

# VIETNAM: CONTINUING CONFLICTS

The debate about the war in Vietnam has by now developed a substantial history. Historical antecedents have been canvassed; the principal reasons for U.S. participation have been offered—and rebutted; and most people who have seriously concerned themselves with the issues have taken a definable position. Nevertheless the debate continues—as it should. Events of the present do not change those of the past, but they do change the perspective with which we view them. As the intensity of the war in Vietnam increases, it is necessary that the debate continues.

Harold Thatcher offers, in his article, many of the points raised by critics of present U.S. policy. Allan C. Brownfeld addresses himself succinctly to many of the same issues but with distinctly different conclusions. Gordon Zahn, while adverting to many of the same points, is primarily concerned with the gap which he sees between the principles of the traditional, just war theory and the actual conduct of the Vietnam war.

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## QUESTIONING THE BASIC PREMISES

*Harold W. Thatcher*

Since the beginning of our intervention in Vietnam there has been much criticism of our ill-fated policy there. Much of it, however, has been aimed at our tactics and techniques and therefore has not been very effective because, once the basic premises and assumptions of the government's policy in Vietnam are accepted, a good case can be made out by the Administration for the means employed. What should be criticized and attacked are the basic premises and assumptions, for these seem, in almost every instance, to be demonstrably false.

Before examining these basic premises, however, it may be well to say a few words about the climate in which all of our foreign policy since World War II has been conducted. The two words which most succinctly characterize this climate are *fear* and *hate*.

Rearmament became the order of the day after

1950 and has continued ever since, with armaments being piled on armaments and half of our national budget and much of our scientific skill being diverted from constructive and productive projects to the sterile task of increasing beyond all reason our overkill capacity. As Walter Lippmann said in 1953: "Our official actions are based upon a fear that if the tension is relaxed, the great projects of NATO and of European unity to which we are committed will collapse. There is a kind of fear that there will not be enough fear to make these projects go forward."

Although our record of tolerance during World War II was, with a few exceptions, very good (far better than during World War I), intolerance, both official and unofficial, raised its ugly head almost immediately after the war and grew apace, directed mainly against the Communists. On the official level the House Committee on Un-American Activities, which had initiated the anti-Communist campaign before the war, stepped up its activities tremendously as the cold war developed. Other government agencies, such as the Senate Internal Security Committee,

the State Department, the Immigration Service, and the FBI, contributed to the anti-Communist propaganda. Then came Senator McCarthy. The memory of this dark era in the history of American intolerance is still so fresh as to need no documentation or special comment. On the unofficial level the hue and cry was taken up by super-patriots at all levels—from Clarence Manion to housewives.

It is, in the opinion of the writer, this unreasoning fear and hatred that have been the prime factor in causing our foreign policy to be so rigid and inflexible that we, and therefore the rest of the world also, have been unable to make any appreciable progress toward an enduring world peace since World War II. This same fear and hatred have also been chiefly responsible for the untenable premises on which our policy in Vietnam rest. No successful foreign policy can have as its chief ingredients fear and hatred.

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One of the most effective of the Administration's false premises in misleading the American public is that communism is a monolithic ideology, centrally created and centrally directed; a sort of disembodied force, one might say, moving stealthily about the world and slipping into every temporarily unoccupied nook and corner, only to emerge at a propitious moment to slay the unwary and rob them of their possessions. We are still in the McCarthy era in our foreign policy.

In his valiant but apparently unsuccessful attempt to clear away some of the myths which, like barnacles, were impeding our ship of state in the course of its foreign policy, Senator Fulbright stated on the floor of the United States Senate on March 25, 1964, that "the master myth of the cold war is that the Communist bloc is a monolith composed of governments which are not really governments at all but organized conspiracies, divided among themselves perhaps in certain matters of tactics, but all equally resolute and implacable in their determination to destroy the free world." He went on to show that there are many variations in the Communist world of which we should take advantage, and he concluded: "The myth is that every Communist state is an unmitigated evil and a relentless enemy of the free world; the reality is that some Communist regimes pose a threat to the free world while others pose little or none, and that if we will recognize these distinctions, we ourselves will be able to influence events in the Communist bloc in a way favorable to the security of the free world."

So far as the present Administration is concerned,

these words have fallen on deaf ears. Instead, we have denounced our enemies in Vietnam as "international Communist aggressors" carrying out an "international Communist conspiracy." Thus, by lumping them all together, we revert again to the myth of the monolith and create a greater unity among them than would otherwise exist, since the Soviet Union has even greater reason than we to fear the spread of Chinese influence in Southeast Asia.

