

BOMBING ON THE NORTH AFTER TONKIN AND PLEIKU : REPRISALS ? *

by

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This study gives a negative answer to the question put above and instead puts forward the thesis, that the bombardments were the inevitable result of several internal and external political developments and strategic deliberations, as evidenced by the context in which they started and by their nature.

I — BOMBING OF THE NORTH : THE DANGERS OF ESCALATION

On August 4, 1964, President Johnson addressed the American people on television. He informed the Americans of renewed attacks by North-Vietnamese vessels against US-ships on the high seas in the gulf of Tonkin and of American actions in reply to those attacks. He said :

« Repeated acts of violence against the armed forces of the U.S. must be met not only with alert defense but with positive reply. That reply is being given as I speak to you tonight. Air action is now in execution against gun-boats and certain supporting facilities in North Vietnam which have been used in these hostile operations¹. »

With this reprisal the bombing of the North was started, the most radical escalation in the Vietnamese war. Nobody knew where this step would (and, indeed, still can) lead, which fact has made the Tonkin incidents of the utmost importance. Moreover, the incidents led to the adoption by joint Congress of the South East Asia Resolution on August 10, which empowered the President to escalate the war as he judged necessary.

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¹ *Background Information Relating to South East Asia and Vietnam*, U.S. Printing Office, 1966, p. 130.

Today, the science of polemology can tell us enough about the phenomenon « escalation » as to support Charles Osgood's statement, that « military escalation produces the very conditions, both internally and externally, which make it harder and harder to stop and de-escalate »². Escalation can become very well a snowball process, which in the end results in a situation which nobody wanted at the start and which may be realized only when it is too late. In this sense, Kennedy was a prisoner of the Eisenhower heritage, as Schlesinger shows³, and this snowball effect of high-level escalation surely played its role in the Vietnamese war.

In view of the great dangers of this escalation process, which cannot be analyzed here⁴, it is the more important to know where and how it started; in that context the Tonkin affair has become one of the most serious landmarks in the Vietnamese war. Therefore, it is necessary to clear up what happened.

II — THE TONKIN INCIDENTS : THE OFFICIAL VERSION

The U.S. Government has given the following version of the events of August 1964 : As Mac Namara (before the National Security Council) and Stevenson (before the U.N. Security Council) declared, the U.S. destroyer Maddox was attacked on August 2 by three North-Vietnamese patrol boats. The attack took place while the Maddox was on « routine patrol » on the high seas — almost 30 miles off the mainland.

After having warned the authorities in Hanoi on August 3 of the « grave consequences which would inevitably result from any further unprovoked offensive military action », on August 4 at 2.35 p.m. Greenwich time, night time in the gulf of Tonkin, two destroyers (Maddox and C. Turner Joy) were again subjected to an attack with torpedoes; this time the American vessels were 65 miles from shore. Numerous torpedoes were fired during the two hours of the attack, and two or three attacking vessels were destroyed. There was no provocation and the attack was a deliberate and serious violation of international law.

Stevenson made clear that the reaction of the U.S. was a direct answer to this attack and had the character of a reprisal, when he stated : « I want to emphasize that the action we have taken is a limited and measured response, fitted precisely to the attack that produced it... As president Johnson said last night, " we still seek no wider war " »⁵.

² OSGOOD, Ch., « Escalation as a Strategy », *War/Peace Report*, Sept. 1965, p. 13.

³ SCHLESINGER, A.M., *The Bitter Heritage*, 1966, p. 21.

⁴ See e.g. the excellent study by ZIFFERSTEIN, I., « Die psychologische Gewöhnung und den Krieg : Eine sozial-psychologische Fallstudie », *Darmstädter Blätter*, 1967, n° 5.

⁵ *Background Information*, p. 134.

III — IF THE AMERICAN REACTION WAS INDEED MEANT AS A REPRISAL, WAS THAT REPRISAL LAWFUL?

If it is taken for granted at this point, that the American version stated the truth and that the American reaction was indeed meant as a reprisal, the question becomes relevant whether this reprisal was lawful.

Reprisals are actions which in themselves are unlawful, but which become lawful when they are taken in response to an unlawful act by the other side, with the aim of stopping that unlawful act.

This right, especially in respect of reprisals involving the use of force, has become extremely restricted and perhaps even abolished in our time. The U.N. Charter tried to abolish all forms of using force in international relations with only two notable exceptions : Enforcement actions by the Security Council and actions in self defense. This right of self defense was meant as a very last resort, without which a threatened state might be overcome while the Security Council was still debating; as such, this individual right to use force is exceptional and restricted to the utmost. Some authors quote in this connection the famous « Webster clause », according to which the right of self defense has to be restricted to those instances « when the necessity for action is instant, overwhelming, and leaving no choice of means and no moment for deliberation »⁶.

Anno 1968 it can be argued, that, the peacekeeping machinery of the U.N. being an integral system, the failure of the Security Council has had a negative impact on the restrictive meaning of article 51. Yet, in a world which is threatened by total destruction and in which all the states have become very interdependent, any individual use of force still needs very urgent grounds. This means that retaliatory acts involving the use of force, when there is absolutely no danger to the country in question or at least no serious harm has been done to its citizens or armed forces abroad, cannot be lawful. This has been recognized by the U.S. itself, when in April 1964 during the U.N.-debate on the British retaliatory strike against the Fort at Harib in Yemen, Adlai Stevenson declared that the U.S. had « repeatedly expressed » its emphatic disapproval « of retaliatory raids, wherever they occur and whomever they are committed »⁷.

Nevertheless, four months later the U.S. claimed this very right for itself, moreover in circumstances, in which nobody and no material was damaged except the attacking North-Vietnamese themselves.

