

A SECONDARY BIBLIOGRAPHY OF THE INTERNATIONAL WAR CRIMES TRIBUNAL: LONDON, STOCKHOLM AND ROSKILDE

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I. INTRODUCTION

The International War Crimes Tribunal (IWCT) on the United States' warfare in Vietnam was founded in 1966 through the moral outrage of the British philosopher and political activist Bertrand Russell, his private secretary Ralph Schoenman, Ken Coates, Chris Farley and other people connected to the Bertrand Russell Peace Foundation and the Vietnam Solidarity Campaign. They wanted to inform the world about the US government's attempts to convince the Vietnamese population (who were mainly peasants) that capitalism is a better political-economical system than communism, by killing as many "Vietcong"¹ and unarmed seniors, women and children as possible with regular carpet bombing, cluster and phosphorus bombs, napalm, Agent Orange and other illegal weaponry, and offering the survivors pleasant lodgings in wired-in hamlets far away from their homes and the graves of their ancestors.

This charm offensive went on for more than ten years, and although three times as many bombs fell on Vietnam, Laos and Cambodia as were dropped during the whole Second World War, surprisingly enough the Vietnamese were not to be converted.

In the 1960s this macabre spectacle could be watched on television all over the world, but very few protested against it. Until 1968 the majority of American

¹ See Russell's exposure of this derogatory contraction of "Viet Nam Cong San" ("Vietnamese Communists") in his *War Crimes in Vietnam* (London: Allen and Unwin, 1967), p. 45n. On the importance of language, cf. the legendary remark of Russell's correspondent, Mohammad Ali: "I ain't got no quarrel with them Viet Cong.... No Viet Cong ever called me nigger." Russell attempted to enlist Ali on behalf of the IWCT (see the RA for their letters of 8 April, 18, 31 May, 11 Sept., 17 Oct., 15 Nov. and 16 Dec. 1967).

citizens were for the war, although some earlier, well-attended rallies against it, like the 1967 march on the Pentagon in late October,² might have made some think differently. SDS (Students for a Democratic Society)³ and other antiwar organizations never became the united force that could challenge the government's reliance on what Nixon called the "silent majority". It was not until the US attacked Cambodia in 1970 that the protests reached such levels that the government started to worry about being unable to contain them, particularly after the killing of four students at Kent State University and two at Jackson State University two weeks later. As in spring 1968, many universities had to cancel all teaching and prematurely end the semester.⁴ But as shown by the reactions to the violence that Mayor Daley launched against the antiwar demonstrators at the Democratic convention in Chicago that summer, the students, hippies, communists, etc., got what they deserved according to the average god-fearing, tax-paying, law-obeying American citizen.⁵

The protests in Europe had in general been moderate up to this point but gained momentum after the Tet Offensive of January 1968. However, the mythologized student protests that erupted in Paris in the beginning of that May⁶ had little to do with protests against the US's systematic murdering of what they considered an inferior race. French students and workers were protesting against their own government for different reasons. President de Gaulle⁷ turned down President Johnson's request to join the war, but he was not prepared to criticize a NATO ally on moral grounds. Not even the US's usual closest friend, the UK, was willing to send troops. When Johnson realized that he would have to fight

² See Norman Mailer's *Armies of the Night: History as a Novel, the Novel as History* (New York, New American Library, 1968). He met up with Noam Chomsky, "a slim sharp-featured man with an ascetic expression, and an air of gentle but absolute moral integrity" (p. 180). Both were arrested and spent a night in prison together.

³ See Kirkpatrick Sale, *SDS* (New York: Random House, 1973), p. 348. See also Natalie Atkin, "From Margin to Mainstream: American Peace Movements, 1950s–1970s", in issue "Peace Movements in Western Europe, Japan and the USA since 1945", *Mitteilungsblatt des Instituts für soziale Bewegungen*, no. 32 (2004): 175–92.

⁴ See *May 1970: Birth of the Antiwar University* (New York: Pathfinder P., 1971).

⁵ The so-called "Chicago conspiracy trials" or "Chicago 7 trials" that followed, when seven defendants—Abbie Hoffman, Jerry Rubin, David Dellinger, Tom Hayden, Rennie Davis, John Froines and Lee Weiner—were charged with conspiracy and inciting to riot, showed that the US government was not going to tolerate such "unpatriotic" and "criminal" behaviour. See James Tracy, *Direct Action: Radical Pacifism from the Union Eight to the Chicago Seven* (Chicago: U. of Chicago P., 1996), pp. 145–51.