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Another of our fallacious basic premises is that there are two legally independent nations in Vietnam. This is not so. The Geneva Agreements of 1954 (which is where we entered the picture) did not recognize the existence *de jure* of two nations in Vietnam. They recognized the existence of only two *de facto* but temporary *regimes* whose primary function was to administer the regrouping, i.e., separating, of the French armed forces from the Vietnamese armed forces, and whose secondary function was to maintain some semblance of law and order in the two areas while the regrouping was going on. It is important here to note that, in order to facilitate the regrouping, the Viet Minh forces (chiefly responsible for the victory over the French) agreed to evacuate considerable territory that they were occupying when hostilities ceased, in the expectation that this would hasten the departure of the French and the peaceful reunification of their country.



The final declaration at Geneva took pains to point out that "the military demarcation line [the 17° parallel] should not in any way be interpreted as constituting a political or territorial boundary." It did not envision the continuance of two separate governments in Vietnam but spoke rather of the "independence, *unity* and *territorial integrity*" of Vietnam and stated that "in order to ensure that . . . all necessary conditions obtain for free expression of the *national* will, general elections shall be held in July, 1956, under the supervision of an international commission. . . ." (Emphasis added.) This peaceful

reunification of Vietnam we were instrumental in preventing by acquiescing in Ngo Dinh Diem's refusal to participate in national elections.

It is clear then that the existence of *two* national governments in Vietnam has no legal foundation in the Geneva Agreements but rests rather on a violation of those agreements. It is also clear that, since the refusal of the South Vietnam regime to participate in national elections left force as the only means by which Vietnam could be reunited, the attempt of Communists in Vietnam, both north and south, to use this means of reuniting their country must be regarded as a civil war in a single, though temporarily divided, nation.

These plain facts our government has consistently ignored. Not only that, but at the very time we were greatly escalating the war in Vietnam in early 1965, it was invoking the Geneva Agreement's establishment of two nations in Vietnam as a justification of our "beefed up" support of South Vietnam and even went so far as to put forward the even more preposterous claim that "the Geneva accord already commits North Vietnam and Communist China to respect the independence of South Vietnam" (New York Times, February 21, 1965). When many members of the academic community, who had access to these facts, began to criticize vigorously the government's escalation of the hostilities in Vietnam, Dean Rusk, at a meeting of the American Society of International Law, remarked: "I continue to hear and see nonsense about the nature of the struggle [in Vietnam]. . . . I sometimes wonder at the gullibility of educated men and the stubborn disregard of plain facts by men who are supposed to be helping our young to learn—especially to learn how to think." This came with especially bad grace from Secretary of State Rusk when it was the State Department itself that was exhibiting a "stubborn disregard of plain facts," particularly in regard to the terms of the Geneva Agreements of 1954.

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A corollary premise which our government has predicted and on which much of its case rests is "aggression from the North," the title which it gave to its so-called White Paper on Vietnam, concerning which Hans J. Morgenthau made the following remarks:

Let it be said right away that the White Paper is a dismal failure. The discrepancy between its assertions and the factual evidence adduced to support them borders on the grotesque. It does nothing to disprove, and tends even to confirm,

what until the end of February had been official American doctrine: that the main body of the Viet Cong is composed of South Vietnamese and that eighty per cent to ninety per cent of their weapons are of American origin. ("We Are Deluding Ourselves in Vietnam," New York Times Magazine, April 18, 1965.)

Even if we disregard the contradiction of our government's policy pointed out by Professor Morgenthau, the premise of "aggression from the North" falls of its own weight because it has already been made clear that the struggle in Vietnam (even though there exists a civil war in South Vietnam) is, in the largest sense, a civil war in the *whole* of Vietnam, and the term "aggression" cannot properly be applied to civil wars. The proper term is "self-determination," a principle which we profess to hold in high esteem but the attainment of which in Vietnam we have been thwarting ever since we intervened in that unfortunate country. Self-determination is frequently achieved by force when all other means have been foreclosed (*vide* our own American Revolution), but force under such circumstances does not thereby become "aggression."

