Russell Tribunal

U.S. MILITARY INTERVENTION IN THE VIETNAM WAR

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1. Welcoming letter from the dais

Dear delegates,

It is with great pleasure that we welcome you to PUJMUN and to this Tribunal. During these days of committee, we, as your presidents, expect your best disposition and commitment in order to fulfill the established goals and to hold enriching discussions in the proposed matters. We firmly believe that mere academic excellence is not enough, therefore we expect from you the highest ethical behavior, as being a great delegate and a great lawyer starts from being an even greater human being. It is certainly an important duty the one that we must address, as it will be our job to portray some of the greatest thinkers of humanity and hold profound discussions regarding war crimes, humanitarian law, philosophy, ethics and socio-politics. Although the Russell Tribunal lacks the ability to enforce its decisions on any country or individual, you are called upon to find out the truth that lies underneath one of the most important events of the Cold War. To this extent, we ask for you to bear in mind Eduardo Couture’s words: “Procure justice: Your duty is to fight for the law, but the day you find the law in conflict with justice, fight for justice” as law transcends rulings.

Bertrand Russell, president of this Tribunal, once said that “good life is one inspired by love and guided by knowledge. Neither love without knowledge, nor knowledge without love can produce a good life”. Accordingly, we want to invite you to allow love to inspire you and knowledge to guide you through PUJMUN, since only love and knowledge can make this model worthwhile.

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2. Invitation Letter from Bertrand Russell

Great thinkers of humanity,

An unbearable pity for the suffering of mankind has always governed my life. I cannot withstand the enormous burden that the waging of war is causing upon the people of Vietnam. I feel profoundly disturbed. I also believe that you, the writers, the thinkers, the philanthropists, the philosophers, must be the first to stand on the way of injustice and hatred. Thus, I am writing this letter to you, please join me in a Tribunal with the purpose to establish, without fear or favor, what has been truly happening in this merciless conflict.

Nonetheless, I distrust those who judge without evidence and condemn without reflection, we ought always to entertain our opinions with some measure of doubt and so forth, evidence and arguments must prevail amongst us.

I hope that our efforts will contribute to world’s justice, to the re-establishment of peace and the liberation of oppressed people.

Yours faithfully,

Bertrand Arthur William Russell
3rd Earl Russell

3. Historical Background of the Committee

3.1 Introduction

Before the creation of the tribunal, Bertrand Russell was already deeply concerned about the actions carried out by the U.S Military in the Vietnam War. According to his views, crimes allegedly committed during war, should not be left unpunished. These acts were manifestly unjustified and did not follow the parameters of just War. The prolonged military intervention without an authorization, use of biohazard non-permitted weapons, actions against protected goods and civilian population, immense collateral damage and a direct violation of international law could not just simply occur justifying an states’ cause. Russell thought that the efforts made before his initiative were not concrete and unhelpful, precisely because the lack of wideness due to the known notion of the “justice of the winners”. On November 13th 1966 at a meeting in London. Russell was joined there by Jean-Paul Sartre, Vladimir Dedijer, Isaac Deutscher, and Lelio Basso, in order to consolidate the initiative. At this reunion, Russell stated the founding words that would define the essence of the tribunal itself;

“The Tribunal has no clear historical precedent. The Nuremberg Tribunal, although concerned with designated war crimes, was possible because the victorious allied powers compelled the vanquished to present their leaders for trial. Inevitably the Nuremberg trials, supported as they were by State power, contained a strong element of realpolitik ... our own task is more difficult ... we do not represent any State power, nor can we compel the policy makers responsible for crimes against the people of Vietnam to stand accused before us. We lack force majeure. The procedures of a trial are impossible to implement.”
However the tribunal lacks a concrete jurisdiction, it can impose a moral, ethical and social sanction against the defendant. However the tribunal could not proceed without understanding the socio-political background of the Region, why the conflict started the war itself, why was the US military so eager to end the conflict they resorted to use biohazard weapons and the aftermath of the Region after the conflict had ended.

In the following points, we will methodically analyze the causes of the Vietnam War that led directly to the events that concern the tribunal, and that in this case, are the cause of its existence.