⁶ See Mark Kurlansky, *1968: the Year That Rocked the World* (New York: Ballantine Books, 2004), and David Caute, *1968: the Year of the Barricades* (London: Hamish Hamilton, 1988), pp. 3, 7–8, 12–13.

⁷ Fredrik Logevall, "De Gaulle, Neutralization, and American Involvement in Vietnam, 1963–1964", *Pacific Historical Review* 61 (1992): 69–102.

alone, he was reported to have asked: “Are we the sole defenders of freedom in the world?”⁸ The most powerful and enduring but peaceful protests seem to have evolved in the Scandinavian countries, particularly Sweden, where the NLF-Movement and other less anti-American organizations did heroic work to keep the ordinary citizen informed about American war crimes being committed in the attempt to stop alleged communist aggression. Japanese students had their own special reasons to oppose the war.

Few European intellectuals came out against the war in its earliest stages. Bertrand Russell was an exception and, already in spring 1963, started to protest by sending articles and letters to major American and British newspapers in which he presented incriminating information about war crimes committed by the US and its allies. He found this information by reading the same newspapers, as well as official US documents.⁹

When Russell realized that the United Nations was impotent and nothing had been done to create a permanent International Criminal Court to implement the Nuremberg principles, he created his own tribunal¹⁰ and invited

⁸ See George Herring, “Fighting without Allies: the International Dimensions of the America’s Failure in Vietnam”, in *Why the North Won the Vietnam War*, ed. Marc Jason Gilbert (New York: Palgrave, 2002), p. 80. “Sweden”, Herring writes, “posed special problems. Traditionally neutral in world affairs, Sweden also had a long history of close ties with the United States, but the Swedish government permitted philosopher and pacifist Bertrand Russell to hold war crimes trials in Stockholm, with America the absent—and undefended—defendant. Even more galling to Washington, Sweden became a haven for US war deserters, and the Swedish government assisted them by giving them work permits, temporary housing, and a small pension. In 1968 Sweden reduced its representation in South Vietnam to consular status, and in 1969 it recognized North Vietnam” (p. 82). For more detailed information, see F. Logevall, “The Swedish-American Conflict over Vietnam”, *Diplomatic History* 17 (1993): 421–45 (at pp. 429–31). For Sweden’s secret meetings with representatives from North Vietnam, see Herring, ed., *The Secret Diplomacy of the Vietnam War: the Negotiating Volumes of the Pentagon Papers* (Austin: U. of Texas P., 1983). The IWCT is discussed at pp. 531, 688–9, 693.

⁹ See Ray Perkins, ed., *Yours Faithfully Bertrand Russell: a Lifelong Fight for Peace, Justice, and Truth in Letters to the Editor* (Chicago: Open Court, 2002), pp. 360–95. It is a common misconception that US only entered the war after one of its warships had been attacked in the Gulf of Tonkin in early August 1964, but as Chomsky has pointed out, it was President Kennedy, who, already in 1962, started secret bombings and attacks in South Vietnam. See *Manufacturing Consent: the Political Economy of the Mass Media* (New York: Pantheon Books, 2002), Chaps. 5 and 6, and Chomsky, *Chronicles of Dissent*, interviews by David Barsmian (Vancouver: New Star Books, 1992), pp. 81–6.

¹⁰ There are different versions of where the idea of a war crimes tribunal originated. Of course, Russell had the Nuremberg trials to fall back on, but the idea of an independent citizens’ tribunal was, so to speak “in the air”. Nicholas Griffin (*SLBR* 2: 585ff.) connects the origins of the idea to the trial of David Mitchell, who refused to fight in Vietnam, since he thought that would force him to commit war crimes. Russell wrote a

prominent and morally sensitive people to be part of it, the best-known being the French philosopher and writer Jean-Paul Sartre, who during the second session in Denmark convinced the other members of the tribunal that the US was committing genocide in Vietnam, as it is defined in the UN convention of 1948. The Americans' use of Agent Orange and other poisonous substances on foliage and people gave rise to talk about a fifth kind of war crime: "ecocide". Barry Weisberg described it in *Ecocide in Indochina: the Ecology of War* (1970). The international law expert Richard Anderson Falk writes:

In the years since the Nuremberg judgment of 1945, no official attempt has been made to apply the Nuremberg Principles to the concrete circumstances of violent conflict. An unofficial and symbolic application of the Nuremberg idea underlay the proceedings of the Bertrand Russell War Crimes Tribunal held in 1966–67 in two Scandinavian countries. The proceedings of the tribunal depict accurately the basic pattern of combat violations of the laws of war characteristic of the early years of heavy American involvement in Vietnam. Aside from this single controversial incident, there has been no effort by governments, international institutions, or public opinion to take seriously the justly celebrated American pledge at Nuremberg of the chief prosecutor for the United States, Justice Robert H. Jackson: "If certain acts in violation of treaties are crimes, they are crimes whether the United States does them or whether Germany does them, and we are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us."¹¹

Falk was also one of the first to bring up the crime of "ecocide". In an e-mail to me (30 Dec. 2011) he says that he was influenced by the research of Arthur Westing and E. W. Pfeiffer published in scientific journals that described the tactics and effects of this unethical environmental warfare.