Hence our presence in Vietnam constitutes intervention, a practice which we have roundly denounced when practiced by others, although the new Johnson Doctrine seems to regard intervention as justifiable if there are Communists on the other side—as many as fifty, let's say. But intervention is intervention, no matter how you slice it, as Benjamin V. Cohen pointed out in a recent article:

The armed intervention of one state in the civil war of another state, whether at the request of the established government or its rival government, is in fact the use of force by the intervening state in its international relations, whether the civil war be called a war of liberation or a war in defense of freedom. ("After Twenty Years," Vista, July-August 1965.)

Such an intervention, he insists, does violence to the letter and spirit of the Charter of the United Nations.

Thus, in order to justify our policy in Vietnam, we are constrained to perpetuate two myths: (1) that there are two generally recognized *de jure* national governments in Vietnam; (2) that there is only one civil war and it is in South Vietnam, and aid given by Communists from North Vietnam in an attempt to reunify Vietnam is intervention by an outside nation and therefore "aggression." Actually, of course, the only troops of an outside nation in Vietnam are American troops.

Another of our fallacious premises is that we are fighting for the "freedom and independence of South Vietnam." Freedom in this case must mean the individual freedoms which we prize so highly; otherwise it would have the same meaning as independence and would be tautological. The independence argument has already been disposed of, so let us examine briefly the individual freedoms that we claim to be defending. Such freedoms have been practically unknown in Asia, and none of the many so-called governments holding sway in Saigon under the protecting arm of American might has provided, or even attempted to provide, any of the individual freedoms customarily associated with democratic societies. They would probably not have been greatly appreciated if they had been provided. One cannot talk "freedom" to a native with an empty stomach. What he is primarily interested in is material well-being and security. Individual freedom will become an alluring goal worth fighting for only when these more immediate needs have been met and when those who are to enjoy them have been sufficiently educated to appreciate their worth.



The real reason we are in Vietnam is to wage war against the Communists, not to defend the "freedom and independence" of the South Vietnamese. The latter are but pawns in our game of power politics. This is an American war, as President Johnson himself implicitly admitted in his broadcast press conference on July 28. It rests on another of our basic fallacious assumptions, namely, that unless the Communists are stopped in Southeast Asia, all is lost. This, in turn, rests in part on the well-known "falling domino" theory of the late Secretary of State Dulles, i.e., that if one of the smaller nations in Southeast Asia succumbs to Communist influence, the rest will inevitably follow suit. But this theory seems to have been already largely disproved by the experience of Burma, Malaysia, and the Philippines. Why, except as a matter of prestige in the game of power politics, should we insist on keeping a toe hold in Southeast Asia? Since we insist that our influence must be para-

mount in the Western Hemisphere and have stated that communism is not negotiable in this hemisphere, the logic of geopolitics would seem to justify Communist China in insisting that its influence must be paramount in Southeast Asia and that capitalism is not negotiable in its sphere. What's sauce for the goose is sauce for the gander. And do we really believe that, if all Southeast Asia should become Communist, it would constitute an unacceptable military threat to the security of the United States? If so, why should China not fear that capitalistic enclaves, manned by American troops and armaments, in its natural sphere of influence, constitute a military threat to its security? The only way around this is to fall back on the puerile argument that we are the good guys and they are the bad guys. Even if true, this would be of no avail in preserving world peace, for it is what the other side *believes* we are and *vice versa* that counts and that will determine the question of peace or war.

Another and final fallacious premise is that our national honor is involved because we are committed to the defense of South Vietnam and cannot back down on our pledged word. But whatever commitments we have made were made on a *quid pro quo* basis, i.e., our aid was offered in return for promises by the government of South Vietnam to introduce certain much needed social, economic and political reforms. But the contract was broken by South Vietnam, and this releases us from any obligation to fulfill our part of that contract.

Moreover, we have on other occasions been less than scrupulous on this matter of honor and our pledged word. For example, when we intervened in the Dominican Republic last April we violated our sacred pledge, given when we signed and ratified the Charter of the Organization of American States in 1948, not to intervene in the affairs of any of the other twenty American republics "for any reason whatever." Our intervention in Vietnam itself violates, as Benjamin Cohen pointed out, the letter and spirit of the Charter of the United Nations, by signing and ratifying which the U.S. pledged not to intervene unilaterally in the affairs of other states except as directed by the Security Council. And so it seems that it is not our honor, but mere expediency, which is involved in our continuing aid to South Vietnam.