3.2 Context: Punctual causes of the Vietnamese conflict and the United States Intervention

This point will be developed, as follows, through bullet points. This structure implies that the facts here contained should be easy to memorize and that, so on, have a crucial role in the understanding of the case context.

- The first direct cause it’s the Vietnamese Independence from France; at the middle of the 20th century, French troops had lost control over different provinces from their empire. At the same time, France itself would go through the agony of being one of the directly implicated and consequently devastated by the Second World War. These circumstances meant a general state of instability, which led to the consolidation of a pro-independence movement amongst their colonies in the region, one of them being Vietnam.

- The victory achieved by the allies at the end of the II World War, left the world suffering devastating repercussions, being two of them a deep economic recession across Europe and a polarized world where opposite powers held constant non-direct conflicts and raced against each other in order to establish themselves as the strongest nation in the world. The Vietnam War started when the Japanese troops were forced to withdraw after their defeat in world war II and, simultaneously, the French colonial ruling on Indochina peninsula was so undermined that the French Republic decided to leave emperor Bao Dai in control of the Vietnamese region, being connected to the western culture and having his education provided by France, Emperor Bao Dai implemented a pro-western regime and ruled its country accordingly.

- When the Indochina Peninsula was invaded by the Japanese military, the political leader Ho Chi Minh decided to repel the invasion, but also to stop, simultaneously, the French control over Vietnam. Afterwards, with a divided country, a conflict arise between the two parties, Northern Vietnam was and the State of Vietnam (which also has been named as South Vietnam). American Intervention occurred on 1954 when the US tried to help France, Southern Vietnam and their respective armies to win the war and unify the country. From the other side, President Ho Chi Minh did not only have his regular army, he also led the Viet Cong, a Guerrilla Group dedicated to strike and attack the provinces of Southern Vietnam.

- U.S. Military Intervention; when the US Army got into Vietnam, Viet Cong controlled most of the rural area of the Vietnamese territory, representing a problem to the mobilization of the American troops through it. Due to the aforementioned, American troops underwent through a huge amount of casualties; at the same time, US Citizens started to protest against the intervention of their armed forces on a conflict that did not affect them directly and was costing the life of its children. In order to terminate rapidly the War, the US Military forces began to strike Vietnamese territory with a wide arsenal, even with Biohazard weapons, including Napalm, and also raiding villages with the excuse of them being a host for Viet-Congs. This tactic meant the usage of devastating weapons on militants and civilian Population and the causation of numerous massacres.

- Protest Against the Military Intervention: During 1968 a wave of protests against the intervention in Vietnam occurred. The U.S citizens were against the perpetration of an intervention in the region, for two main reasons; the heavy casualties suffered by the U.S Army in Vietnam and the acknowledgement
made by the general population in terms of the collateral damages produced by the U.S army against the population of Vietnam. From that point forward the U.S military used biohazard weapons in order to end the conflict in the most efficient manner, however, as a result countless of civilian lives were affected, villages were destroyed and burnt to the ground, field crops were sterilized by the contamination agents found in said biohazard weapons and the next generations of Vietnamese would turn out to be damaged by the effects on the human body and mind biohazard weapons produce.

3.3 Vietnam War

3.3.1 Countries’ division

In the subsequent illustration we can see the division of the country before and during the war, and the major battles that the conflict sprouted, as well as some places where the United States Military intervened.

3.3.2 Influence of the Chinese Revolution in Northern Vietnam

The Chinese Revolution and the events around it, inspired Northern Vietnam leader Ho Chi Minh to follow the footsteps of Mao Ze Dong and the Socialist political and economic tendencies, which would lead into the division of the former French Colony into two different States and would eventually trigger the war. It started when Communist leader Mao Ze Dong declared the creation of the people’s republic of China in 1949 and, after these declarations, a war between the Communist Party and the nationalist party started. Following the 1911 revolution that ended the Chinese Empire, China found its political spectrum divided into two different ideologies. First, the ideology of the communist party and following, the ideology of the nationalist party. When the civil War Started after the Second World War had ended, the Communist party had a stronger force, a higher morale, and much more resources than the Nationalist Party. Ho Chi Minh took advantage of that and inspired the northern Vietnam provinces in to following the communist ideals of the Chinese. Amongst the War of the supporters of the Ho China Minh regime was the people’s republic of China and The Soviet Union. The United States saw that they could not bear the possibility of the South East Asia Region becoming an ally of the Soviet Union & China.
3.3.3 Southern Vietnam