This brings us to a second legal point : one of the most important conditions

⁶ See e.g. *Vietnam and International Law*, ed. Lawyers Committee on American policy towards Vietnam, 1967, p. 27.

⁷ Sec. Counc. Off. Rec., 1108th meeting, April 6, 1964, par. 67.

in the case of a reprisal was (and, as the case may be, is) the requirement of proportionality, though it may be a dubious requirement. As the justification behind any reprisal is to stop an unlawful act of the other side which cannot be stopped by other means, there exist no strict rules as to the nature of the reaction, as long as this proves to be effective and not out of any proportion; as Julius Stone writes :

« while the requirement of proportionality in reprisals is usually laid down in general terms, and many past reprisals have indeed shown proportionality, and even correspondance, it is difficult to see how this can be insisted upon in view of the fact that international law permits measures of an entirely different kind from the original illegality⁸. »

Still most highly qualified publicists, many war trials and even practice suggest certain restrictions. In the case of the Tonkin incidents, where neither on August 2 nor on August 4 any damage to American personnel or ships was reported, and attacking vessels of the adversary were destroyed or damaged, a total of 64 bombing raids against the North, during which 4 PT boat bases, 25 PT boats and an oil depot were destroyed, seems pretty unproportionate.

The crucial question remains, however, whether these raids and the very similar raids in February 1965 after the Viet Cong attack against a U.S. base near Pleiku, in fact were reprisals.

IV — THE TONKIN INCIDENTS : WHAT REALLY HAPPENED

The very importance of the first bombardments on North Vietnam and their follow-up (the adoption by Congress of the South East Asia Resolution) on the one hand, and the many doubts cast in respect of the events on the other, led ultimately to a new Senate hearing in February of this year. At this moment we do not know all the facts that have come to light there, but during the years after 1964 so much information has become available, that it must be stated now, that the U.S. Government has deliberately deceived the public of its own country as well as that of others.

The following facts were kept secret or were denied in August 1964 :

1) Already on July 27, 1964, Hanoi sent a protest to the I.C.C. because of the firing upon North-Vietnamese fishing boats (allegedly by American vessels) in the Gulf of Tonkin on July 25.

On July 31 a second protest followed because of the shelling by South-Vietnamese vessels of again fishing boats and also of radar installations on two North Vietnamese islands, Hon Me and Hon Nghu; during the shelling the U.S. destroyer Maddox cruised in the neighbourhood⁹.

⁸ STONE, J., *Legal Controls of International Conflict*, 1956, pp. 354-355.

⁹ SCHURMANN, F. (ed), *The Politics of Escalation in Vietnam*, 1966, p. 39.

2) The attack on August 2 was, as Hanoi declared, meant as a warning against these actions, as well as against the continual presence of the Maddox in North-Vietnamese territorial waters. As to the last charge Mac Namara at the time declared that the Maddox always cruised at a great distance from the shore and was 30 miles from the shore when she was attacked.

The first doubt as to the correctness of this statement was created by Commander Herrick of the Maddox, who declared that the distance had been only 16 miles¹⁰, but all doubt about the incorrectness of Mac Namara's statement was removed by Senator Fulbright, who said to Senator Nelson during the Tonkin-debate : « It was testified that they went *in at least eleven miles* in order to show that we do not recognize a twelve-mile limit, which I believe North Vietnam has asserted¹¹. » And indeed, Mac Namara had to admit now, in Februari 1968, that the Maddox had been ordered to sail up to four miles off the islands and eight miles off the mainland of North Vietnam; but at the same time, as Fulbright now revealed, to stay beyond the twelve-mile limit of neighbouring China, which fact indicates that the U.S. was fully aware of the rightfulness to claim a territorial sea of that size, or in any case of the dangers of not respecting it¹².

These facts not only prove the original deception, but justify the question, whether the fight on the high seas was not the result of a pursuit by the North-Vietnamese vessels, *begun in their territorial waters* and as such a lawful act under the right of hot pursuit ?

3) The presence of the two American destroyers on the 4th was in no way connected by the U.S. Government with the shelling by South-Vietnamese vessels of North-Vietnamese radar installations, under the code name « Operation 34 A ». On the contrary, Mac Namara declared on August 6 before the Senate Committee on Foreign Relations :

« Our navy played absolutely no part in, was not associated with, was not aware of any South-Vietnamese, if there were any. I want to make that very clear to you. The Maddox was not informed of, and as far as I know today has no knowledge of any South-Vietnamese actions in connection with the two islands in North Vietnam¹³. »

Now we know, however, that only fifteen hours before the attack on August 4, Commander Herrick of the Maddox cabled a telegram in which he asked for permanent protection by planes, because he feared to be attacked by the North-Vietnamese as a supposed participant in Operation 34 A. This telegram proves that Herrick *did* know about the shelling and thus it is the

¹⁰ *Int. Herald Tribune*, February 26, 1968.

¹¹ STONE, I.F., in *The Vietnam Reader*, 1965 (Raskin & Fall), p. 311.

¹² Hearings on February 20, 1968. See also *Int. Herald Tribune*, February 21, 1968.

¹³ *Idem*, February 26, 1968.

more strange that he sailed directly in the neighbourhood, if he had nothing to do with this armed attack against North-Vietnam ¹⁴.

4) But probably there was some connection : In the first place it was testified, that an American MAAG-officer was an adviser to Operation 34 A; and in the second place at that time nothing was revealed about the installations aboard the destroyers. These installations were radar-detectors (similar to the apparatus aboard the *Pueblo*, though less sophisticated), which can determine the exact position of switched-on radar. The very proximity to the coast must have been enough reason for the North-Vietnamese to switch on their radar, after which the positions could have been transmitted by the destroyers to the South-Vietnamese.

Mac Namara has declared that he has informed the Senators of this apparatus, but no senator can remember that...

