

INTERNATIONAL CITIZENS' TRIBUNALS

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Arthur Jay Klinghoffer and Judith Apter Klinghoffer. *International Citizens' Tribunals: Mobilizing Public Opinion to Advance Human Rights*. New York: Palgrave, 2002. Pp. xii, 256. US\$49.95.

If you ask Google to search for "International Law", it provides close to two million sites to look at. According to *The New Encyclopaedia Britannica* (1982), "International law" refers to "the body of legal rules that apply between sovereign states and such other entities as have been granted international personality (status acknowledged by the international community). The term was coined by Jeremy Bentham and is synonymous with the term 'law of nations' and its equivalents in other languages" (Macropaedia, 9: 744). The *Britannica* does not have any entries for "International Citizens' Tribunal" or "International Peoples' Tribunal", but Google gives you four sites for the former and 249 for the latter. "International War Crimes Tribunal" gives you 18,600 matches. "Russell Tribunal" gives you 917, "Bertrand Russell International War Crimes Tribunal" 19 and "Russell II Tribunal" zero sites to look at.

Bertrand Russell supplied the inspiration to establish the Bertrand Russell Peace Foundation (921 hits) in 1963 as an international forum to carry forward his work for peace, human rights and social justice. It was Russell and people who were connected to the Bertrand Russell Peace Foundation who were behind the first International War Crimes Tribunal, also called "the Russell Tribunal" or "the Vietnam Tribunal". Knowing what was going on in Vietnam, Russell thought (in spite of his theoretical views on ethics) that it would be *morally wrong* not to try to "Prevent the Crime of Silence". The first session was held in Stockholm in May 1967 and the second in Roskilde, just south of Copenhagen, in November 1967. The purpose of the tribunal was to investigate if the Americans and their allies had committed war crimes in the Vietnam war.

Since then a number of other tribunals have taken place borrowing Russell's name, although only a few have been directly connected with Bertrand Russell and the Russell Peace Foundation, which is still active today led by Ken Coates

and publishing the journal *The Spokesman*, which was founded by Russell near the end of his life. According to its website, “it not only concerns itself with the many matters of peace and social justice which preoccupied Russell, but also examines in depth the present order, its structures, its beneficiaries and its victims. It includes the Peace Dossier (formerly The London Bulletin) and an extensive review section” (www.russfound.org). Noam Chomsky recently described the *Spokesman* as “really first rate”.

Before I read the Klinghoffers’ book, I had for some time been interested in the tribunal held in Stockholm in 1967 and read the reports from Stockholm (*Against the Crime of Silence: Proceedings of the Russell International War Crimes Tribunal*, 1968), *Prevent the Crime of Silence* (1971), and an unpublished essay by a Swede, Fredrik Lundblad, who wrote in Swedish about “The International War Crimes Tribunal: the Stockholm Session May 2–10, 1967; Preparations, Reception and Accomplishment in Sweden” (1994), but I had very vague ideas about its connections with similar previous events and—most importantly—no idea about its influencing so many other similar tribunals.

There is no doubt in my mind that the Klinghoffers have written a most informative and important book about issues that concern us all as individuals, citizens of states and, as Russell said “free citizens of the universe”.

The book consists of sixteen chapters, which, apart from the first chapter on “Citizens’ Power”, are divided into four major sections: the Reichstag Fire Case, the Moscow Show Trials Case, the Vietnam War Crimes Case and Continuum.

At the beginning of the first chapter the Klinghoffers introduce Russell as a citizen of Great Britain preparing the International War Crimes Tribunal to charge the United States with war crimes, crimes against humanity, and genocide in Vietnam. The Klinghoffers highlight a fundamental problem: “Such a venue had no legal standing” (p. 1). The US government had really nothing to fear, but the Tribunal could give the country a bad reputation, so it was concerned. The Klinghoffers quickly formulate one of the underlying problems with international citizens’ tribunals: “State authority was being challenged on the basis of human rights practices, and justice was being played out across national boundaries. Was such a process an instructive exercise in democratic assertion, a triumph of liberalism’s standards of objectivity, or was it ... a new form of kangaroo court? Could the populist remedy constitute a greater travesty of justice than the state’s malfeasance?”

The only reference in the *Britannica* to the Russell Tribunal is in Volume 29 in an entry called “War Crimes”. The author refers to the Tribunal as “a juridical farce” (p. 648) and supports this by the fact that the so-called “court” had turned down the offer by a Swedish attorney to represent the United States. As will be clear later, the Klinghoffers are not totally positive regarding all aspects

of the Tribunal and in order to put the event into the larger context of “mobilizing public opinion to advance human rights”, they bring in the ideas of Walter Lippmann under a subchapter called “Evolution”.