These, then, are the basic premises and assumptions upon which we are operating in Vietnam and, if the above analysis is correct, no one of them is valid. But, it is frequently said, even if we made a

## ANSWERING THE CRITICS

*Allan C. Brownfeld*

mistake in intervening in Vietnam in the first place, we have gone too far to retreat without a disastrous loss of prestige. This, too, is a specious argument. If a mistake has been made, there is no point in compounding the error by refusing to admit it and by continuing stubbornly in the wrong direction at the expense of the lives of countless Vietnamese and, increasingly, of American youths as well. A truly great nation admits its mistakes and seeks to rectify them, as we are doing at home in regard to the Negro portion of our population. Moreover, France did not lose, but rather gained prestige by desisting from its wrongful course in both Vietnam and Algeria.

• The Administration has frequently complained that critics of its policy in Vietnam have offered nothing constructive to replace it. To examine in detail the alternative possibilities would extend this article beyond a reasonable length. A few words on the subject, however, may not be out of order. One possibility would be to reconvene at Geneva, as suggested at various times by Communist China, the Soviet Union, President de Gaulle and U Thant, the fourteen nations that have been responsible since 1962 for supervision of Laotian affairs and which have maintained there an acceptable, if precarious, political truce. More appropriate perhaps would be the reconvening of the various nations that worked out the Geneva Agreements of 1954 on Indo-China, with a view to implementing properly and in good faith the decisions reached on that occasion. A third possibility would be for the United States to refer the Vietnamese situation formally, in accordance with the provisions of the U.N. Charter, to the United Nations.

Any of these means could be employed by us without any appreciable "loss of face" and would evoke a sigh of relief in most of the rest of the world (except possibly in Communist China) and in the breasts of many American mothers. Even if the result of such a meeting were no better than the type of truce that was achieved in Korea, where for the past twelve years representatives of both sides (including the U.S.) have been meeting periodically across a table in a demilitarized zone to revile each other and accuse each other of minor violations of the truce, this would certainly be far better than the present situation in Vietnam. For the big guns remain silent and the people of both North and South Korea can go about their daily tasks without racing in terror for shelter at the sound of every distant airplane engine.

The frequency with which myths about the war in Vietnam are given some degree of credibility is an indication of the lack of real understanding on the part of many Americans, not only average citizens who might not be expected to understand the nuances of international law and diplomatic wrangling, but also those often self-proclaimed "sophisticated observers" who, on occasion, seem to understand so much that they fail to grasp the central point at issue.

Many critics in this category have stated repeatedly that, in their view, the war in Vietnam is a civil war which is essentially none of our business.

Yet the fact is clear that the war is not a civil war, but is a war of Communist aggression and expansion. As long ago as 1953 Mao Tse-tung set forth his goals for communism in Asia:

It appears that the time has come that we have to look upon Asia as our immediate goal. In Asia tactics of internal revolution, infiltration or intimidation into inaction or submission will yield an abundant harvest. . . . After the liberation of Indo-China, Burma will fall in line as a good foundation has been laid there. Then the reactionary ruling clique in Thailand will capitulate and the country will be in the hands of the people. The liberation of Indonesia, which will fall to the Communist camp as ripe fruit, will complete the circle around the Malay peninsula . . . if war can be averted, the success of our plan of peaceful penetration for other parts of Asia is almost assured.

This view was reinforced when General Giap, leader of North Vietnam's army, said: "If the special warfare that the United States imperialists are testing in South Vietnam is overcome, then it can be defeated everywhere in the world." In this sense, Vietnam is a testing ground for Communist strategy. If successful, such wars will be started in one underdeveloped nation after another.

A Communist victory in Vietnam would be taken as clear proof that the position of Communist China is correct, that America is indeed a "paper tiger," and that revolutionary activity elsewhere in Asia, Latin America, and Africa can proceed according to Mao Tse-tung's timetable. What happens in Vietnam has serious implications elsewhere in the world, and to consider it as if it existed in a vacuum is precisely what the Communists would have us do.

On September 2, 1965 Communist China provided the world with a blunt and detailed description of the strategy she intends to use to achieve her ends. In a 20,000 word article released on that date and signed by Lin Piao, the Minister of National Defense, she renamed the "War of National Liberation" the "People's War" and stated clearly that the conflict in Vietnam is a test for the future: "The United States has made South Vietnam a testing ground for the suppression of people's war... the struggle of the Vietnamese people against U.S. aggression and for national salvation is now the focus of the struggle of the people of the world against U.S. aggression..."

