VIETNAM AND INTERNATIONAL LAW

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Ho Chi Minh first achieved prominence as a leader of the Viet-Minh, a pro-Allied resistance movement against the Japanese occupation forces during the second world war. Ho Chi Minh was a Communist, but the Viet-Minh was not at that time wholly Communist. In the power vacuum caused by the Japanese surrender in 1945, Ho Chi Minh proclaimed the independence of Vietnam; at the same time France tried to reimpose her colonial rule. Negotiations between France and the Viet-Minh broke down and civil war lasted for several years. In an effort to deprive Ho of popular support, the French set up a State of Vietnam under the Emperor Bao Dai and granted it a certain amount of independence.

In 1954 France suffered a defeat at the battle of Dien Bien Phu, the United States threatened military intervention (with nuclear weapons, if necessary) to prevent a Communist victory in Indochina, and a conference met at Geneva to try to end the war in Indochina. It was attended by the United States, the Soviet Union, France, the United Kingdom, Communist China, Laos, Cambodia, the State of Vietnam (i.e. Bao Dai's government) and the Democratic Republic of Vietnam (i.e. Ho Chi Minh's government). The conference resulted in an Agreement on the Cessation of Hostilities in Vietnam, signed on 20th July 1954 on behalf of the Commander-in-Chief of the French Union Forces in Indochina for France and on behalf of the Commander-in-Chief of the People's Army in Vietnam for the Democratic Republic of Vietnam. Two similar agreements provided for a cessation of hostilities in Laos and Cambodia respectively.

The conference also adopted a Final Declaration endorsing the main points of the Agreement on the Cessation of Hostilities and adding some further provisions. The Final Declaration was not signed, but

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This article, based on lectures given at the Universities of Otago, Wellington and Canterbury by the author while he was a visiting lecturer at the University of Otago in 1972, is mainly concerned with the relevance of the Geneva agreements of 1954 to the present fighting in Vietnam. The author has dealt elsewhere with the rules of customary international law concerning intervention in civil wars, in Chapter 18 of his book *A Modern Introduction to International Law* (2nd ed. 1971). Nor is it proposed to say anything about the war crimes committed on both sides during the present war in Vietnam, since the legality of a war and the legality of the way in which it is conducted are two entirely separate issues, and only the first of those issues is dealt with in the present article.

On the discussion of the Vietnam war at the United Nations (a discussion which the Communist countries tried to prevent), see *Yearbook of the United Nations*, 1966, pp. 147-150.

On the United States intervention in Cambodia in 1970, see *International Legal Materials*, vol. 9, 1970, p. 840, and *American Journal of International Law*, vol. 65, 1971, pp. 1-83; and cf. Ian Brownlie, *International Law and the Use of Force by States*, 1963, chapter 15. The issues raised by the United States intervention in Laos in 1971 are very similar.

was accepted orally by the United Kingdom, France, the Soviet Union, Communist China and the Democratic Republic of Vietnam. Why was the Final Declaration not signed? Was it intended not to be legally binding? The intentions of the parties are by no means clear. The United Kingdom said in 1965 that the "Final Declaration, in contrast to the three Agreements, was not a formal instrument in the usual treaty form. It was not signed and appears to have the character properly of a statement of intention or policy on the part of those member States of the conference which approved it" (Cmnd. 2834, p. 14 — which implies that the Final Declaration was not meant to be binding. On the other hand, the United States has frequently accused North Vietnam of violating the Geneva accords on Vietnam, and this use of the word "accords" in the plural, which places the Final Declaration on the same level as the Agreement on the Cessation of Hostilities, implies that they are both legally binding. Oral treaties are rare in international law, but are not completely unknown.

The main provisions of the Agreement on the Cessation of Hostilities in Vietnam, endorsed in the Final Declaration, were as follows:

(i) There should be be a complete cessation of hostilities throughout Vietnam; French forces should be regrouped on the southern side of a provisional military demarcation line, roughly fixed at the 17th parallel, and the forces of the People's Army of Vietnam should be regrouped on the northern side of the line.

(ii) No troop reinforcements or additional military personnel, arms, munitions or war material should be introduced into either military regrouping zone.

(iii) An International Commission for Supervision and Control in Vietnam (otherwise known as the International Control Commission or International Supervisory Commission), composed of Canada, India and Poland, was established to supervise the application of the Agreement.