Probably Senator Fulbright voiced the feelings of most Senators, when he said during the recent hearing :

« You see, what I think we never come to grips with is what we were doing long before the 2nd and 4th, long before the incidents of the Tonkin Bay. The fact we had this kind of a presence there, that we were stimulating the electronic devices of the North-Vietnamese, that we were carrying on intelligence operations was wrong. The *Maddox* was, on this occasion, a spy ship and quite a different body of international law applies to spy activities than applies to other activities. So I only want to say for the record that I don't think we should have been there and especially under those circumstances when the Navy and the Administration knew that South-Vietnamese naval vessels that we had furnished and the personnel whom we had trained were on their way in that period of time to bombard North Vietnam and its two islands. The *Maddox* and the *Turner Joy* were in the area, despite all our talk about distances. The fact is that the North-Vietnamese had no reason to believe that we were trying to keep separate the South-Vietnamese boat operation and our patrol ¹⁵. »

5) The facts stated above remind us of the description by Senator Morse during the first Tonkin-debate, that the incident on the 4th was deliberately provoked to be in a position to react against the North, which view Mac Namara called « monstrous ». Monstruous or not, even Morse's view has become doubtful :

Today it can very well be doubted whether the attack on the 4th ever took place at all !

Nothing has ever been found of the two or three sunk North-Vietnamese vessels, though this proves little. More important is a second telegram of Herrick, cabled some hours after the supposed attack, which read :

¹⁴ *Idem.*

¹⁵ *Idem*, February 23, 1968.

« Review of action makes many reported contacts and torpedoes fired appear doubtful. Freak weather effects and overeager sonarman may have accounted for many reports. No actual visual sightings by Maddox. Suggest complete evaluation before any further action ¹⁶. »

In this telegram the reported « visual sightings » of hostile vessels as well as the firing of torpedoes and with that the entire attack were respectively denied and seriously doubted. Now Herrick and Mac Namara tried to maintain that Herrick had only doubted the correct *number* of torpedoes fired. It does not, however, seem very convincing, that someone cables all the way from the Tonkin-Gulf to his Pacific Command and from there to Washington just to say he is in doubt about the number of torpedoes, if the torpedo-attack as such is a clear fact...

Moreover, most men of the crew can only remember some disturbance after the emergency-signal, whereas Commander Barnhart of the *Turner Joy* never noticed any torpedo. Furthermore, as far as the « overeager sonarman » is concerned, Lieutenant Ogier declared during an interview with « *Esquire* », that the signals on the sonar may very well have been the echo's of the screws against the rudder during high-speed manoeuvring, and he thinks he may have been deceived by that.

In any case it seems indeed very doubtful that three little PT-boats would have been so death-loving as to attack two big American destroyers; the more so after the first experience on August 2, when all the three attacking vessels were destroyed or damaged without having once hit the then only adversary, the *Maddox*.

Besides that, Hanoi knew very well, that such an attack could provoke a bombardment of its country. Already at the end of 1962 Prime Minister Pham Van Dong witnessed Hanoi's fear of being subjected to bombing-raids in an interview with Bernard Fall :

« We fully realize that the American imperialists wish to provoke a situation as a pretext for the destruction of our economic and cultural achievements. We shall offer them no pretext which could give rise to an American military intervention against North Vietnam ¹⁷. »

The feelings of disappointment, perhaps even of guilt, among the Senators after the second hearing was testified in a very careful way by Senator Gore, when he said :

« I feel that I have been misled, and that the American people has been misled. Indeed the statement that you released today does not fully comport with the testimony that you gave to this committee earlier. I think there is more question now than when you came... »

¹⁶ *Idem*, February 26, 1968.

¹⁷ FALL, B., « Inside Hanoi », in *Vietnam Witness*, 1966, p. 114.

V — FACTS AND THEORIES : REPRISAL VERSUS WHOLE-SCALE PLANNING

The many doubts cast on the events in the Tonkin-Gulf justify an inquiry into the political context during the incidents in an effort to understand more of the situation in which the decision to bomb the North for the first time fell.

To understand the American way of thinking in this context, it is necessary to go back to President Truman's speech of March 12, 1947, in which he broke entirely with the remnants of the isolation-policy which was based on the Monroe-doctrine. The new Truman-doctrine (like its successors, the Eisenhower-doctrine of 1958 for the Middle-East and the so-called Rusk-doctrine of 1966 for Asia) was based on the thought that no people on earth will freely choose Communism as its socio-political system. Therefore, any communist movement is perceived as the result of internal subversion or aggression from outside. Whereas Truman committed the U.S. to support democratic governments (per definition legal governments) against any form of communist rebellion (per definition illegal movements), the Cold-War stereotype of the Russian-Chinese aggressive alliance led in the end to an *idée fixe* : every communist movement was perceived as a result of Russian or Chinese or Russian and Chinese initiatives. Thus, whereas Ho Chi Minh on the occasion of the proclamation of the Democratic Republic of Vietnam (September 2, 1945) addressed himself to the U.S. for help after years of close cooperation, the cold war with Russia and the victory of Mao Tse tung in China brought about the end of all contacts, because now suddenly Ho was declared to be nothing but (first) a Russian or (later) a Chinese pawn...

This perception made it acceptable to forget American history for a while and to support the French in their very unpopular colonial war in Indo-China; to such extent that anno 1954 the U.S. paid about 80 % of the French war costs.

After the American Ambassador William C. Bullitt brought pressure to bear upon the French Government to re-establish Bao-Dai and a rival Vietnamese government¹⁸, it was the U.S. Administration that pressed for a continuation of the struggle when Paris in 1952 began to speak of peace, in the hope of keeping at least a part of the former colony.