The Communists tell us clearly what the war in Vietnam means to them. They tell us frankly that if they are able to repel our efforts at defending the integrity of that country that such "People's Wars" will be carried to the entire underdeveloped world. Yet many in this country continue to repeat the myth that the conflict in Vietnam is a "civil war," and should not involve the United States.

Another popular point among some critics of our policy is that of "free elections." The Geneva Agreements of 1954, they argue, called for free elections in Vietnam but the South Vietnamese never held such elections and, therefore, are in violation of the treaty.

The fact is that South Vietnam was not a party to the Geneva Agreements, and neither was the United States. In January, 1955, President Diem discussed the portion of the agreement which related to free elections: "The clauses providing for the 1956 elections are extremely vague. But at one point they are clear—in stipulating that the elections are to be free. Everything will now depend on how free elections are defined." Diem said that he would want to see whether the conditions of freedom would exist in North Vietnam at the time scheduled for the elections. He asked: What would be the good of an impartial counting of votes if the voting had been preceded in North Vietnam by ruthless propaganda and terrorism on the part of a police state?

Senator John F. Kennedy in 1956 expressed his opinion concerning the question of elections: "... neither the United States nor Free Vietnam is ever going to be a party to an election obviously stacked in advance, urged upon us by those who have already broken their own pledges under the agreement they now seek to enforce."

The Communists state that they were prepared to hold "free elections" in North Vietnam in 1956. Does this mean that they were prepared to have a free opposition party, able to campaign throughout the

country, a free press, equal use of radio facilities, and a one or two year period during which such free and open discussion could be carried on? Further, was the government of North Vietnam prepared to guarantee that this "free election" in 1956 would not be the one and only free election ever to be held in Vietnam?

The facts are that an election in 1956 would not have been effectively supervised by any international body. It would have been preceded by no discussion or debate. There would have been no opposition in North Vietnam, no free press, no opportunity to present an alternative point of view. Since two-thirds of the people of Vietnam live north of the 17° parallel, such an election would merely have been a ratification of Communist rule, and those who hold either the United States or South Vietnam at fault for not holding one are simply indicating their support for what would have been the certain result.

Even Hans Morgenthau, a leading critic of our Vietnam policy, said this: "Free elections are very subtle instruments which require a dedication to certain moral values and the existence of certain moral conditions, which are by no means prevalent throughout the world, and certainly not prevalent in either North or South Vietnam."

A third myth enunciated by many domestic and foreign critics is that the United States is in violation of international law in pursuing the war in Vietnam. This is clearly not the case, as even a limited look at international law will show.

North Vietnam is engaged in continuing armed aggression against South Vietnam in violation of international agreements and international law. Under the law, a victim of armed aggression is permitted to defend itself and to organize a collective self-defense effort in which others may join. This right is recognized in Article 51 of the United Nations Charter which states:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way effect the authority and responsibility of the Security Council under the present Charter to take at any time such actions as it deems necessary in order to maintain or restore international peace and security.

## THE TEST OF THE "JUST WAR"

*Gordon Zahn*

Under the circumstances of repeated armed attack against South Vietnam by North Vietnam, it would appear that we are confronting a situation covered by Article 51. Under these circumstances South Vietnam requested and received assistance from the United States and other nations for a collective defense effort.

Article 2, Paragraph 4 of the U.N. Charter is also relevant to the Vietnamese situation. This section provides that "all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations."

The U.N. Charter, therefore, does not prohibit the use of force but simply prohibits force when used against the spirit and principles of the Charter. In addition, the Charter specifically provides for the use of force in self-defense through the United Nations itself and through regional arrangements. Since the actions of the United States and South Vietnam are defensive in nature they are wholly consistent with the Charter and with international law.

The most blatant myth, urged repeatedly by critics of the government, is that the Communists want peace and that we do not. But on April 7, 1965 President Johnson stated that the United States remains ready for unconditional discussions concerning Vietnam with the governments that are involved. He noted that we have stated this position over and over again to friend and foe alike. Hanoi and Peking, however, have refused to respond, calling the proposal "a hoax," and "a lie covered with flowers." During the period of May 13-16 the United States suspended bombing operations against North Vietnam. This fact was known to Hanoi but there was no response indicating an intention to move toward a settlement. The New China News Agency in Peking characterized the suspension as a "peace swindle."

The Communists want only the kind of "peace" which would descend upon the world were they to totally dominate all nations. Their efforts in Vietnam mark a beginning of Mao Tse-tung's new tactic of the "People's War." It is not a civil war, although the Communists have made every attempt to camouflage it as such. And in their efforts at labeling the United States as a violator of international agreements and law they have made a concurrent attempt at hiding the fact of their own ceaseless aggression.