(iv) Civilians living in one military regrouping zone who wished to go and live in the other military regrouping zone should be enabled to do so, during a period of 300 days from the entry into force of the Agreement. (According to figures published by the International Control Commission 892,876 civilians moved from North to South and only 4,269 moved from South to North. Most of those moving from North to South were Catholics, who formed a minority of the population, and were thus not typical of the population as a whole; all the same, these figures hardly justify a claim that the régime in the North commanded greater popular support than the régime in the South).

(v) "Pending the general elections which will bring about the unification of Vietnam", civil administration in each regrouping zone should be conducted by the party whose forces were to be regrouped there.

In addition, paragraphs 6 and 7 of the Final Declaration provided as follows:

> The Conference recognizes that the essential purpose of the agreement relating to Vietnam is to settle military questions with a view to ending hostilities and that the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary.
>
> The Conference declares that, so far as Vietnam is concerned, the settlement of political problems, effected on the basis of respect for the principles of independence, unity and territorial integrity, shall permit the Vietnamese people to enjoy the fundamental freedoms, guaranteed by democratic institutions established as a result of free general elections by secret ballot. In order to ensure

> that sufficient progress in the restoration of peace has been made, and that all the necessary conditions obtain for free expression of the national will, general elections shall be held in July 1956, under the supervision of an international commission composed of representatives of the Member States of the International Supervisory Commission. . . . Consultations will be held on this subject between the competent representative authorities of the two zones from 20 July 1955 onwards.

The State of Vietnam and the United States did not accept the Final Declaration. Instead, the State of Vietnam made a unilateral statement undertaking "to make and support every effort to re-establish a real and lasting peace in Vietnam; [and] not to use force to resist the procedures for carrying the cease-fire into effect, in spite of the objections and reservations that the State of Vietnam has made. . . ." The United States made a unilateral declaration taking note of the Agreement and the Final Declaration and promising that, in accordance with its obligations under Article 2(4) of the United Nations Charter, the United States would not use or threaten force to disturb these agreements, and declaring that the United States would view any renewal of the aggression in violation of the aforesaid agreements with grave concern and as seriously threatening international peace and security. The United States representative also said:

> In connection with the statement in the Final Declaration concerning free elections in Vietnam my government wishes to make clear its position which it has expressed in a declaration made in Washington on 29 June 1954 as follows: "In the case of nations now divided against their will, we shall continue to seek to achieve unity through free elections supervised by the United Nations to ensure that they are conducted fairly."
> The United States reiterates its traditional position that peoples are entitled to determine their own future and that it will not join in an arrangement which would hinder this. Nothing in its declaration just made is intended to or does indicate any departure from this traditional position.

Unilateral declarations creating legal obligations are not very common in international law, but they can impose legal obligations on the state making them if they are intended to be binding by the state or states concerned.[1] The declarations by the State of Vietnam and the United States are phrased in terms of legal commitment as far as the cease-fire provisions are concerned; but the passage in the United States statement concerning elections is much less definite, and scarcely goes further than saying that free elections are a good thing—it hardly amounts to a legal obligation. The State of Vietnam said nothing about elections.

After the Geneva conference France withdrew her forces from Vietnam and the State of Vietnam rapidly became completely independent of France. Ngo Dinh Diem gradually ousted Bao Dai and set up a Republic.

The elections contemplated by the Geneva agreements did not take place. Diem refused even to discuss arrangements for holding the elections, on the grounds that the majority of the population lived in the North and would not be able to vote freely. But the elections were to be held under international supervision, and Diem could have asked for further safeguards of fairness during the negotiations on the arrangements for the elections. There were no grounds for assuming, before negotiations on the arrangements for the elections had begun, that safeguards of fairness would not be forthcoming. Diem's attitude, which

1 Ian Brownlie, *Principles of Public International Law*, 1966, pp. 511-2.

was inspired by a fear that he would lose the elections, was a clear breach of the 1954 agreements, assuming that those agreements were binding on South Vietnam (a point to be discussed later). Authority for this view can be found in the Tacna-Arica arbitration of 1925 (Annual Digest of Public International Law Cases, vol. 3, p. 357), where Chile and Peru had made a treaty providing that a plebiscite should be held in the provinces of Tacna and Arica; the treaty contained no provisions for the procedure of the elections, which was to be settled by a subsequent agreement, and the arbitrator held that the parties were under an obligation to negotiate in good faith concerning the procedure for the elections.