The Tribunal was also known as "the Russell Tribunal", "the Russell–Sartre Tribunal", "the Vietnam War Crimes Tribunal" and sometimes "the Stockholm Tribunal".¹² The latest addition of names is "the Bertrand Russell Tribunal of

letter to Prime Minister Dong in the beginning of 1966 asking him to help his secretary, Ralph Schoenman, to collect evidence of war crimes. Griffin shows that the idea of such a tribunal had been suggested a year earlier by M. S. Arnoni, editor of the radical American journal *The Minority of One*, to which Russell made many contributions. I found that Russell answered that a tribunal would involve a great deal of work and take too long to prepare (12 March 1965, RA2 410.143908a). Still, when Schoenman returned from Vietnam he joined hands with Mark Lane (who had inspired Russell to launch the "Who Killed Kennedy?" Committee), and the outlines of a war crimes tribunal started to take shape. By April 1966 Russell wrote a letter to Pham Van Dong informing him about the new plans and asking for his opinion. See also Edith Russell (2010), Caroline Moorehead (1992) and Harish Mehta's thesis (2009) below.

¹¹ Falk, "A Nuremberg Perspective on the Trial of Karl Armstrong", in his *A Global Approach to National Policy* (Cambridge, Mass.: Harvard U. P., 1975), pp. 133–45 (at 133).

¹² The latter more often refers to another set of conferences on the Vietnam War, or-

Conscience”, which I found in a letter “To the American People. An Open Letter”, 6 August 2004, from the Vietnam Association for Victims of Agent Orange/Dioxin, which shows that the memory and legacy of the IWCT live on. It is a sad fact that, although the Paris Peace Accords of 1973 (article 21) say that “the United States will contribute to healing the wounds of war and to postwar reconstruction of the Democratic Republic of Viet-Nam and throughout Indochina”, no Vietnamese victims of Agent Orange (who are still being born today) have received as much as “We’re sorry”. That is a disgrace.

The following select secondary bibliography, comprising 277 items (plus an appendix of fourteen primary items, included because the IWCT proceedings have never been listed before), is the result of more than fifteen years of scouting for references to this unique event in the history of international law from the Nuremberg trials to the establishment of the International Criminal Court in the Hague in 2002. The IWCT also inspired Vietnam veterans and others to form Citizens’ Commissions of Inquiry like the Winter Soldier investigation.¹³ Tod Ensign, who was an organizer of such a commission, writes in *Against the Vietnam War: Writings by Activists* (cited under 1999 below) that “Within a week after the My Lai storm hit, Jeremy Rifkin and I, both antiwar activists, met with staff members¹⁴ of the Bertrand Russell Peace Foundation to discuss their public call for the creation of citizens’ commissions to collect testimony from Vietnam veterans” (p. 215).

Anyone interested in the Vietnam War and international law will soon come across references to the four volumes of *The Vietnam War and International Law* (1968, 1969, 1972, 1976), edited by Falk, who by that time was professor of international law and practice at Princeton University, and is currently research professor in global and international studies at the University of California at Santa

ganized by Bertil Svahnström and the Swedish Peace and Arbitration Association that met annually in the following years. The first Stockholm Conference on Vietnam, 6–9 July 1967, attracted 350 participants and 60 organizations from twenty countries.

¹³ See Richard Moser, *The New Winter Soldiers: GI and Veteran Dissent during the Vietnam Era* (New Brunswick: Rutgers U. P., 1996).

¹⁴ Andrew E. Hunt in *The Turning: a History of Vietnam Veterans against the War* (New York: New York U. P., 1999) writes (p. 58) that Ensign and Rifkin had spent months preparing interviews with former G.I.s and that they had received encouragement from Ralph Schoenman, (who, however, no longer worked for the Bertrand Russell Peace Foundation, because Russell had cut all connections with him). In that situation Schoenman renamed the American branch of the BRPF “The American Foundation for Social Justice” and continued to promote hearings into alleged American atrocities in Vietnam. (See Wikipedia’s article on Ralph Schoenman.) Schoenman was one link between the IWCT and later Commissions of Inquiry, including the Winter Soldier investigation. This relationship is supported by James Simon Kunen, *Standard Operating Procedures: Notes of a Draft-Age American* (New York: Avon Books, 1971), p. 22.