It was Foreign Secretary J. Foster Dulles, who tried to stop the French-English initiatives to peace talks at Geneva, as Eden reveals in his memoirs. Dulles even went so far as to offer, twice, the use of atomic bombs to Georges

¹⁸ SCHEER, R., *How the U.S. got involved in Vietnam*, 1965, p. 9.

Bidault to save Dien Bien Phu¹⁹; on condition, however, that the French would continue the war. And this, as it was during the talks on Operation-Vulture, was refused by Bidault and Laniel. The fervent, almost blind anti-communism in the U.S. had led the Republicans to the solemn promise « that the U.S. would never again be a party to treaties sanctioning an extension of communist rule²⁰ ».

Thus, too, Vietnam was divided during a period when the Viet Minh ruled nearly the entire country and, as Eisenhower wrote later, surely 80 % of the Vietnamese population wanted Ho Chi Minh as their leader²¹. Again the U.S. pressed the acceptance of Ngo Dinh Diem as the new nationalist and anti-communist leader of the South, when at last Eisenhower was convinced by men like J. Kennedy, Mansfield, Landsdale, A.W. Dulles, Cardinal Spellman and others, that Diem was the right man in the right place.

Nobody can say whether the American attempt to transfer the provisional military demarcation line along the 17th parallel into a permanent political boundary between two Vietnamese states ever had a chance. Perhaps it would have had, if Diem had become a popular, strong, nationalist and above all progressive leader — which he definitely was not. In fact, already in 1955, when Diem started his horrible round-up of the communists and brought about

¹⁹ DRUMMOND, R., et COBLENTZ, G., *Duel at the Brink : J.F. Dulles' Command of American Power*, 1960, pp. 121-122, to whom Bidault told this personally; and WARNER, G., « Escalation in Vietnam - The Precedents of 1954 », 41 *Int. Affairs* 2, 1965, p. 173.

²⁰ BUTTINGER, J., *A Dragon Embattled*, 1967, vol. II, p. 819.

²¹ EISENHOWER, D. (Gen.), *Mandate for Change*, p. 372.

²² For the infiltration figures see Senator MANSFIELD's report *The Vietnam Conflict : the Substance and the Shadow*, Submitted to the Senate Comm. on Foreign Relations on January 6, 1966.

As to the weapons of the Viet Cong a *White Paper* of December 1961 (Dept. State Publ. n° 7308) stated : « The weapons of the Viet Cong are largely French — or U.S.-made (captured) or handmade on primitive forges in the jungle »; and Mac Namara's famous statistics revealed in 1964 that from the 7.500 weapons captured from the rebels in the period June 1962 - January 1964 only 179 were of Communist origin; the supply of weapons at his time was so unimportant that it was estimated on the basis of the statistics in the summer of 1962, that the Viet Cong weapons were 1/3 French, 1/3 captured American and 1/3 self-made one-shot « zipguns », whereas the North as a source of supply was not mentioned.

As far as the figures on killed Viet Congs are concerned : Using the official figures again, we see that during the period 1957-1961 66.000 Viet Congs would have been killed (*Agence France Presse*; see FALL, B. in *Vietnam Witness*, p. 242); the figures for the period 1961 - February 1965 give a total of 75.000 killed (U.S. Army Chief of Staff H.K. Johnson; see FALL, « Viet Cong — The Unseen Enemy » in *The Vietnam Reader*, p. 261); according to Mac Namara on his Press Conference on April 26, 1965, by then 39.000 infiltrators had come Southward, whereas the strength of the Viet Cong at the time was estimated at 140.000. Taking these figures together we get :

total Viet Cong until beginning of 1965 (killed and living) :	296.000
infiltrators from the North :	39.000
Viet Cong recruited in South Vietnam itself :	256.000

the opposition of the farmers and the Buddhists, the American attempt, the Diem-solution, had failed; a fact which was not accepted in Washington until the end of 1963...

Though it is not the subject of this article to analyze the internal developments in South Vietnam, it is necessary to keep in mind, that today it can be stated with a high measure of certainty that the uprising in the South, which began in 1957, was an internal South-Vietnamese affair.

Though Hanoi, via the (originally Southern) infiltrators, later helped to organize the political structure of the National Liberation Front, even this organization was in fact born in the South and was the result of Southern initiatives, with which Hanoi associated itself. Even the official American-Saigonese figures make clear, that infiltrations and supplies from the North, at least until 1965, were not so substantial as to sustain the official version, that the one and only source of the trouble was Hanoi's « aggression »²². The rebellion in the South was in the first place an internal South-Vietnamese affair and many important authors on this subject agree with this; to mention some of them here : Devillers, Lacouture, Nemo, Vernant, Mac Kahin, Fall, Scigliano, Gruening²³.

Nevertheless, the American perception of « the aggression from the North » was unshakable and seems to be so today. Indeed, through the years the official view has remained unchanged that of J. Foster Dulles, when he spoke to the Overseas Press Club of America, on March 29, 1954 :

« Under the conditions of today, the imposition on South East Asia of the political system of Communist Russia and its Chinese Communist ally, by whatever means, would be a grave threat to the whole free community. The U.S. feels, that this possibility should not be passively accepted, but should be met by united action. This might involve serious risks. But these risks are far less than those that will face us a few years from now if we declare not to be resolute today. »

And when Vice-President Nixon began to plead for intervention, Eisenhower proclaimed his famous, but most ill-conceived, domino-doctrine. On April 7 he told the Press :

« You have a row of dominoes set up; you knock over the first one, and what will happen to the last one is that it will go over very quickly. So you have a beginning of disintegration that would have the most profound influences. »

This way of thinking has since then determined American policy in Asia

²² Devillers, Ph., in HONEY, P.J., *North Vietnam Today*, 1962; LACOUTURE, J., in *Le Monde*, April 21, 1965; GEN. NEMO, « La guerre civile du Vietnam », 21, *Revue de Défense nationale*, November 1965; VERNANT, J., « Vietnam : Washington et les problèmes du retour à la paix », 22, *Revue de Défense nationale*, February 1966; MC. KAHIN, G., et LEWIS, J.W., « The U.S. in Vietnam », *Bull. of the Atomic Scientists*, June 1965; FALL, B., « The Roots of Conflict », *XL Int. Aff.* 1, January 1965; SCIGLIANO, R., « A Country at War », *III Asian Survey*, January 1963; SEN. GRUENING, E., *Vietnam Folly*, 1968, p. 186.

