

TRIALS

Vietnam spy case will raise serious constitutional issue

The Humphrey-Truong defense is expected to raise a serious challenge to the national security nature of the case and the government's right to use warrantless wiretaps.

By Jeffrey Stein

ALEXANDRIA, VA.

THIS COLONIAL-STYLE CITY ON the banks of the Potomac, where citizens are quick to point out their Revolutionary War heritage is about to become the site of a civil liberties battle the founding fathers prepared for almost 200 years ago.

"Perhaps it is a universal truth," remarked James Madison to Thomas Jefferson on May 13, 1778, "that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad."

That, say the defenders of David Truong, a 32-year-old Vietnamese man and former antiwar activist who was arrested with a State department employee on charges of spying for Hanoi in January, is the proper context for the trial that will begin May 1.

So far, the facts of the case have taken a back seat to the sharp legal skirmishes between the defense and the government over constitutional issues surrounding government surveillance and wiretapping without warrants, the reorganization of the intelligence community, and the current state of U.S.-Vietnamese relations.

According to government affidavits, the FBI opened its investigation in February 1976. It was then that a Vietnamese woman who had apparently also worked for the CIA as a double agent told the FBI that David Truong, the son of a former candidate for the presidency of South Vietnam who was living in Washington and working on the normalization of relations between the U.S. and Vietnam, had asked her to carry some documents to Vietnamese officials in Paris.

During the ensuing months, the government says, Truong gave the woman packages to take to Paris, and Vietnamese officials there gave packages to her to carry back to Truong in Washington.

Each time, the woman would first take them to the FBI, which would open them and photograph the contents, before returning them to her for the completion of her "mission."

Last month, the Vietnamese woman was identified by the government as Dung Krall, the daughter of a former ambassador from the South Vietnamese liberation forces and its Provisional Revolutionary Government. Krall is married to an American Navy intelligence officer.

Warrantless surveillance.

A few months after the case was opened FBI agents secretly entered Truong's Washington apartment without a warrant and placed listening devices on the walls and in the telephone. At about the same time covert television surveillance of Ronald L. Humphrey, in his office at the U.S. Information Agency, was personally approved by Attorney General Griffin Bell and President Carter—also without warrant. Humphrey, the government charges, had supplied Truong with classified State department cables that ended up on the hands of Vietnamese officials.

Both Humphrey and Truong have entered pleas of not guilty. Humphrey has admitted that he supplied information to

Truong, but that, one, he didn't suspect Truong of being a Vietnamese agent, and two, he clipped off the headings and classification markings of the documents before giving them to Truong.

The defense, headed by well-known activist attorney Michael Tigar, has already scored some preliminary victories. One important—although admittedly partial—victory came when Judge Albert V. Bryant instructed the prosecution that it could not introduce in court any evidence collected through warrantless "national security" taps and bugs gathered after the Justice department had decided to pursue a criminal prosecution.

Currently, the government must obtain a warrant before using electronic surveillance in a criminal prosecution. In "national security" cases, however, the law is hazy, with the Carter administration arguing that no warrant is presently required.

In the Humphrey-Truong case Judge Bryant ruled that evidence collected through a "national security" tap after the decision to prosecute had been made could not be admitted, but evidence obtained prior to that decision could be used. The ruling cannot be appealed until the case is decided. Depending on that decision, either the government or the defendants may decide to appeal, which would leave it up to the Supreme Court to decide the legality of warrantless taps.

In the meantime, legislation has been introduced in Congress to establish specific procedures for the use of electronic surveillance in national security cases. The Senate overwhelmingly approved a bill April 20 that would require intelligence agencies to obtain permission from one of seven selected federal judges before they could use electronic surveillance techniques in national security cases. (Ironically, considering the Humphrey-Truong prosecution, the bill had administration support.) The House is now considering similar legislation.

Challenge to "national security."

The Humphrey-Truong defense is expected to raise a serious challenge to the "national security" nature of the case as well.

"The 'national security secrets' allegedly purloined by Humphrey for Truong do not, they say, in fact, relate directly to the national defense. None of the documents cited in the indictments deal exclusively with military subjects, at least as they are captioned in the government's inventory. Most appear to be the summary observations of American diplomats stationed in Asia, such as a conversation with a foreign diplomat who had recently visited Hanoi. So the question is: Can this be espionage?

Secondly, they say, the government has decided to produce the documents in question in court. But, if these are vital secrets, how can they be divulged by the government without damage to the national security?

The defense may also ask to have the two cases tried separately.