From 1954 onwards the United States supplied Diem with weapons and money. By 1956 Diem had crushed all opposition to his rule (during 1954 and 1955 opposition to Diem had come, not from left-wing forces, but from supporters of the Emperor Bao Dai and of various religious sects). Indeed, in 1956 Diem's régime was better established than Ho's régime in the North, where the setting-up of a communist state (and especially a witch-hunt against those accused (often falsely) of being landlords or "rich peasants") had caused widespread disturbances. By 1958 the position had changed; Ho's régime became more stable, and a revolt started in the South. At first the revolt in the South received no help from the North; it was not until November 1960 that South Vietnam complained to the International Control Commission that North Vietnam was sending help to the rebels in the South, and even this complaint merely alleged that the help had been sent during the preceding month and not before. In December 1960 the National Liberation Front was formed to provide political leadership (mainly but not entirely Communist leadership) for the revolt in the South. From 1960 onwards there was an ever-increasing movement of weapons and personnel from the North to the South (this is well attested by the majority report issued by the International Control Commission in 1962), and an ever-increasing supply of weapons, money and military advisers from the United States to help Diem's forces. As infiltration from the North grew (guerillas were followed by large units of the North Vietnamese army in late 1964), the United States began in 1965 to send United States combat forces to South Vietnam and to bomb North Vietnam.

Some United States critics of United States intervention in the Vietnam war have argued that Vietnam, under the 1954 agreements, is a single state, that a war between South Vietnam and North Vietnam resembles the war between the South and the North during the American civil war, and that intervention by other states in the Vietnam war is as illegal as intervention by other states would have been during the American civil war.

But this is not the attitude taken by North Vietnam and other Communist countries. When North Vietnam and South Vietnam sought to become members of the United Nations in 1957, the Soviet Union, speaking in support of their (unsuccessful) applications, said that there were two states in Vietnam. They took part as separate states in the Geneva conference on the neutralization of Laos in 1962 and both signed the treaty establishing the neutrality of Laos. In June 1969 North Vietnam and other Communist countries recognized the National Liberation Front as the provisional government of South Vietnam. Reunification of Vietnam is the Communist objective, but it is to be

achieved not by conquest (as in the American civil war), but by agreement between North Vietnam and the National Liberation Front, after the National Liberation Front has gained power in South Vietnam. It is true that Communist countries often talk about the people of Vietnam in the singular, but there is nothing unusual in a single people forming more than one state; the Arabs claim to be a single people, but there are several independent Arab states.

The extent to which the 1954 agreements are applicable as between North Vietnam and South Vietnam is a much more controversial question. North Vietnam and other Communist countries argue that the agreements are applicable in full. The United States and South Vietnam argue that South Vietnam is not bound by the election provisions in the 1954 agreements because it never accepted them; but they seem to accept that South Vietnam is bound by the rest of the agreements, and that the agreements therefore apply as between South Vietnam and North Vietnam with the exception of the election provisions.[2]

At first glance one might imagine that South Vietnam had succeeded to all of France's obligations under the 1954 agreements by virtue of the principles (such as they are) of state succession.[3] But the Communist countries have never invoked this argument, for two very good reasons. In the first place, Communist countries have always maintained that newly independent states never succeed to treaties entered into by the

2 This attitude emerges clearly from the State Department's memorandum justifying United States intervention in the Vietnam war (text in *American Journal of International Law*, vol. 60, 1966, p. 565; the text of the 1954 agreements and of the United States statement at the Geneva conference are also reprinted ibid., pp. 629-646). The attitude of the South Vietnamese government is not so clear. Indeed, one of the problems of writing about Vietnam is that it is difficult to ascertain the legal views of many of the parties involved. Almost all of the articles published in the United States have concentrated on attacking or defending the legality of the action taken by the United States, and have said little about the position of South Vietnam, North Vietnam or the National Liberation Front; even Communist publications tend to criticise the United States rather than justifying the actions of North Vietnam, which makes it difficult to know what view North Vietnam takes of the legal issues involved. However, even if United States intervention in the war is illegal, this does not prove that North Vietnam is not also acting unlawfully—both sides may be in the wrong.