As a worthy counterpart of the Communist Influence, Emperor Bao Dai had studied in the French system under a notorious French Influence regarding economic and political system. Military Powers from South Vietnamese army came from the unrelenting support of the French Republic, in order to maintain its influence on the region. Southern Vietnam at its beginnings was a Constitutional monarchy, it would later become a Presidential regime and finally a military regime. Being an ally of the French Republic Made Southern Vietnam and ally of the Allied Forces of the Second World War (U.S, U.K & France). This led to a clash between ideologies and a quest of unification of the country which would ultimately trigger the Vietnam War.

3.3.4 Indiscriminate Usage of Biohazard Weapons

One the greatest critics towards the United States Military intervention was the use of Napalm. After many years of fight, the U.S population protested against the government because of the prolonged military intervention in Vietnam, as a result the U.S Government resolved ending the war as quickly as possible, it resulted on the use of Napalm, an anti-personnel weapon that consists of petrol and gelling agent. The Use of Napalm was prohibited due to the fact of its horrendous nature, ever since it is not only a highly flammable agent but also dangerously sticky substance incredibly difficult to extinguish, meaning that it would lodge into Human beings, the terrain, Fauna, Flora & buildings bringing them to the ground. The Use of this substance against any human being is reproachable, however, as the Vietnam War consisted mostly on guerrilla warfare and skirmishes, Napalm was constantly used and left immense collateral damage to the country and its civilian Population.
4. Description of the Committee

4.1 Legal Relevance

This tribunal’s discussions will revolve around acts committed during Vietnam War, mainly focusing on possible violations of International and Humanitarian Law. The Tribunal will be lead and moderated by its presidents, Bertrand Russell, Jean Paul Sartre & Vladimir Dedijer, joined by some of the greatest minds of the time who will be in charge of presenting the evidence, discussing it and deciding based on it. In order to reveal what actually happened in Vietnam and how to issue a fair decision, contrasting evidence with law, philosophy, geopolitics, socio-politics and ethics, will be required.

4.2 Scope of the Committee

**Jurisdiction:** The Russell Tribunal does not rest under the Jurisdiction of any country nor the International Jurisdiction (International Criminal Court or the International Court of Justice), therefore, it is unable to declare judicial judgment to the accused because the tribunal itself cannot cohere the accused. Nevertheless, it can dictate an ethical and social judgment against the accused. Enforceability of the issued decision judgment may be forwarded on to the United Nations General Assembly for it to take the needed measures.

**Case evaluation:** This tribunal will only refer to the events that occurred in the context of the Vietnam War, hence, precedent actions committed by the actors of the conflict will not be taken into account. The discussions that are going to be held will aim at answering the questions established during the second and third phase of the procedural order of the hearing (sixth point of the guide) and is going to depend entirely on the members of The Tribunal will.

4.3 Legal Basis

The authority that the Russell tribunal upholds resides only on its members qualities as individuals. To be said, the authority of the tribunal is not in any way formal, yet it is material. To the question, does the Russell tribunal hold any coercive power? The answer is simple; in principle, it does not. Yet, it is possible to infer that the Tribunal’s sanctions nature is entirely symbolic, deveining in a materialization of the sanction strictly correlated with the conduct that other members of society execute when they have knowledge of it, and when they identify the sanctioned one; bearing that in mind, the coercive power of the tribunal its indirect.

The Russell tribunal does not correspond with any constitutionally approved method to create organs that administer justice in any national or in the international order. Precisely for that reason its authority is not formal, but in the grounds of the second affirmation, the existence of coercive power, its authority its material. Yet, the question that relies on us, it's if there is an existent method of sanction that can be effective regarding individuals and states. Regarding the legal/juridical grounds exposed, the duty of the members will be to ideate such sanctioning method.

4.4 Applicable law

In terms of determining which law compendium its applicable to the functions and competences of this tribunal, we found ourselves with the challenges of analyzing every single legal instrument that can be related to the case, without regard of any jurisdictional frontier. Being that so, here we enunciate various sources of the law that are binding to determine states and peoples, that can be, through analogy, binding to the Tribunal.