(and, in fact, in Latin America as well). In this sense for instance President Kennedy said in his inaugural speech, which was breathing a spirit of approach and cooperation, these warning words :

« Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty. »

In the Administration itself it has never been questioned, whether the domino-doctrine is realistic — which is definitively is not, because the domino-strategists do not take into consideration the many political and socio-economic differences between the Asian countries; so the situation in Thailand, the next potential victim on the domino-list, is entirely different from that in Vietnam or Laos²⁴ —; neither has it been questioned, whether the trouble in Laos and South Vietnam was indeed the result of Hanoi's agitation.

When time past, the voices became louder and louder of all those in the Administration, who saw only one remedy : Hit the North « to seek out and engage in the ultimate source of aggression » (Walt Rostow).

Under President Kennedy this situation led to two opposite camps : on the one hand the « political view », represented by men like Kennedy himself, Harriman, Forrestal, Hilsman and Galbraith, who saw the trouble in South Vietnam as an internal socio-economic and political problem, which had to be overcome by non-military means in the first place; on the other hand the « military view », represented by men like Rostow, Taylor, Mac Namara, Landsdale, Rusk and Johnson, who saw the problem in terms of aggression from outside and as essentially a military one. The conflict between the two groups grew so sharp, that once, during a debate after General Krulak's visit to Vietnam, Harriman said « that he disagreed for twenty years with General Krulak and disagreed today, reluctantly, more than ever; he was sorry to say that he felt General Krulak was a fool and he had always thought so »²⁵.

So on the one hand the words of General Wheeler, saying on November 7, 1962, at Fordham University : « It is fashionable in some quarters to say that the problem in South East Asia are primarily political and economic rather than military. *I do not agree!* The essence of the problem in Vietnam is military »; and on the other hand the words of Kennedy, who always fought against that opinion, but in vain. While still a Senator, he said in November 1951, after his visit to Vietnam :

« The task is rather to build strong native non-communist sentiment within these areas and rely on that as a spearhead of defense rather than upon the legions

²⁴ See e.g. GIRLING, J.L.S., « Northeast Thailand : Tomorrow's Vietnam ? », 46, *For. Aff.* 2, 1968, pp. 379-388; and ZAGORIA, D.S., « Who Fears the Domino Theory ? », *Survival*, June 1968, pp. 184-192.

²⁵ HILSMAN, R., *To Move a Nation*, 1967, p. 512.

of General de Lattre. To do this apart from and in defiance of innately nationalistic aims spells foredoomed failure²⁶. »

Generally the men of the political solution could be found in the State Department and the Agency for International Development, whereas the men of the military solution mostly came from the Pentagon and the C.I.A.

Perhaps it is the tragedy of the American Asia-policy, that the military view has nearly always been the stronger one. This was especially the case after Kennedy's death, when the most powerful protagonist of the political solution had gone. With Johnson's presidency the way became free for those, who saw in Hanoi the source of South-Vietnamese trouble and of American failures; and therefore the trouble and failures could only be removed by stopping the infiltrations; and that again was only possible by hitting the North. Now the pressure of pleaders like Rostow, Taylor, Curtis Le May and Power grew. John Kennedy had foreseen this development very early, when in January 1962, he said to Hilsman :

« No matter what goes wrong or whose fault it really is, the argument will be that the Communists have stepped up their infiltration and we can't win unless we hit the North. These trails are a built-in excuse for failure, and a built-in argument for escalation²⁷. »

Under President Johnson it was so clear that the Administration was going to take the military path, that a man like Roger Hilsman as early as January 18, 1964, decided to lay down his office. As he himself says :

« President Johnson seemed to prefer a more hierarchical way of handling the job, and from both the people he turned to for advice on Vietnam and his own approach to the problem, it seemed clear that his natural instinct was toward attempting a military solution to the problem of Vietnam²⁸. »

Thus in the end it was inevitable that North Vietnam would be bombed and it is very doubtful, whether President Johnson's election campaign in 1964, during which he, as the peace-candidat, fought the hawk Barry Goldwater, who wanted to drop atomic bombs on the supply lines in the North, came from his heart : How else can it be explained that Johnson, as declared opponent of the bombing, said on the one hand everywhere (like here on September 25, 1964) :

« There are those that say you ought to go North and drop bombs, to try to wipe out the supply lines... We don't want our American boys to do the fighting for Asian boys. We don't want to get involved in a nation with 700 million people and get tied down in a land war in Asia »;

²⁶ SCHLESINGER, A.M., *A Thousand Days. John F. Kennedy in the White House*, 1965, vol. I, p. 367. Many publicists recognized the correctness of this opinion, like FALL, who wrote on March 6, 1966 in the *N.Y.T. Magazine* : « Victory goes to the side that out-administers the other, not to the one that out-fights or out-guns the other. »

²⁷ HILSMAN, R., *op. cit.*, p. 439.

²⁸ DRAPER, Th., *Abuse of Power*, 1966, p. 54 ff; and HILSMAN, *op. cit.*, p. 535.

whereas, on the other hand, he made clear as early as 1961 that he agreed with Rostow and Taylor, who pleaded for the bombing of North Vietnam ? Already in May of that year, after his personal visit to Vietnam, Johnson had recommended to Kennedy « to move forward promptly with a major effort to help these countries defend themselves ». The only choices were « to pull back our defenses to San Francisco, or go ahead with a full forward strategy »²⁹.