Barbara. He has been an influential international law expert since the late 1950s. As editor and one of the main contributors to *The Vietnam War and International Law*, he soon established himself as one of the main proponents of international law and one of the most outspoken critics of the US war in Indochina. He has written extensively—more than 70 publications on the war and related topics published between 1966 and 2011—from a legal, moral and political point of view.

Falk early recognized the importance of the Russell Tribunal as upholding the principles of international law, when very few seem to have cared. He worked with the Italian lawyer Lelio Basso and was active in the creation of the Permanent Peoples' Tribunal. He also played an important part in the War Crimes Tribunal on Iraq (2005).¹⁵ In 2008 he was appointed UN Special Rapporteur of Palestinian Territories. He has not been connected with the Russell Tribunal on Palestine¹⁶ except by way of commentary in his blog.

I found Falk's four volumes in McMaster's Mills Library on one of my first hunts in 1995. Volume 1 had a reference to the Russell Tribunal:

Also for the first time since World War II there has been proposed a war crime tribunal to pass judgment on the United States role in Viet Nam and on the criminal responsibility of its President. Of course, Bertrand Russell's tribunal is a juridical farce, but the fact that it is plausible to contemplate such a proceeding and to obtain for its tribunal several celebrated individuals bears witness to the general perception of the war. (P. 451 n.12)

What especially caught my attention was the phrase "a juridical farce". The article was written in 1966, and I later realized that Falk must have read that the Tribunal would condemn President Johnson, Secretary of Defense Robert McNamara, Secretary of State Dean Rusk and General Westmoreland as war criminals. This was based on statements emanating from Russell himself, Schoenman and others who had been asked to be members of the Tribunal.

By the time the Tribunal held its founding session in London between 13 and 16 November 1966, it had dropped the idea of prosecuting individuals and preferred to be referred to as a Commission of Inquiry investigating possible war crimes committed by the US in Vietnam.¹⁷ This shift of emphasis was mainly the result of the French branch of the Tribunal with Sartre, Simone de Beauvoir, Vladimir Dedijer and Laurent Schwartz as the dominating figures. It could, of

¹⁵ See *World Tribunal on Iraq: Making the Case against War*, ed. Müge Gürsöy Sökmen with introductions by Arundhati Roy and Falk (Northampton, Mass.: Olive Branch P., 2008). One of the eighteen sessions was held in Belgium and was referred to as "The BRussells Tribunal" (2004–05), <http://brussellstribunal.org>.

¹⁶ For information see <http://www.russelltribunalonpalestine.com/en/> and Falk's website, <http://richardfalk.wordpress.com/>.

¹⁷ The Stockholm and Roskilde sessions were on 2–10 May and 20 Nov.–1 Dec. 1967.

course, still be considered “a juridical farce” for several formal reasons, not least because it lacked the power to punish anyone. (See Mervyn Bennum’s article cited under 2011.) But that was not the main concern; the most important aspect of the tribunal was to “prevent the crime of silence”, to show the world what the US was doing in Vietnam and to let the citizens of the world be the judges.

In 2002 Arthur and Judith Klinghoffer published *International Citizens’ Tribunals: Mobilizing Public Opinion to Advance Human Rights*¹⁸ in which they quoted Falk’s phrase “a juridical farce” out of context, which gives a distorted picture of Falk’s later and mature opinion. The Klinghoffers say:

Richard Falk was at the time the chairman of the Consultative Council of the Lawyers’ Committee on American Policy Toward Vietnam, an organization that denounced the United States for legal violations. However, his two-volume study of international law and the Vietnam War labelled the hearings “a juridical farce”. (P. 134)

Apart from the fact that the Klinghoffers should have known that there are four volumes, they ought to have quoted Falk fully and taken his mature appreciation into account, which would have given a very different impression of his later writings.

My collecting gained momentum when I started a more systematic search for references to the Tribunal in autumn 2011. My principles were these: I excluded Russell’s own separate Tribunal publications, which are listed in *A Bibliography of Bertrand Russell*, and mere news reports at the time. I included references that substantially quote from or discuss the Tribunal proceedings, or put the IWCT into context. And I searched for theses, evidence of the academic study of the IWCT. The promising new journal *War Crimes, Genocide and Crimes against Humanity* (<http://www.war-crimes.org>) has not yet discussed the IWCT.