We must not allow ourselves to be confused by the myths spread by often well-meaning critics. It is part of the Communist goal of world domination to divide the free world, and we must resist this by pointing out the facts in this crucial arena of conflict.

Let me begin by confessing that my personal opposition to the American military operations in North and South Vietnam derives from a broader commitment to religious pacifism. I regard the acts being performed by our government and its forces as a direct violation of the letter and the spirit of the Christian revelation. To the extent that they are conducted "in my name," so to speak, without affording me or the others who share my convictions some effective and still legal way to dissociate myself from this immorality, my rights as a citizen to live according to my religious beliefs are also being violated. And if some have already been forced into illegal protest, this should neither surprise nor offend those who have witnessed these protests. Instead, the offenders deserve honor and respect for keeping alive the American traditions of dissent and even disobedience to unjust or immoral acts on the part of men holding political power and authority. However much one may disapprove of the specific means chosen, whether it be burning their draft cards or burning themselves, this must not be permitted to prejudice or obscure the point the protesters are trying to make.

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But I do not propose here to praise those who have raised their voices in opposition to the American policies in Vietnam. Instead, this essay seeks to pose the question of why others (certain "others" in particular) have not joined in this opposition. It is, of course, predictable that religious pacifists would take a stand against the war, just as it is predictable that their opposite numbers, the dedicated anti-Communist crusaders, would be open and fervent in its support. What is less predictable (except, perhaps, to a few cynics like myself) is the course of action followed thus far by the "moral realists" in between, the men who hold, on the one hand, that war cannot be excluded from the range of Christian options but who also insist, on the other, that only the so-called "just defensive war" can be reconciled with Christian values and behavior.

Many of us have waited, but in vain, for these most respected theologians and their supporting journalists to apply their talents to the crucial question of whether or not the present conflict does actually meet the test of the well-known conditions of the just war set forth in the standard moral guidance hand-

books. One would think that the war in Vietnam offers a handy opportunity to demonstrate the continued validity of these teachings. After all, if (as some of these writers have gone to great lengths to declare) it is possible to justify even some types of nuclear war, a relatively limited conventional war should not be too serious a challenge for them.

Indeed, the current hostilities do more than offer an opportunity to test the applicability of the old traditions to war as we know it today; in a very real sense they present an *obligation* for those who have insisted that these teachings are still relevant to nations and wars in the modern world to do so. Readers of this journal may already be aware that I have argued elsewhere and often that these conditions are no longer relevant and that Christians must finally reject the whole structure of the "just war" morality as a potential source of serious moral scandal. Now, some prominent Catholic spokesmen at the Vatican Council—including Cardinal Alfrink, Patriarch Maximos, and even so conservative a moralist as Cardinal Ottaviani—seem to be taking a somewhat similar position, and this is clearly another reason for the more traditional thinkers to realize that the time has now arrived, as the crude phrase has it, to "put up or shut up."

I have observed, of course, in recent conferences I have attended, that many of these moralists have taken an openly pro-Administration stand. This, I suppose, might be taken by some as the answer I am demanding here. Yet one must not be too quick to accept this as *prima facie* evidence that the test has been made and that all the conditions of the just war have been fulfilled. It is at least equally possible that the long and consistent pattern of history is being repeated, for it has always been the case that those who are most devoted to the development and dissemination of just war theories in the abstract have usually been lamentably reticent about applying their fine theories to actual wars-in-progress. German theologians of all Christian persuasions would probably agree today that Adolf Hitler's wars of aggression were certainly not the "just wars" set forth in Scholastic theology. Unfortunately, none of them seem to have bothered to turn to their elaborately formulated rules and principles at the time when one national boundary after another was being crossed by invading Nazi armies.

The point I am making here was given its sharpest illustration in a little pamphlet prepared by one of those same German theologians in 1940 and intended for the instruction of the ordinary Catholic called to

service in those armies. His answer to their question, "What is there to do?" was simple and direct:

Now there is no point in raising the question of the just war and introducing all sorts of "ifs," "ands," or "buts." A scientific judgment concerning the causes and origins of the war is absolutely impossible today because the prerequisites for such a judgment are not available to us. This must wait until a later time when the documents of both sides are available. Now the individual has but one course open to him: to do his best with faith in the cause of his *Volk*.