The tendency in the Administration went towards escalation. The plans for the bombing were prepared from 1962 on. On May 13 of that year Mac Namara presented a plan to occupy Laos along the North-Vietnamese border. If the communists resisted, the occupation would have to be followed by « an all-out attack on North Vietnam itself », and in case the Chinese intervened, as was the general impression, this would mean a nuclear attack on China³⁰. Early in 1964 the plans were ready, as was the so-called Operation-Rostow n° 6, which provided for a blockade of the North-Vietnamese coast and bombardments of its harbours, as revealed on March 9 in « Newsweek ».

At the same time (Summer 1964) a beginning was made with the systematic bombing of the Pathet Lao regions in Laos, a clear indication of the American strategic concept. To escalate the struggle in Vietnam to an all-out second Vietnamese war, however, which would rouse far more emotion, the backing of the U.S. Congress was needed and to that purpose the South East Asia Resolution was projected. *For this Resolution was not the result of the Tonkin-incidents*; on the contrary, President Johnson himself conceded to the Press on November 1, 1967, that in May 1964, that Resolution was already debated in the Administration ! What was needed, was a suitable motive for presenting the Resolution to the Congress.

But that motive did not come so easily³¹, and in the meantime the internal situation in South Vietnam deteriorated for Saigon and Washington to such extent, that in July President Khanh, who had no substantial support among the population, had to proclaim the state of emergency. And in this unpropitious situation an over-all international pressure to end the war was started : On July 20 U Thant called for a new Geneva-Conference, followed on July 23 by the Gaulle and on July 25 by the Soviet Union. At the same time (but this again was kept secret to the public) Hanoi tried to contact the U.S. via U Thant in Rangoon. The N.L.F. and even China reacted positively³². The answer of the U.S., confronted with very unprofitable peace talks, was given by President Johnson on July 24 in these words : « We do not believe in Conferences called to ratify terror... »

²⁹ HILSMAN, R., p. 420.

³⁰ *Ibidem*, p. 147.

³¹ For the statement by Prime Minister Pham Van Dong see note 17 above.

³² SCHURMANN, F., *op. cit.*, p. 37.

On July 28 it was announced that another 5.000 U.S. troops would be sent to Vietnam and Khanh, in an effort to distract attention from the internal situation, called for the « bac-tien », the march to the North ³³.

In case Khanh should fall and the U.S. would have to help another general into the Saigonese saddle, its claim to support a representative government in the South would become still more ridiculous than it was already. Thus it seems very likely that at this time the decision to strike back against the North has definitely been made.

All we know now of the many deceptions and obscurities around the Tonkin incidents fits into this context; for instance the fact that Herrick's second cable, in which the attack on the 4th was doubted, did not prevent that only a few hours expired between the supposed attack and the first bombing raids against North Vietnam; and the South East Asia Resolution, which was adopted with only Senators Morse and Gruening against, seen by many, as Katzenbach once put it, as a declaration of war.

It needs not to be surprising, that the permanent and systematic bombings started not before February, 1965 : President Johnson had convinced the hawks on August 5 that he was not a weak man, who only sought compromises (he won the elections with a larger majority than any president ever before), but in the first place he had won by proclaiming himself the peace champion. So Senator Fulbright wrote about the adoption of the South East Asia Resolution :

« It was adopted during an election campaign in which the President was telling the American people that it would be a mistake for the U.S. to become involved in a major war in Asia while criticizing his opponent for proposing just that ³⁴. »

Thus the permanent bombing and systematic destruction of North Vietnam had to be postponed for some time. But once again, at the beginning of 1965, the internal situation in South Vietnam became hopeless and in that context the Viet Cong attack on February 7 against the U.S. base near Pleiku — which in fact was not different from many former attacks except that the damage was greater — became the motive to start these systematic bombings.

Once again the first raids were represented as a reprisal, but this time President Johnson himself cast doubt on their reprisal character by conceding to the American author C. Roberts, that he had made the decision to bomb the North systematically four months before Pleiku, that is in October 1964 ³⁵.

³³ *Le Monde*, July 29, 1964.

³⁴ FULBRIGHT, J.W. (Sen.), *The Arrogance of Power*, 1966, p. 52; and he adds : « It was a mistake which I trust will not soon be repeated. »

³⁵ ROBERTS, C., *L.B.J.'s Inner Circle*, 1965; see DUDMAN, R., « Military Policy in Vietnam », 50 *Current History*, February 1966, p. 92.

When the too often promised victory or even moderate success was not forthcoming, the bombings started as the inevitable result of the American perception of the problem. As Thomas Schelling puts it :

« ... the bombing of North Vietnam in February 1965... was a bombing campaign, not an isolated event. It was not in response to any particular act of North Vietnam but was an innovation in a war that was already going on, an effort to raise the costs of warfare to North Vietnam and to make them readier to come to terms... it was evidently designed, at least partly, to inflict plain loss of value on the adversary until he began to behave³⁶. »

The way Schelling puts it brings us to another question, namely, whether in the final analysis the bombings had only, as was stated officially, the as such still restricted aim of cutting the infiltration and supply lines. For it could have been known from the start — and indeed it was — that air raids alone will not bring about that result. The French had discovered that in Indochina and so had the Americans in Korea. We now know that American Generals like Ridgeway and Gavin, who had declared themselves against Operation-Vulture in 1954 to save Dien Bien Phu for this very same reason, have pointed to Korea, where it proved to be impossible to cut the supply lines from the Yalu to the 38th parallel. And Mac Namara himself concluded from his personal experience in Burma, China and India, that « bombardments are undecided when used alone³⁷. »

Indeed, the substantial infiltrations only started *after*³⁸, when not as the result from, the beginning of the bombings on the North, and since then they have only increased.