Lippmann was a Harvard-educated journalist who helped President Wilson prepare for the Versailles peace conference. His writings on the role of public opinion became very influential. He believed that an aroused international citizenry was an essential check on arbitrary power. But what is the first example of an international citizens’ tribunal for the Klinghoffers? How do they come to the conclusion that the Russell Tribunal was only the third example?

After the First World War Kaiser Willhelm II of Germany was charged with war crimes and Turkish leaders with crimes against humanity because of their treatment of the Armenians. This was in part due to public pressure. However, the authors do not clearly say why these two events do not count as the two first examples of international citizens’ tribunals. In spite of this they draw the conclusion that “Human rights advocates thus developed international commissions of inquiry during the interwar period as the antidote to an ineffective legal order. These panels of intellectuals scrutinized the legal institutions of Nazi Germany and the Soviet Union by organizing hearings on the Reichstag fire of 1933 and the Moscow show trial of 1936” (p. 2). Suddenly we have two legitimate examples of “international citizens’ tribunals”. The line of argumentation seems to depend on a distinction between “international citizens’ tribunals” and “international commissions of inquiry”, which in turn seems to depend on who was elected as members of the panels: people with special knowledge or average citizens? At this point I find it hard to follow their terminology. However, they come to the conclusion that “The Russell Tribunal continued the tradition of the two earlier tribunals in the sense of harnessing public opinion to the wagon of human rights. It differed, however, in accentuating state-to-state relations under international law—thereby setting the stage for later hearings that transformed such law in the direction of leftist radicalism” (p. 3).

The first tribunal was set up in order to prove that the person who had started the fire had acted alone and was not part of a larger conspiracy. The “Dewey commission” was set up to clear Leon Trotsky’s name from the accusations of Josef Stalin. These two tribunals thus tried to prove the innocence of individuals wrongly accused by two totalitarian governments. The purpose of the Russell Tribunal was to prove that war crimes had been committed by a supposedly democratic regime. I here see more differences than similarities. The terminological difficulties increase when the Klinghoffers explain why they prefer “citizens’ tribunals” to “peoples’ tribunals” and come to the conclusion that: “This study, in order to accentuate participatory but non extremist norms, will therefore refer to the quasi-judicial bodies under examination as ‘international citizens’ tribunals’” (p. 3).

The rest of Chapter 1 is divided into four more subchapters; “The Humanitarian Upsurge”, “The Radical Challenge”, “Drawing Parallels” and “Reflections”. The exact purpose of these subchapters is not clear to me, but I will discuss some of the information given there. The authors bring up the tribunals held in Nuremberg and Tokyo after World War II and say that they “marked a crucial turning point in state-citizen relations” (p. 4). They were soon followed by the establishment of the United Nations Commission on Human Rights (1946), the Genocide Convention (1948), and the International Covenants on Economic and Social Rights and on Civil and Political Rights (1966).

They compare the Nuremberg trials with the Russell Tribunal and point out some interesting observations. The United States would never allow its own activities in Vietnam to be officially scrutinized in the light of the rules of warfare established in Nuremberg. The Nuremberg trials were *ex post facto* and could not change the outcome of the war, but the Russell Tribunal could.

In “The Radical Challenge” they say that the three first tribunals “were based on somewhat traditional legal concepts”. Today most tribunal proponents advance a more radical and populist vision aimed at scrutinizing different effects of “global capitalism”. The prime aim is to change international law so that justice will be based on giving voice to the weak and oppressed. “Unfortunately”, the authors add, “this may be at the expense of due process” (p. 5).

In “Drawing Parallels” the authors say that thus far tribunals “have had deficiencies that have hindered efficacy, but most of these problems are rectifiable” (p. 7). As an example they bring up the impartiality of the members of the Russell Tribunal. Had they not made up their minds long before they heard any evidence? What about the crimes committed by the National Liberation Front—why were not they investigated?

In “Reflections” the authors say that the Russell Tribunal’s legal framework was based on the newly developing radical interpretation of international law that is rejected by many traditionalists. They find clear anticapitalist and deconstructionist attitudes in many of the new tribunals. “In essence, tribunals have become a weapon of the radical left in its battle with ‘global capitalism’.... This evolving linkage between international citizens’ tribunals and radical populist platforms has had a negative impact on public relations, with the media devoting decreasing attention to recent cases.” Although critical of this development, the authors end the first chapter by saying: “Tribunals can indeed contribute to the public good, and are conducive toward furthering civil society, but first they must undergo reforms that go back to the basics of promoting democratic values and the ideological blindness of justice” (p. 10).

I think this last quotation both reveals the authors’ own political position and at the same time pinpoints the major underlying question: whether we can separate issues of justice from our political and religious convictions. In other

words: is it not naive to think that people with different ethical, political and religious convictions will be able to agree about what is just and fair concerning any given issue? Many theologians, like my old teacher Harvey Cox at Harvard Divinity School, believe in “natural law”, basically that we all know in our hearts what is right and what is wrong. If this was the case, why do not all believers in God share the same ethical and political views?

