnam to intensive and systematic bombardment, the United States of America committed a war crime.

Apart from condemning this war crime, the Tribunal makes a point of declaring that the use of fragmentation bombs of the CBU type, which have no other purpose than to injure to the

maximum the civilian population, must be regarded as arms prohibited by the laws and customs of war.

Meeting with the resistance of a people who intended to 'exercise peacefully and freely its right to full independence and territorial integrity of its territory' (United Nations resolution of 14 December 1960), the government of the United States of America has given these war crimes, through their extent and intensity, the character of crimes against humanity (Article 6 of the Statute of Nuremberg).

These crimes cannot be regarded merely as a consequence of a war of aggression, whose prosecution is determined by them.

Because of their systematic employment with the object of destroying the fundamental rights of the people of Vietnam, their intensity and their wish for peace, the crimes against humanity of which the government of the United States of America has rendered itself guilty, become a fundamental constituent part of the crime of aggression, a supreme crime which embraces all the others according to the Nuremberg verdict.

Verdict of the Tribunal

1. Has the Government of the United States committed acts of aggression against Vietnam under the terms of international law?

Yes (unanimously).

2. Has there been, on a large scale, bombardment of purely civilian targets, for example, hospitals, schools, medical establishments, dams, etc?

Yes (unanimously).

We find the government of the United States guilty of the deliberate, systematic and large-scale bombardment of civilian targets, including civilian populations, medical establishments, leper colonies, schools, churches, monuments.

We also find unanimously that the government of the United States of America is guilty of repeated violations of the sovereignty, neutrality and territorial integrity of Cambodia, that it is guilty of attacks against the civilian population of a certain number of Cambodian towns and villages.

3. Have the governments of Australia, New Zealand and South Korea been accomplices of the United States in the aggression against Vietnam in violation of international law?

Yes (unanimously).

The question also arises as to whether or not the governments of Thailand and other countries have become accomplices of aggression or other crimes against Vietnam and its populations. We have not been able to study this question during the present session. We intend to examine at the next session the aspects of the problem and to seek proofs of any incriminating facts.

Adopted *ne variatur*

President of the Tribunal

Jean-Paul Sartre

Stockholm, 10 May 1967

{185}

[Back to start of Table of Contents](#) [Russell War Crimes Tribunal](#)
[Index to Rae West's site](#)

Scanned & HTML Rae West 97-02-27 This revn 98-02-27 □