That is why, when I see American theologians, Catholic and Protestant, loyally supporting the nation's cause in Vietnam, I am not satisfied with what appears to be the obvious conclusion to be drawn. I strongly suspect that they, too, have decided that now is simply not "the time" to raise the question of whether this war is just or not; they, too, are merely going ahead with faith in the good character and intentions of our national leaders. Later, perhaps, when it is all over, we may get a few scholarly articles or books on the subject. But only perhaps. Twenty-five years have passed without the German theologians producing the answers those young Catholics of the Nazi era were promised.

I must proceed with some caution here. I am told that writings of mine were criticized at a recent conference in America by a distinguished scholar who declared that I will not be "satisfied" until I convince people that America is just as bad as Hitler's Germany. Strictly speaking, of course, this is sheer nonsense, but there is one sense in which his charge does contain more than a kernel of truth. No one could hold seriously that even the atrocities of, let us say, Hiroshima or Nagasaki matched in scope or intent the atrocities committed by the Hitler regime—just as one could not say that a man guilty of a single murder in a moment of weakness or despair is "as bad" as another who can boast of a long series of killings for the sheer pleasure of killing. Once this has been granted, however, one must also insist that each separate act of calculated murder is in itself equally bad, that the essential evil is not changed substan-

tially by considerations of the number of victims or gradations of malicious intent. Thus it can be held that every nation which involves itself in an unjust war is "as bad" as every other nation so involved, regardless of how much we may choose to distinguish between differing degrees of injustice once the awful threshold has been crossed.

The point of all this is that I believe that threshold has been crossed in Vietnam because the American war effort violates or ignores at least four of the conditions of the just war. To say this does not mean, of course, that I consider the war "just" for the other side. But since we should be concerned first with our own moral stance, I will limit myself to the American operations. The war is unjust, I submit, because it has *not* been declared or initiated by legitimate authority. It was *not* undertaken as a last resort after all other avenues to a just solution had been tried without success. It has employed weapons and strategies which have *not* discriminated between combatant and non-combatant (and which have exceeded all proper limits even as far as the actual combatants are concerned!). Finally, it has violated the principle of proportionality which requires that the evil committed be no greater than the good achieved. The failure to meet even one of the conditions of a just war is enough to render a given war unjust; the failure to meet four of them ought not to be passed over in silence, patriotic, prudential, or otherwise.

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The first objection is not based, as one might at first assume, on the doubtful legitimacy of the succession of South Vietnamese governments created and sustained by American power, though this could be viewed as a separate objection deserving serious consideration. The real violation lies rather in the fact that there has been no formal declaration of war (something taken for granted under Scholastic tradition) coupled with the fact that the Executive, by waging such an undeclared war, is acting in open contravention of established constitutional processes. To revert to the guilt punishment framework traditionally employed to establish the validity of "just war" conceptualization, this means that the "execution" of the adversaries in Vietnam has been undertaken by Mr. Johnson and his Administration without "sentence" being passed (the declaration of war) in conformity with "due process" (the formal approval of Congress required by the Constitution).

Let no one impatiently protest that this is an exercise in sterile legalism; after all, this is really what the whole "just war theology" involves. It was in-

troduced into Christianity as a laboriously constructed device intended to free the believer from the strictures of an earlier, more pacifist tradition which relied mainly upon a literal interpretation of the Fifth Commandment and forbade the bearing of arms and the killing of one's fellow man. As such it necessarily took shape as a carefully and rigidly defined "exception" and, though later generations have elaborated the definitions, it remains just that: a legalistic formula covering an "exception" to the general proscription against killing. It should follow that whenever these rules are violated by a given war—or once the nature of war itself has developed so that the rules can no longer apply—the "exception" no longer holds and Christians must again revert to the Commandment and its general proscription. To hold otherwise, to suggest that when the rules no longer fit they can be modified or rewritten to serve the new conditions, would be to introduce a degree of relativism into morality which would make a mockery of Christ's teachings and example. Sadly enough, there are some who seem ready to do just that, who would propose a kind of "situation ethics" which could serve as an elastic ruler that can be stretched to "justify" any and all wars a nation might choose to wage.