**4.4.1 Written Law & Law Principles**

- International Law
- International Declaration of Human Rights
Geneva Conventions and its Subsidiary Treaties
The London charter of 1945
Resolution 96 of the General Assembly
International Covenant on Civil and Political Rights

4.4.2 Jurisprudence & Common Law

This tribunal will not hold in disregard the existing jurisprudence of other non-permanent International tribunals, specifically
International Military tribunal
International Military tribunal for the Far East

5. Legal and Socio-political Relevance of the case

The military intervention on the Vietnam War is a prime example of violations of international Law. Many thoughts on how future military interventions must be a last resort and on how, in case of occurrence of any contravention to international instruments the necessity for such activities to be supervised and heavily punished arise. This conflict set that bedrock for the contrary, ever since the fact of being resilient to the conduct in which a country can deploy its troops over another nation’s territory and use weapons with an extreme range of material and time-lasting danger. Vietnam was a bedrock for impunity.

The Russell tribunal is composed, mainly, by academics. Doctrines from every area of knowledge have never been gathered this way to evaluate a conduct with such impact in the external world. To the concept of humanity, justice in every subsystem, in every State and in the international spectrum has failed. How can the world of philosophy and letters, if any of the used methods to generate a common sense of conscience has worked, restrain the world from frustration and consolidate the high hopes people had to generate justice?

Administering justice beyond law, was the answered Bertrand Russell stated. The relevance this kind of solution to internal and external orders held, outraged and intimidated internationally responsible actors. What Russell accomplished was, although silenced, enormous Russell and his tribunal never touched materially the foundations of any political system, yet, the generated a wave of movements rejecting behaviors such as the ones in Vietnam through the whole world.

The tribunal also poses a question for us; is it necessary to include different sectors of experts outside the juridical formatted operators inside of the function of administering justice? Such pronouncements as the ones occurred with Russell at his time, and the subsequent ones, were a milestone in the thinking when structuring internal and international legal systems.

6. Special Protocol of the hearing

Hearings conducted inside of the tribunal will be held under the following protocol.

- Members of the tribunal will expose an opening statement, swearing to comply with the principles of the tribunal and to seek for justice and equity under the standards of impartiality and good faith. This statement will contain, also, their position towards the duties of the tribunal.

- The language that the members of the tribunal will use has to be respectful towards other members, the representatives of the parts, the witnesses, the proficient and other subjects present inside of the tribunal.
Members can interrupt themselves to ask questions in the stage of deliberation, always under the mandate of respect and with the previous authorization of the Dais.

Members cannot interrupt every other subject during the hearing. The questions conducted and practiced towards the representatives of the parts, the witnesses or the proficient will be held at the end of their interventions.

Every single member of the tribunal has to present a project of delimitation, taking into account the tribunal aims. Also, every member has to present a project of questions to be assessed and answered at least. Members can form groups after the deliberations to present such projects, that will be approved by the presidency and then, voted.

Every member who does not agree with the drafting of the ruling, can draft therefore a dissenting opinion. Members can subscribe a joint dissenting opinion. These will be approved by the presidency in order to be introduced to the syllabus of the sentence.

Other eminently procedural/protocol matters shall be addressed and covered by PUJMUN V rules of procedure.

7. Procedural Order of the Hearing

1. Opening Speeches: The opening speeches must have a two minutes maximum duration, and the Judges must introduce their critical thinking of the facts that will be evaluated during the committee and what evidences will they present against the defendant

2. Delimitation of the Tribunal Aims: The delegates must aim the committee into what they think is proper to discuss on the degree of international responsibility of the defendant for the acts committed in the Vietnam War, what type of sanction or recommendation should the commission draft on its ruling.

3. Deliberation of the Tribunal on the questions to be assessed: Having into account the projects presented by the members, the tribunal will have a discussion to establish a minimal of ten (10) questions that the final ruling and the text of the decision have to answer.

4. Practice of the evidence: The evidence will be presented and evaluated before discussing it following the principles of the Rule of evidence, in order to correctly discuss the facts and accusations that the defendant is being charged off.