3 See Akehurst, *A Modern Introduction to International Law*, 2nd ed., 1971, pp. 200-3. A devolution clause appeared in the Franco-Vietnamese agreement initialled in June 1954 (text in *Keesing's Contemporary Archives*, 1952-1954, p. 13627); but this agreement never came into force, and it is likely that Bao Dai's government withheld its consent from the agreement because it did not want to succeed to France's obligations in respect of the election provisions contained in the Geneva agreements.
Article 27 of the Agreement on the Cessation of Hostilities in Vietnam provides that "the signatories of the present Agreement and their successors in their functions shall be responsible for ensuring the observance and enforcement of the terms and provisions thereof". Some people have tried to argue that the words "their successors in their functions" make the agreement binding on South Vietnam. But these words cannot give the agreement a force which it would not otherwise have; an agreement cannot bind a third party simply by saying so. In any case, when we remember that the signatories of the agreement were the commanders-in-chief of the French and Viet-Minh forces, the meaning of the words in question becomes perfectly clear—they refer to subsequent commanders-in-chief of the French and Viet-Minh forces, and that is all.

former colonial power. In the second place, any suggestion that South Vietnam could succeed to treaty obligations undertaken by France in 1954 pre-supposes that Vietnam was still subject to French treaty-making power in 1954, and this was not so. Before 1954 France had already given the State of Vietnam a considerable degree of independence in external affairs as well as in internal affairs. In 1950 the State of Vietnam was given the right to make treaties on its own behalf; it is true that these treaties had to be approved by the High Council of the French Union, which consisted of representatives of France and of the associated states (Vietnam, Laos, Cambodia, Morocco and Tunisia), but France abandoned all power to make treaties on behalf of the Indochinese states. The State of Vietnam sent a separate delegation to the Geneva conference in 1954, and France made it clear at that conference that she could not commit the State of Vietnam. Indeed, by the time of the Geneva conference, the State of Vietnam had been recognized by over thirty states, was a member of several international organizations, and for two years had been endorsed by the General Assembly as a state qualified for membership of the United Nations (this was a procedure which the General Assembly adopted at that time in order to show that it would have admitted a state to membership of the United Nations if that state's application had not been vetoed by the Soviet Union in the Security Council).

The Communist countries rely on an entirely different kind of argument to support their contention that South Vietnam is bound by the 1954 agreements. A statement of this argument may be found in a note sent by the Soviet Union to the United Kingdom at the time when Diem refused to enter into negotiations for elections to reunify Vietnam. The Soviet Union said that the authorities in South Vietnam "benefit from the Geneva Agreements in the defence afforded by the Cease-Fire Agreements and also by the work of the International Supervisory Commission. . . . Only as a result of the . . . Geneva Agreements . . . and also as a result of the implementation by the Democratic Republic of Vietnam and by France of the appropriate articles of these agreements, did the South Vietnamese authorities have the opportunity to function in the temporary zone of regrouping of the forces of the French Union" (U.K. Parliamentary Papers, 1955-6, vol. 45, p. 703, at pp. 707-8). The Soviet Union therefore concluded that South Vietnam was bound by the election provisions of the 1954 agreements.

In reply, the United Kingdom government stated: "Her Majesty's Government have always regarded it as desirable that these elections should be held. . . . Nevertheless, Her Majesty's Government do not agree that the Government of the Republic of [South] Vietnam were legally obliged to follow this course" because they were not parties to the 1954 agreements (ibid., p. 711).

It is submitted that the United Kingdom government is perfectly correct. The Soviet argument is fallacious because it confuses deriving a benefit from a treaty with claiming a right under a treaty. In some circumstances a state which is not a party to a treaty, but which claims (or, at least, successfully claims) a right under the treaty, may be estopped from denying that it is a party to the treaty. But a treaty which merely provides benefits for third parties without any act on their part has never been regarded as being therefore binding on third parties. For instance, the Test Ban Treaty benefits all states in the world, parties and non-parties alike, by restricting pollution from nuclear

fall-out; but it has never been suggested that this circumstance makes the treaty binding on states which are not parties to it.

If the Soviet position is wrong, it must also be confessed that the United States position appears inconsistent in regarding South Vietnam as being bound by the Geneva agreements of 1954 with the exception of the election provisions. Would it not be more logical to argue that South Vietnam is bound by all the provisions, or by none? How, in any case, did South Vietnam become bound by any of the provisions?—it was not a party to the agreements originally, and the principles of state succession do not apply.