It seems justifiable to suppose, therefore, that other deliberations have played a significant role. One of those, the propping up of an unrepresentative Government in Saigon, has been noticed already; another has been a theoretical one.

One of the theories behind the domino-doctrine is that the U.S. must, by making an example of Vietnam, prove to all revolutionary movements throughout the developing world, that « communist aggression does not pay. » Therefore a speedy victory in Vietnam has become the main goal. This means, that North Vietnam must go down on its knees to the overwhelming power of the U.S. — or, in General Curtis words : « North Vietnam must quit, or we are going to bomb them back into the Stone Age. »

This way of thinking again testifies the purely theoretical approach to such problems, which can be irresponsible in view of the practice. Every revolutionary movement has its own strength and will in the long run not depend on

³⁶ SCHELLING, Th. C., *Arms and Influence*, 1966, pp. 170-171.

³⁷ HILSMAN, R., *op. cit.*, p. 128.

³⁸ As indicated by the Mansfield-report.

the failure or the success of others. Vietnam itself provides the proof : Although the rebellions on the Philippines (the Hukbalahabs) and in Malaya (the Emergency) failed — and shouldn't these failures have been warnings to the Viet Cong, according to the American theory ? — the South-Vietnamese started theirs with no less confidence.

VI — ANOTHER INDICATION : NATURE OF THE BOMBARDMENTS

Also the nature of the bombardments indicate the correctness of the above thesis.

Officially the bombings are still restricted to military targets. Probably during the first bombing period, this contention was true; targets were restricted to railroads, main roads, bridges, oil depots, convoys and so on. But when the results were not forthcoming and Hanoi, on the contrary, responded by stepping up infiltrations by sending regular troops of native Northerners as well, the only solution for the decisionmakers in Washington seemed again to be further escalation. Most high-ranking officers were united in the so-called « never-again-club », which resulted from the Korean frustrations. They had declared themselves against any restricted policy in an unconventional war like this; they wanted to stay home or to be able to do everything, including the use of nuclear weapons. When after a few months of bombing it was rumoured that civilian centres were also being bombed, Mac Namara denied that charge at a Press meeting on April 26, 1965, in the following words :

« Each target is chosen after a careful review of all reconnaissance photographs. We have carried out a very complete reconnaissance of this entire area. Each target is chosen after careful review of reconnaissance photographs to insure that it is isolated and separate and apart from urban population or civilian areas. »

This statement has been probably the most serious deception during the entire war. The truth looks somewhat different :

1) North Vietnam, a developing country, had only thirty five industrial and power centres of significance, and only a few main roads. When one realizes that in the second World War Rotterdam was destroyed by less than 100 tons, or that in total 735.000 tons were dropped during the Korean war, the figure of over 1 1/2 million tons dropped on Vietnam in three years (1965-1967), approximately half of which tonnage was dropped on the North, indicates, that the bombing was not restricted to these targets.

2) North Vietnam had about thirty larger and smaller towns; twenty five of them have been bombed, six of them (among which two large towns)

destroyed. One of these, Nam Dinh, with 90.000 inhabitants and without any military target, was 75 % destroyed in over fifty bombing raids³⁹.

3) Numerous villages have been destroyed. For instance Phat Diem was attacked no less than 406 times. Furthermore, as Harison Salisbury was told by respectively the catholic priest Ho Than Bien and the buddhist leader Thich Tri Do, already at the end of 1966 126 churches and at least 100 pagoda's had been destroyed, ten of them in Hanoi⁴⁰. Today the figure of bombed churches seems to be over 300 already.

4) The French left Vietnam without any medical infrastructure. With all speed every Northern province got its provincial hospital. All of them are now destroyed except those in Hanoi and Haipong. In total 168 medical centres have been bombed, among them the famous leper hospital in Quinh Lap, which was hit about fourty times⁴¹.

5) Much of North Vietnam's fertile soil lies below the water-level. The extensive bombing of dikes and dams means a worsening of the already existing famine. The same applies to the bombing of more than a thousand cooperative farms as well as rice-fields.

6) Everyone has seen the pictures of the farmers who work in their rice-fields with a gun on their back, because they are subjected to permanent attack. Each village is forced to have this embryonic anti-aircraft artillery.

7) The U.S. Government had to concede — what many pilots had already done — that Cluster Bomb Units are dropped on the North also⁴². These bombs, which contain explosive centers with a wall of many little bullits around them (a total of 100.000 bullits per container) have the significant nickname of « anti-personal bombs ». They are incapable of destroying steel constructions, buildings or railroads; they are only capable of killing people. They were dropped on the center of Hanoi...

The newest version of this terrible weapon is the C.B.U. with plastic instead of steel needles : no surgeon can help the victims of that weapon, because plastic needles are invisible on a radiograph.

Another recent innovation is the fruit-bomb, which has the form and colour of an apple or an orange and explodes by touching it on the top, and seems to be directed against children. This is no phantasy : Personally I had that devilish weapon in my hand.

³⁹ SALISBURY, H., *Behind the Lines* : Hanoi, 1967, p. 102.

⁴⁰ *Idem*, p. 84.

⁴¹ REGTIEN, T., et v. DULLEMEN, M., *Het Vietnam Tribunaal Stockholm-Roskilde 1967*, 1968, p. 66 ff; many control teams have verified the charges.

⁴² MAC CARTHY, M., *Vietnam*, 1967, p. 111.

May all this be enough to state, that the original strategic bombings⁴³ very soon became socio-psychological terror bombings with the aim of destroying the will of the North-Vietnamese to resist and fight on.