I knew that Noam Chomsky had been asked to be a member of the Tribunal, but that he had declined the offer. However, when Chomsky was asked to contribute to the Simon and Schuster edition of the proceedings of the Tribunal, titled *Against the Crime of Silence* (1970 in the appendix), he agreed and wrote a preface. This and his article “After Pinkville” were reprinted in *Prevent the Crime of Silence* (1971) as the first two pieces, which indicates their importance in the eyes of the editors, Peter Limqueco, Peter Weiss and Coates.

I was aware of Chomsky’s analysis of the role of the media in the Second Indochina war.¹⁹ I sent him an e-mail asking him if he had published anything

¹⁸ See my review of the Klinghoffers’ book in *Russell*, n.s. 22 (2002): 83–9; <http://digitalcommons.mcmaster.ca/russelljournal/vol22/iss1/8/>.

¹⁹ See *Manufacturing Consent*, where he and Edward S. Herman write: “It would have been impossible to wage a brutal war against South Vietnam and the rest of Indochina, leaving a legacy of misery and destruction that may never be overcome, if the media had not rallied to the cause, portraying murderous aggression as a defense of freedom, and

on the Russell Tribunal. He answered quickly and said that he must have written something about it, but he could not say exactly what, where and when. I then rediscovered his Russell Lectures from 1970 in which he said:

Bertrand Russell was one of the select few among the true bearers of consciousness. His efforts to alert the American people to the barbarism of the American war provoked widespread denunciations.... The evidence produced by the Russell Tribunal was also effectively withheld from American and British audiences; the extensive testimony was, so far as is now known, quite accurate.... In my opinion, there could be no more fitting memorial to Russell than a revival of the Tribunal that he initiated. What the Tribunal exposed is no secret.... If there is no one with the stature of a Bertrand Russell to carry on his work, it does not follow that the task must be abandoned.²⁰

I wrote to Noam Chomsky, who replied:

Glad you found it, and agree about the follow-ups. The reaction to them in the us is interesting. One received publicity, very positive, articles in the press, etc. You won't be surprised to know which: the Basso Tribunal on the Russian invasion of Afghanistan. The only positive mention I can recall. Or mention at all. (26 Sept. 2011)

I sent him the bibliography of the IWCT in draft. He soon wrote back: "Really excellent, and a very valuable contribution" (12 Jan. 2012).

Needless to say, this secondary bibliography is incomplete. I have concentrated on references published in American, British, Swedish and French books and journal articles.²¹ The session in Stockholm was covered by several foreign TV stations and newspapers, but I have not included many newspaper articles since they were so numerous. Neither have I had time to look hard for references by Vietnamese writers, but I've listed a few. The best signs of their appreciation are that they issued a stamp commemorating the IWCT and named a street after Bertrand Russell in Ho Chi Minh City.

To sum up: the IWCT got generally bad press before it took place. Its sessions were reported in the major newspapers and magazines, but often with a sarcastic slant by referring to it within quotation marks as the "Tribunal" or the "Trial". Then it came into the media shadow of the Six Days War in June 1967 and was more or less neglected until the My Lai Massacre became known at the end of 1969 and the *Pentagon Papers* started to be published in the summer of 1971—two events that vindicated the findings of the Russell Tribunal. But most importantly it inspired other Citizens' Commissions and Russell Tribunals, and Basso

only opening the doors to tactical disagreement when the costs to the interests they represent became too high" (p. lxiii). Russell could not have said it better himself.

²⁰ *Problems of Knowledge and Freedom: the Russell Lectures* (New York: Random House, 1971), pp. 92–4.

²¹ The Canadian Committee for the IWCT did fundraising with its 1967 pamphlet.

and others to establish the Permanent Peoples' Tribunals, which continue the legacy of one of the world's most inspiring political activists, who was equipped with a highly developed sense of justice and a great compassion for those who can't speak for themselves, like the victims of Agent Orange.²²

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²² The research for this bibliography has been supported by the Erik and Gurli Hultengren Foundation for Philosophy, Lars Hiertas Minnesfond, Dagny och Eilert Ekwalls Premie- och Stipendiefond (Smålands Nation, Lund), two private Swedish sponsors and a generous Canadian friend, to whom I'm very grateful. I would like to extend my thanks to the staff at McMaster's Mills Library, who have shown a very welcoming attitude to my requests. I also want to thank the Editor, Richard A. Falk and Noam Chomsky for their cooperation, Nicholas Griffin for critical input and Kevin Blaker for his valuable assistance. All web addresses are current as of 24 January 2012.

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