

South Vietnam's Rights

Legalities of War

By Thomas A. Lane
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The central hang-up of American policy in Vietnam has been the absurd notion that if you don't restrain the criminal he will cease or limit his criminal activities voluntarily.

It is transparently clear that North Vietnam is the aggressor in this war. There has been no invasion of the North from the South. The South had the right, clearly defined in international law, to strike back at North Vietnamese forces — in Laos, in Cambodia and in North Vietnam; but that action had for a decade been prohibited by the United States.

A Personal View

International law defines the obligation of neutrals to deny the use of their soil to belligerents.

Neutrals are required to disarm and intern belligerent forces entering their territory. If the neutral fails to fulfill this responsibility, the offended power has the right to attack belligerent forces using the neutral territory.

In law, South Vietnam has had the clear right to attack North Vietnamese forces in Laos since the enemy established bases there in 1961; and a similar right of action in Cambodia since North Vietnam established bases there in 1964.

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American presidents denied South Vietnam that right of self defense. The Kennedy and Johnson policy makers believed that in allowing sanctuary to enemy forces in Laos and Cambodia, the United States was avoiding a wider war. Instead, this concession invited the enemy to expand the war into these countries and to use them as bases for attack on South Vietnam.

The consequence was disastrous. The thousand-mile land border of South Vietnam could not be sealed against invasion. All of South Vietnam was open to attack. Our military superiority was neutralized by this prohibition against closing with the enemy. No amount of reinforcement in South Vietnam could compensate for the effect of sanctuary.

Then Prince Sihanouk was ousted. The successor Lon Nol government sought the withdrawal of North Vietnamese forces from the country. Instead of complying, North Vietnamese forces moved out of their sanctuaries to threaten the Cambodian government. President Nixon recognized the opportunity to destroy the enemy bases across the border. His attack on the North Vietnamese invaders was a prudent defense of our now common cause with Cambodia and South Vietnam.

Although Nixon has withdrawn U.S. forces from Cambodia, South Vietnamese forces remain. Sanctuary is dead.

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Enemy sanctuaries in southern Laos remain undisturbed. North Vietnamese forces wage the war against South Vietnam from these protected bases. The next task for South Vietnam is to destroy these enemy forces and bases and secure the border against further intrusion.

Because Laos is too weak to repel the invaders, it will be necessary for South Vietnam and Thailand to cooperate in this task.

It would of course be desirable to have the approval of the Laotian government for the establishment of this position, but that cooperation may not be given.

International law clearly defines the right of South Vietnam to attack the enemy in Laos without the concurrence of the Laotian government. It is clear that Laos cannot expel the North Vietnamese invaders. It lacks the military power to do the job. President Nguyen Van Thieu must act to protect his own people by ending the Laotian sanctuary.

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The allies should warn North Vietnam to withdraw within its proper borders or



The Writer

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suffer the consequences. If North Vietnam then persists in its aggression, the war should be transferred to its soil by an invasion at least to sever the southern provinces and possibly occupy Hanoi.

It is an elementary principle of war that you must fight on enemy soil whenever possible so that all the destruction of the battlefield will occur to him and his people, not to you and your people. But in this war, the U.S. has condemned its ally, South Vietnam, to suffer all the devastation of the battlefield. Who will want to be an ally of the U.S. if this is the way we meet aggression?

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Others have advanced the thesis that Communist China will not allow the defeat of its satellite, North Vietnam, so we must accept the necessity for a compromise solution: We must, it is said, accept a coalition government in Saigon.

Thieu has offered to allow the Communists to participate in open elections under international supervision, but that is not what Hanoi wants. The Communists cannot win power in free elections.

In South Vietnam, moreover, the power equation is wrong. We are not so weak that we must bow to the edicts of Peking.

The reality of power supports a very different free world posture. We hold the preponderant industrial power. Even though the Soviet Union has built disproportionate military power, it is still debarred by its relative weakness from a policy of open conquest. A general war would destroy world communism.

We can therefore say with confidence to Red China: "If your satellite wages war against our ally, our ally will respond with decisive force against your satellite. And don't you dare to intervene, because if you do, we shall meet you . . . with decisive action."

The Soviet Union, like Red China, pursues a rational policy — rational from the Marxist viewpoint. It is eager to extend Communist conquests but it is also mindful that its present domain must be preserved.

If South Vietnam invades North Vietnam and seizes the southern provinces of the country, new questions will be raised (from the Soviet point of view). Soviet policy cannot let this happen. Before an invasion of North Vietnam can be made, Soviet interests will require North Vietnam to cease its aggression.

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It is therefore important that the U.S. define a clear policy of self-defense. It must be positive that the free world will not be sacrificed piecemeal to Communist aggression. It must be prepared, as at Berlin, for war with the Communist powers.

if that is necessary to protect our interests.

Some will say that so forthright a defense of freedom is warlike. In truth, the policy is peace-oriented. Those who submit to blackmail, out of fear or ignorance, are the

real warmakers.

If Mr. Nixon's action against the Cambodian sanctuaries is part of a coherent policy of repelling aggression, we can look forward to an era of peace, in Southeast Asia and in the world.