United States statements have never given a clear answer to these questions, but I suggest that a tentative explanation might be put forward along the following lines. The State of Vietnam (of which South Vietnam can be regarded as a continuation) accepted certain obligations by the unilateral declaration which it made at the Geneva conference in 1954. It accepted others by its subsequent conduct;[4] by accusing North Vietnam of breaking the agreements, by complaining about such alleged breaches to the International Control Commission,[5] and by defending its own action as consistent with the agreements, South Vietnam has recognized by implication that the agreements govern relations between South Vietnam and North Vietnam—with the exception of the election provisions, which it has always rejected.

It would, of course, have been open to North Vietnam to refuse to recognize that South Vietnam had any rights under the agreements unless South Vietnam was prepared to accept the agreements in toto.[6] But North Vietnam did not take this course; she argued that the agreements applied in full between North Vietnam and South Vietnam. The position therefore is that North Vietnam and South Vietnam disagree about the applicability of the election provisions of the 1954 agreements; but they agree tacitly that the other provisions apply. The position is rather similar to that which is covered by Article 21(3) of the Vienna Convention on the Law of Treaties, 1969, which provides that "when a state objecting to a reservation has not opposed the entry into force of the treaty as between itself and the reserving state, the provisions to which the reservation relates do not apply as between the two states to the extent of the reservation"—but the rest of the treaty, of course, does apply.

How have the states concerned sought to reconcile their participation in the present fighting in Vietnam with the provisions of the 1954 agreements?

The attitude of North Vietnam is rather obscure, because for a long time it denied that it was sending any aid to the insurgents in South Vietnam. However, in so far as it has admitted and sought to justify

4 Compare cases like *Brogden* v. *Metropolitan Railway Co.* (1877) 2 App. Cas. 666, and *Carlill* v. *Carbolic Smokeball Co.* [1892] 2 Q.B. 484 in the common law of contract.

5 This is significant, because the ICC owes its powers and its very existence to the 1954 agreements; by recognizing the competence of the ICC, South Vietnam accepted the relevant provisions of the agreements.

6 It is not a complete answer to this to point out that the election provisions are contained in the Final Declaration, whereas the provisions accepted by South Vietnam are contained in the Agreement on the Cessation of Hostilities; for North Vietnam could have made South Vietnamese acceptance of the Final Declaration a condition precedent to North Vietnamese recognition of South Vietnam's rights under the Agreement on the Cessation of Hostilities.

its actions, it seems to base its case upon the allegation that South Vietnam broke the agreements first by refusing to hold elections and by accepting military aid (weapons, money and military instructors) from the United States. In other words, it invokes the doctrine of discharge through breach, or, to be more precise, suspension through breach, because North Vietnam argues that the agreements are still in force; it is merely withholding the benefit of the agreements temporarily from South Vietnam. The relevant provision of the Vienna Convention on the Law of Treaties, 1969, is Article 60(1), which provides: "A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part".

The United States government has sought to justify[7] the military aid which it has given to the South Vietnamese government in the following terms:

> The [Geneva] accords prohibited the reinforcement of foreign military forces in Vietnam and the introduction of new military equipment, but they allowed replacement of existing military personnel and equipment. Prior to late 1961 South Vietnam had received considerable military equipment and supplies from the United States, and the United States had gradually enlarged its Military Assistance Advisory Group to slightly less than 900 men. These actions were reported to the ICC and were justified as replacements for equipment in Vietnam in 1954 and for French training and advisory personnel who had been withdrawn after 1954.

This paragraph is only partly true. Only some of the actions were reported to the International Control Commission, which discovered other unreported actions. Only some of the actions were accepted as replacements by the International Control Commission; others it regarded as contrary to the 1954 agreements.

The United States memorandum continues in the following words:

> As the Communist aggression intensified during 1961, with increased infiltration and a marked stepping up of Communist terrorism in the South, the United States found it necessary in late 1961 to increase substantially the numbers of our military personnel and the amounts and types of equipment introduced by this country into South Vietnam. These increases were justified by the international law principle that a material breach by one party entitles the other at least to withhold compliance with an equivalent, corresponding or related provision until the defaulting party is prepared to honour its obligation.
> In accordance with this principle, the systematic violation of the Geneva accords by North Vietnam justified South Vietnam in suspending compliance with the provision controlling entry of foreign military personnel and military equipment.