A few words in respect of international law in this field : At this place it may be enough to notice that there lies a very complex problem here. The rules of warfare, as layed down in treaties, have become obsolete for a great deal. The old rules were based on a situation — in fact the Franco-Prussian war of 1870 — when it was still possible to distinguish between combatants and civilians and when army and industry were still separate entities.

Today we have the total war : Industrial capacity has become as important as — yes, even determines — military strength and today practically the entire population has become involved directly or indirectly in a war. This is the mose so in a guerilla war like that in South Vietnam. The Geneva Conventions of 1949, too, have not been adapted to this total change in the character of war. Likewise the International Red Cross in its letter to the parties to the Vietnamese conflict of June 11, 1965, speaks of a sharp distinction between combatants and civilians as if that distinction would make the same sense as in that former era of warfare.

As long as we stick to obsolete rules and do not adapt them to entirely new situations, it must be simply inevitable that many rules will be violated. Moreover, the several parties, by accusing each other of violating the rules of warfare, may at the end decide to violate as a measure of reprisal even those rules, which are not obsolete.

The allied forces after the second World War indicated the changed situation by not sentencing the Germans for the bombing of open cities like Rotterdam and Coventry, and they themselves did the same to the housing estates of the labourers in the Ruhr-region, to Hamburg, Dresden, Hiroshima and Nagasaki.

In the light of this over-all practice of bombing civilian centres, it has become very difficult to say what the law is today. Therefore perhaps we should do best to go back to those few unargued, though vague, principles of the law of warfare, like the « de Martens clause » and the principle first formulated by Grotius and standing as a central article in the Convention on the Laws and Customs of War on Land (1907, art. 22) : « The right of injuring the enemy is not unlimited. » This groundrule indicates that the ends cannot always be held to justify the means used.

Today it has become entirely clear that the North-Vietnamese people, after having suffered so much unimaginable misery, will not be brought to its

⁴³ Indeed, it is doubtful, whether the bombing ever was directed exclusively against strategic objects, when one realizes, that in october 1965 (the first year of the bombing) thirty catholic churches alone had been destroyed already, as revealed by Northern Catholics.

knees by being bombed out. *That plain fact* should be the strongest ground on which, as international lawyers, to condemn that bombing of the North and to demand its unconditional cessation.

The U.S. Air Force Manual of 1966 says : « Any person, thing or location is a legitimate target if it helps to destroy the will of the enemy to resist. » If it has to be accepted at the present time, that such a broad definition of military target is lawful (by practice), then those essential principles like the de Martens-clause and art. 22 demand that bombardments must be stopped in any case, when even the worst terror bombing (as on North Vietnam) *has proved to be ineffective*⁴⁴.

The American obsession of the « aggression from the North » which could not be ended without striking at the North, had to lead in the long run to these socio-psychological bombardments. As it happens, the Tonkin and Pleiku incidents were no more than welcome pretexts to set in motion the escalation planned long before.

To this extent, the U.S. has shown how easy it is to use the law to legalize illegal acts. At the same time it has become clear again how feeble the system of the law of nations still is, and how little international law can do in a world torn by the Cold War. Indeed, we have returned to the black era of the religious wars, in which both sides claim the moral right to violate legal rules, sanctified by the strong belief « Gott mit uns ».

VIII — AND NOW ?

In spite of the massive bombings a solution has not come nearer. On the contrary, Hanoi's attitude seems to have become more inflexible. Escalation on both sides has reached a level which probably neither side envisaged beforehand. But escalation creates escalation and the war goes on. The stalemate will in the long run — especially because of the many optimistic statements and promises — most probably lead to another American step on the escalation-ladder; this could now only be the use of nuclear weapons (Eisenhower); a second all-out Indochina war; a bombardment on South-China (this time probably to cut the supply lines there, as revealed by Senator Mundt); or, perhaps most probably, an invasion of North Vietnam (as Ky

⁴⁴ The ineffectivity was acknowledged in the Administration, at least by Mac Namara, who started in the summer of 1967 to criticize continually certain aspects of U.S. policy (by doing which he probably leaved the ranks too far and had to lay down his office). As in August 1967, when he declared himself against further escalation of the bombing, testifying before the Senate Committee on Armed Services : « As to breaking their will, I have seen no evidence in any of the many intelligence reports that would lead me to believe that a less selective bombing campaign would change the resolve of the North-Vietnamese leaders or deprive them of the support of the North-Vietnamese people. »

dreams of). But this, as the experience in Korea shows (when it was also not believed that China would dare to intervene), will probably lead to a Chinese counter-invasion.

The only way to prevent this course of events is to de-escalate as soon as possible, for else the next escalation step will come ! But not a « de-escalation » as now pretended by the U.S. with that so-called partial stop in the bombing : That de-escalation has been in fact a new escalation. Although the bombings are restricted now to that part of North Vietnam below the 20st parallel, they have been intensified in quantity. Now there are more B-52's over North Vietnam each day than before and their number is steadily growing : 2500 raids in March against 4.700 in May, « and now they are running at about 10.000 sorties a month » (Clifford) ! Above that the increased total tonnage is now dropped on one part of the North, which is going to be totally destroyed. Besides, that part is not inhabited by only 10 % of the population, as Johnson declared, but it is a heavily populated area where 27 % of the population lives...⁴⁵.

Both sides must show their willingness now, even if it is absurd to expect the Vietnamese to accept the American demand of absolute reciprocity : The fact that Hanoi has come to the Conference-table at all is already a remarkable concession !

Nevertheless the N.L.F. and Hanoi could stop their attacks with mortars and rockets on the cities in South Vietnam; and the U.S. could begin by entirely stopping the bombing of the North, which was begun under such false pretences. This asks for political courage, but history justifies the expectation that the Americans have that courage.

⁴⁵ As revealed by R. Shaplen. See STONE, I.F., *Weekly*, vol. XVI, n° 10, May 13, 1968, p. 4.