5. Evidence Debate: The judges will proceed to debate the evidence that was presented during the practice of the evidence, it will be expected to discuss if the mean of evidence provided was the correct one or if it another mean would be better, the veracity of the evidence provided and how according to the evidence must the ruling be provided.

6. Discussion of the Conclusions: According with the debate of the evidence the judges must present their conclusions and how they consider that ruling must be provided and what charges is the defendant guilty, and what sanction will be presented, sanctions cannot overstep the jurisdiction of the tribunal.

7. Drafting of the ruling: The ruling provide by the judges must be created by the discussion of the conclusions of the evidence provided, evidence that were not presented by the judges or ex officio by the tribunal will not be taken into account during the ruling, even if they were presented after the drafting of the evidence thus the ruling must follow the procedure of the hearing.

8. Probationary Procedure

8.1. Rules of Evidence

Rules of evidence determine what can be or not admitted into the tribunal to answer the questions and comply with the tribunal's aims. For the reason that we do not find ourselves in a tribunal composed by Jurists, or expert advocates with a wide knowledge in terms of practicing evidence, we will hold the general
doctrine in terms of practice, both Civil and Common, as an auxiliary criteria for the members of the committee. Nonetheless, we will have into account the following rector principles.

General criteria for admissibility apply as follows; The evidence has to be (1) relevant, meaning it must tend to prove or disprove some fact at issue in the proceeding, the evidence also has to be (2) reliable, meaning that its source and its qualifications determine evidence at its essence and do not contradict the objective of the evidence itself.

8.2. Forms of Evidence

8.2.1 In terms of Testimony

From the witnesses, the members of the tribunal shall evaluate, in order to declare the admissibility;

(1) Ability to observe (2) ability to remember, (3) ability to communicate, and (4) ability to understand the obligation to tell the truth embodied in the oath that will be conducted at the beginning of the practice.

8.2.2 In terms of Expert Opinion

When an issue in the case requires for its resolution an inference regarding some area of technical or specialized knowledge, expert opinion is required to provide conclusions or inferences from the facts introduced to the case. The expert may be qualified because of education, training, professional experience, etc. Members of the tribunal have to evaluate at first hand (1) The competence of the expert, to say, what makes its opinion substantially sustainable in their area of expertise, (2) the reliability and helpfulness of the expert opinion, and (3) the “fit” between the expert’s opinion and the facts of the case.

8.2.3 Witnesses and Documents introduced ex officio by the Tribunal

***Profiles will be delivered two days after beginning the sessions to avoid prejudgement in the composition of the project of delimitation

Chuck Searcy
Karl Marlantes
Eliott Adams
Elmo Russell Zumwalt Jr.
Nguyen Thi Ngoc Phuong
Nguyen Van Son

9. General Suggestions

In terms of investigation, we strongly recommend exceeding the bibliography provided by this guide. Yet, we expect you to consult these three types of texts.

Historical reviews in terms of the Vietnam’s war history and relevant actors. We strongly recommend “Breve Historia de la Guerra de Vietnam”, wrote by Raquel Barrios Ramos, which is an accessible source to put yourselves in context.

International Criminal Law Handbooks are on hand. Every academic text that provides you enlightenment in terms of international crimes and their history, and specifically, on their application.

To regain Knowledge on the functioning and composition of the tribunal, its object and effects of their decisions, consult “Tribunal Russell: Sesiones de Estocolmo y Roskilde” wrote as a series of essays by various authors and published by Siglo Veintiuno Editores.
10. Guiding questions

Determine your characters principal characteristics and points of view in terms of the use of force, does he/she comply with the existence of a State prerogative to attack in a preventive way?

Does your character have any links between the countries involved? Does this, having into account its academic positions and pronouncements, affect its judgement?

Can, Juridically, a tribunal with this constitution and with this composition, efficiently sanction a states’ action?

In case of sanctioning or condemning a state, which would be the most proficient way to do so, having into account the qualities and capacities of the members of the tribunal?

Does your character occupy any public office in a state?

What has been the scope and reach of your character’s work?

How does such work functions as the basis for a juridical-valuative exercise?

11. Bibliography


Russell, B. (1915). The Ethics of War.