The Klinghoffers’ presentation of the Reichstag Fire Case and the Moscow Show Trials Case is interesting, but I shall now turn to the case which is the heart and the centre of the book: the Vietnam War Crimes Case. It is divided into five chapters: the Activist Philosopher, Plan of Action, Behind the Scenes at Stockholm, the Swedish Context and Second Wind. Russell’s goal was to alter American policy while the Vietnam war was in progress, not to redress a previous miscarriage of justice. In a subchapter called “Lord Russell’s Vision” the authors say that “Russell was a perpetual adolescent in the sense of seeking new experiences and causes and he took great pleasure in the role of a gadfly who could attract the media’s attention and shock the sensibilities of the political establishment” (p. 103). I find this kind of psychoanalyzing a bit annoying; it makes it sound like Russell protested against the war in order to get personal public attention rather than expressing his concern for justice.

In “Plan of Action” we follow the development of the tribunal and get to know more about the part played by Ralph Schoenman. One of the first problems was to find internationally known people who were prepared to participate as members of the tribunal. This involved a lot of work, but at the end quite an impressive crowd had been gathered, and Schoenman enticed both Jean-Paul Sartre and Simone de Beauvoir to join. Sartre was later appointed chairman of the proceedings in Stockholm. Russell himself was too old to participate in person. Another problem was to find a place to hold the tribunal. That turned out to be quite serious. The tribunal was refused permission to convene by France, Britain and Switzerland but eventually found a home in Sweden for the first session and in Denmark for the second.

In “Behind the Scenes at Stockholm” we get to know which members finally made it to Stockholm, which did not and who their replacements were. Members differed on the status and the purpose of the tribunal. Schoenman made several personal statements that were in conflict with Swedish law which prohibited offensive statements about the chiefs of state of friendly foreign countries, but through the intervention of Peter Weiss and other members of the Swedish support committee things could proceed as planned.

The tribunal addressed three questions: (1) Did the US violate international law by committing aggression? (2) To what degree were civilian sites bombed? (3) Did Australia, New Zealand, and South Korea act as American accomplices and commit aggression in Vietnam? (p. 126).

After the testimony was completed on May 9, the members met until 4:00 a.m. the next day to render their verdict. It was close to unanimous. The US had violated international law through its aggression and bombed civilian targets and used prohibited weapons, and the allies of the US were found to be accomplices in this aggression. Russell's closing statement to the tribunal, read by Schoenman, declared: "We will be judged not by our reputations or our preferences but by our will to act" (p. 132). And Russell certainly had a will to act on behalf of the weak and oppressed.

In "The Swedish Context" we get a short but well-informed description of how Prime Minister Tage Erlander tried to avoid a political conflict with the US and at the same time uphold the right of free speech. It seems that if Erlander had had his way, the tribunal would have had to look for another meeting place, but he handed the case over to his Foreign Minister, Torsten Nilsson, and to Olof Palme, who were both very critical of the Vietnam War. The rise of the New Left during the 1960s had radicalized Swedish youth, and they were several years ahead of their American counterparts in their vehemence against the war. According to the Klinghoffers, this was in part because "they were trying to atone for a sense of guilt over Sweden's neutrality during the Nazi era" (p. 143). I wonder what kind of evidence could support this psychological explanation. The government's catering to the left contributed to a landslide Social Democratic victory in the September 1968 elections, and the party garnered a majority of seats in Parliament for the first time since 1940.

"Second Wind" deals with the hearings in Japan and Denmark later in 1967. In Tokyo only Japanese could participate officially as tribunal members and witnesses, and in Roskilde all former members could participate except Ralph Schoenman, who was refused entry at Copenhagen's airport on the ground that he did not possess a valid passport. The real reason was, of course, that the Danish government did not want to have anything to do with him and not long afterwards even Russell cut all ties with him.

Chapter 15, "Proliferation", gives a survey of some of the tribunals that were inspired by the Russell Tribunal. One was held in 1970 that was directly related to the original one. Then a loose framework for a Russell II series of tribunals was established because of the efforts of the Russell Peace Foundation, Lelio Basso and Vladimir Dedijer, with the support of Russell's widow, Edith, and Ken Coates. Basso became the prime mover in the tribunal process. Three Russell II hearings soon ensued on repression in Latin America, freedom of opinion in West Germany, and the condition of American Indians. These tribunals provided the impetus for the creation in June 1979 of the Permanent People's Tribunal. The Fifth International Russell Tribunal, on Human Rights in Psychiatry, was held in Berlin in the summer of 2001.

If the reader wants to know more about the PPT and other tribunals and the

Klinghoffers' agenda for reform to make tribunals more efficient, I heartily recommend this very stimulating book. If, as some critics seem to think, Russell's writings on ethics and politics were worthless, this book shows that his political actions were not.