7 Memorandum by the Legal Adviser of the Department of State, printed in *American Journal of International Law*, vol. 60, 1966, p. 565, at pp. 576-7. The memorandum also argues (ibid., pp. 573-6) that the United States had undertaken treaty commitments to defend South Vietnam against subversion from the North. This is not the only occasion on which a state has tried to justify a controversial policy by arguing that it is obliged by treaty to follow that policy whether it likes it or not; the Heath government in the United Kingdom used the same argument in relation to the United Kingdom's alleged treaty obligation to sell arms to South Africa. It seems, however, that the treaties in question imposed no obligation on the United States to defend South Vietnam and that the Legal Adviser had misinterpreted them; see Richard Falk (editor), *The Vietnam War and International Law*, Vol. 1, pp. 168-173, and Raskin and Fall, *Vietnam Reader*, pp. 99-108.

Thus North Vietnam admits that its assistance to the National Liberation Front would normally have been contrary to the 1954 agreements, but is justified by prior breach of those agreements by South Vietnam; the United States admits that South Vietnam's receipt of assistance from the United States would normally have been contrary to the 1954 agreements, but is justified by prior breach of those agreements by North Vietnam. The real question, then, is which side was the first to break the 1954 agreements; this is a question of fact, not law, but it is extremely involved, and historians are likely to go on arguing about it for centuries. One thing is clear—as time has gone on, each side has violated the agreements to an increasing extent, always using a prior breach by the other side as a pretext for committing an even larger breach.[8]

In a sense, international law has failed in Vietnam. But we can learn some useful lessons for the future if we examine how and why international law has failed in Vietnam. The important point to note is that international law failed gradually and slowly in Vietnam; each side tried to wait until the other side had broken international law first, thus giving it a pretext for retaliating (proportionately or disproportionately).

It is sometimes supposed that a small breach of international law does not matter very much—rather like the Victorian housemaid who gave birth to an illegitimate baby and tried to soothe her outraged employer by pointing out that it was only a small baby. But Vietnam shows how a small breach of international law may provoke your opponent into retaliating by committing a slightly greater breach of international law; and, if he derives an advantage from that breach, you may feel compelled to offset that advantage by committing another breach of international law which is slightly greater than his breach. A small breach of international law may thus, *in time*, cause a whole series of breaches of international law whose cumulative effect may be as disastrous as the results of a single enormous breach would have been.

The time factor is also important in another respect. Most states have a habit of obeying international law, but this habit can be gradually lost during a prolonged war, as feelings on both sides become more bitter. Vietnam is not an isolated example of this; during the early years of both world wars, the United Kingdom and Germany both showed an almost exaggerated respect for the laws of war, which

8 Discharge or suspension of treaties as a result of a prior breach by the other side is a form of reprisals, and it is a basic principle of the law governing reprisals that they must be proportionate. A reprisal which is excessive is illegal pro tanto. But it is not easy to see how this rule can be enforced in practice. An escalation of counter-reprisals, counter-counter-reprisals, etc. (which is, in effect, what has happened in Vietnam) is a sure recipe for the complete breakdown of law and order.
The situation is probably the same under customary law, if one accepts the author's view that foreign intervention in civil wars is illegal (Akehurst, *A Modern Introduction to International Law*, Allen & Unwin, London, 2nd ed., 1971, chapter 18). After the start of the civil war in South Vietnam in the late 1950's, it was illegal for North Vietnam or the United States to give help to either side in the civil war. If one of them broke this rule by intervening in the civil war, the other was entitled to resort to counter-intervention. What has happened in practice is that counter-intervention has been disproportionate (and therefore illegal pro tanto), triggering off an escalation of counter-counter-intervention, counter-counter-counter-intervention, etc.

gradually disappeared as the war continued.[9] Recognition of the fact that international law will probably serve only as a temporary palliative in a conflict situation ought to add urgency to the effort of politicians to settle conflicts in their early stages before they get completely out of hand.

9 D. H. N. Johnson, *Rights in Air Space,* Manchester University Press, 1965, pp. 10-12, 18-21, 26-32 and 39-57; and see D. P. O'Connell on naval warfare in the *British Year Book of International Law,* vol. 44, 1970, pp. 46-8.