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The second objection, however, is more concerned with the substance than with the form of our national involvement. The principle has always been recognized that war, to be regarded as just, must be a last resort and every alternative approach to a just solution must have been tried and must have failed before military action can begin. No one could seriously argue that this condition has been met with respect to the war in Vietnam. Our government did not call upon the Geneva guarantor powers to assume their proper role in resolving the difficulties that had arisen with respect to the Geneva Agreements of 1954: in fact, our entire policy constituted a repudiation of that agreement (to which we refused our assent from the very beginning) and the international authority it established. Nor did we refer to the United Nations an issue which so obviously threatened the peace of the entire world; here, too, we made it quite clear that U.N. interference would not be welcomed or tolerated. True, once we found ourselves bogged down in a losing battle, some gestures were made to the U.N. as a possible intermediary, but this cannot mask the fact that these and other alternatives were not considered at the outset. To make matters worse, we have now learned that "peace feelers" were advanced by Hanoi at least

twice and were repulsed (in one case, ignored altogether) by the American government at the very time it decided to escalate the war in scope and intensity. The patent hypocrisy of our self-righteous complaints that the adversary is now refusing our invitation to come to the peace table merely aggravates the original failure on our part to seek some peaceful solution under international auspices before resorting to open military operations in what thereby became an unjust war.

Once hostilities were in progress in violation of these first two conditions, we proceeded to permit the use of means (whether by our own forces or by those of the South Vietnamese allies we equip and direct) that are an affront to human decency and will remain a source of lasting shame to our nation. The accidental bombing of a "friendly" village has given tragic evidence of the kind of casualties produced by our blankets of napalm and "lazy-dog" bombings. The attacks upon the territory of North Vietnam are aggressive acts of war which disregard the long-standing distinction in international law between "belligerent" and "non-belligerent." We should be familiar enough with this distinction, having used it in the past to protest German actions against our vessels which were aiding Hitler's adversaries in much the same way that North Vietnam is aiding the insurgent forces of the NLF. Or are we now prepared to say that Hitler would have been "justified" in bombing Detroit factories or port installations at New York to disturb the contributions we were making as "the Arsenal of Democracy" in the years preceding our entry into World War II? Even our use of gas, harmless though it may be, did constitute a violation of the Geneva Convention against the use of any form of gas in warfare. The fact that we did not sign these conventions is no excuse. They have become a recognized part of the corpus of international law, and we are morally bound to observe them.

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My fourth, though not necessarily final, objection centers upon the question of proportionality. It is difficult to even conceive of any real proportion between the *certainly* of the injury and destruction our forces are working in Vietnam and the *hypothetical* (at best, possible) evil results that *might* follow the increase of Communist influence we foresee in the event that the two Vietnams are reunited under Hanoi's jurisdiction. The latter must remain a debatable set of evils, an outcome by no means certain as men like Hans Morgenthau, Walter Lippmann, and others have pointed out. On the other hand, the

evils we are already committing or permitting are all too real and grimly demonstrable in the daily news dispatches from Vietnam covering the fighting now in progress.

If one prefers to shift the focus a bit to introduce the much revered "principle of the double effect," the case against the war is no less strong. The principle, again as traditionally understood and applied, requires first that the good that is intended (presumably that of halting the possible spread of Communist influence) must be at least as certain and as great as the evil permitted (the war and its dreadful effects upon the population and land of the war-torn country). Secondly, this good effect is not to be contingent upon or produced by the evil effect. It should require no great elaboration to show that the Vietnam war lacks justification on both of these counts.

It is important to note, too, that with the possible exception of the objection in terms of proportionality, the case I have presented here is not open to criticism on the grounds of a lack of information. The facts are simply not open to challenge: the war has not been declared in accordance with constitutional provisions; there was no recourse to existing international agencies prior to our military involvement, and subsequent interventions by such agencies have been ignored or rejected by our government; and the methods employed have not discriminated between the combatant and non-combatant, between the innocent and the guilty.

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In short, the burden of proof should lie with those who accept the "just war/unjust war" distinction and who hold that it is possible for the Christian to accept and support the continuing hostilities. Since, as I have made clear, my rejection of the war is based on other grounds, my interest is largely that of the curious onlooker. But it goes much deeper than that too. For one who has been critical, as I have been, of the failure of Christians in other countries to recognize the injustice of their nations' wars and to dissociate themselves from these injustices, it cannot be a matter of indifference to see the Christians of his own nation duplicating that tragic failure. If, as I have argued here, the American involvement in Vietnam violates or ignores the required conditions for the just war, the logical conclusion would seem to be that each of us has an obligation to refuse his direct support and, even more, to do what he can to persuade his government leaders to bring a speedy end to our nation's unjust and immoral military operations.