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THE WAR CRIMES "TRIAL"

In mid-November the Bertrand Russell Peace Foundation held a news conference in London to launch formally an International Tribunal of Justice. It was explained that the purpose of the Tribunal, which is to meet in March, is to investigate the conduct of the United States and its allies as they wage war in Vietnam. This seems a more tempered statement of purpose than Lord Russell's earlier call for a trial of "the war criminals—Johnson, Rusk, McNamara, Lodge, and their fellow criminals," but it does no more to inspire trust in the Tribunal or its procedures.

Nevertheless the Tribunal deserves serious, critical attention by all those who wish to keep open the discussion and debate concerning U.S. policy in Vietnam, for it is their interests that are most likely to be affected by the Tribunal, not the policy of the United States. And if the Tribunal fulfills the sad expectations it has aroused, it will, following a Gresham's Law of controversy, foster a debased currency of intellectual exchange and push aside arguments of more intrinsic value.

The formulations of Lord Russell are so vitriolic, prejudiced and simplistic that it requires almost an intellectual effort to discern the questions of real value that lend some importance to the Tribunal. There are questions of value here, however, that turn on the conduct of war. Most briefly, they are derivations of the single great enquiry: are there some things which are absolutely *not* permitted in warfare, regardless of the goal? Unless one decides that all is fair in war, that once initiated war recognizes no extrinsic limitations, further enquiries are in order. For example: what are such limits? can their transgression be established as a pattern in the course of a war? does the proof of such a pattern impose obligations on governments, communities and individuals?

There are people who accept all these questions as important, in varying degrees, but hesitate to force them at the time of crisis. Sidney Hook, for example, has said that "some day when conditions permit, an investigation into the way war has been conducted in Vietnam . . . may be perfectly in order." And the Catholic Bishops of this coun-

try have recalled traditional standards of the just war but have resisted the temptation to pass judgment on the conduct of the present ongoing war in Vietnam. Yet it is *now* that people are called upon to judge if they wish to influence that conduct or, in the case of potential draftees, if they are to question their own participation in it.

This is the sound basis on which the Tribunal rests. But it has endangered, if it has not completely destroyed, that basis by its announced procedures and plans. *First*, the questions to be placed before the Tribunal are directed only at the U.S. and its allies. The conduct of the opposing forces will pass unnoticed by the Tribunal. *Second*, those who are bringing the accusatory questions before the Tribunal are exactly those people who are to pass judgment. *Third*, those who are to pass judgment have, in fact, already done so in various forums in the last several years.

One need not question the sincerity of any single individual sitting on the Tribunal to question the objectivity, balance and value of the Tribunal itself. In spite of Lord Russell's denials the anticipated procedures run counter to those Western society has devised to ensure impartial judgment. If the Tribunal does as anticipated, those who support the present policy in Vietnam will have little reason to be perturbed, only those who question that policy need be concerned when the Tribunal convenes in March. J. F.

MEMBERS OF THE TRIBUNAL: *Bertrand Russell* (Honorary President); *Jean-Paul Sartre* (Executive President); *Vladimir Dedijer* (Chairman); *Gunther Anders*, writer; *Mehmet Ali Aybar*, Turkish M.P., President of Turkish Workers' Party; *Lelio Basso*, Italian deputy, Professor of Sociology at University of Rome; *Simone de Beauvoir*, author; *Lazaro Cardenas*, former President of Mexico; *Stokely Carmichael*, Chairman of Student Non-Violent Coordinating Committee; *Dave Dellinger*, an editor of "Liberation"; *Isaac Deutscher*, political historian and biographer; *Amado Hernandez*, Poet Laureate of the Philippines; *Mahmud Ali Kasuri*, Senior Advocate, Supreme Court of Pakistan; *Kinji Marakawa*, attorney, Vice-Chairman Japanese Civil Liberties Union; *Shoichi Sakata*, Professor of Physics, Nobel prizewinner; *Laurent Schwarz*, Professor of Mathematics, Paris.

in the magazines

"Today, a new phenomenon seems to be appearing on the religious scene. This is the apparently growing belief among all religious groups that 'peace' is the ultimate and basic religious value of this generation. Formerly, peace was always considered to be the end-product, the result of justice or of liberty or of faith. Today, religious people seem much more likely to scale down the value of justice or of liberty or of faith if the promotion of these values or their defense should break the peace." Father James V. Schall, S.J., who further describes and analyzes this "new phenomenon" in an article on "Religion and War" which appears in the November 18 issue of *Commonweal*, sums up his remarks in the concluding paragraphs:

"The protest of religion against war, of course, has merit, yet it also has its peculiar dangers. It is much too prone to undervalue the heritage of freedom and democracy. It seems unable to distinguish clearly between force used to stop aggression and that used to start or sustain it. With its imperfect grasp of the nature of force, the religious mind is slow to see that force can be a means to teach and guide a totalitarian system into the paths of rationality. Thus, the apparent evolution of Russia and Eastern Europe into forms of communism somewhat less hostile to the West is not a sheer accident or the result of spontaneous development in the Communist system. Rather it is the result of the application of controlled force, which taught these powers to mitigate, though not to abandon, their expansionist hopes.

"We live in a time in which it is in part force that allows us freedom; it is force that prevents war, not totally, of course, but force is an essential element. This is why the analysis of force which implies that it is evil of itself misses the whole nature of force in the service of humanity. Peace, in the end, does not mean the absence of force, but the right use of it. There will be always the need of force while man is on earth.

"We cannot fail to recognize that such realities as evil, suffering, and sin do confront us. The task of the political and military leaders is to control and limit these consequences as much as possible, in the name and interest of the public. To rebel at this