Less clear than the constitutional questions are those dealing with the motives behind the decision to prosecute this case and the diplomatic ramifications of its prosecution.

Named in the Jan. 31 indictments of



Dinh Ba Thi, the ambassador to the UN from the Socialist Republic of Vietnam, (above) was named as an unindicted co-conspirator in the Humphrey-Truong indictments.

Humphrey and Truong was an unindicted co-conspirator, the Socialist Republic of Vietnam's ambassador to the United Nations, Dinh Ba Thi. FBI affidavits assert that Thi personally received classified information from Truong. Thi was subsequently asked to leave the country, an unprecedented action.

The unusually harsh course of action taken by the State department in demanding Thi's ouster has been seen by some as evidence that the Vietnam war is still being fought here, if not in Vietnam itself.

Le Anh Tu, a Vietnamese friend of David Truong and a veteran peace activist, says, "I think there is probably disagreement within the U.S. government on how fast to normalize relations with Vietnam, and I think there's a group of people who continue to feel vindictive; people who have devoted virtually their whole lives to fighting for the wrong side and who feel extremely embittered and who hate the Vietnamese. I suppose," she said,

"it's like the French who lived in Algeria for a long time."

Some of those at the top of the American hierarchy who gave the green light on key decisions in the Truong case were, of course, deeply involved in the prosecution of the war, including Cyrus Vance, now Secretary of State, formerly Secretary of the Army (1962-64), Deputy Secretary of Defense (1967), and Paris Peace Conference negotiator (1968-69).

To many close observers of the government's prosecution, the trial of Truong and Humphrey has taken on an Alice-in-Wonderland quality. Confessing that he had been wrong on Vietnam and many other issues of the past decade because he tended to assume the government was right, *Washington Post* columnist Richard Cohen was moved to observe succinctly that of the three parties to this week's contest—Truong, Humphrey, and the government—only one had a criminal record.

Jeffrey Stein is a reporter in Washington.

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IN THE WORLD

MIDEAST

Israelis press for new peace move

By Gidion Eshet

JERUSALEM

WITH WAR PREPAREDNESS almost a national habit of the people of Israel it is not surprising that soldiers' or potential soldiers' political views cause havoc.

This was the case in 1970 when a group of high school students aged 16-18 sent a letter to then Prime Minister Golda Meir saying that her policies toward the Arabs caused them to doubt the justification of the probable next war. We will not fight wholeheartedly, they wrote.

Meir dismissed the dissidents as a negligible fringe group. Begin did the same a few months ago when he received a similar letter. The 1978 high school student protest caused a chain of reactions. This culminated two weeks ago in a demonstration of 30,000 in Tel Aviv called by Peace Now group.

It all began when about 300 reserve officers sent a letter to Begin saying that he should express willingness to compromise over the West Bank. The official Begin policy is that Israel's maximum concessions in that area is the autonomy plan under which Israel will retain control over the territory but allow the local popula-

tion some sort of self-rule, excluding monetary, defense and foreign affairs. This position has been the main obstacle to reaching an agreement with Egypt on a set of principles for further negotiations.

by Begin's Herut supporters. It held a demonstration of 40,000 supporting Begin in Tel Aviv.

Meanwhile ten Knesset members out of 120 joined the Peace Now initiative, in-

The Peace Now group led a rally of 30,000 in Tel Aviv. Labor party and DMC leaders along with prominent Americans are backing the initiative.

The officers group called on Begin to change his views to their position called "territorial compromise" on the West Bank.

More than the desire to appease Sadat was behind the officers' letter. They also fear that holding the territories will enlarge the Arab population of Israel thus endangering the "Jewish character of the state of Israel."

After Begin dismissed them, Peace Now began a national campaign. About 300,000 citizens have now signed the petition based on the letter to Begin. The right reacted immediately. A group calling itself "Secure Peace" was organized

including members of the opposition Labour party. Among them are former ministers Abba Eban and Haim Bar-Lev and two members of the coalition partner Democratic Movement for Change. They were joined by 37 Americans including economist Kenneth Arrow, novelist Saul Bellow, Walter Lacquer, Irving Howe, Daniel Bell and Seymour Lipset.

The left in Israel refrained from open support of the officers' initiative. Shelli, the socialist Zionist party headed by Arie Eliav and Meir Paul disagrees with the view that all the West Bank (together with the Gaza Strip) should be handed over to the Palestinians as part of a Palestinian

state. The compromise clause, which is part of both Labour and DMC platforms, calls for parts of the West Bank, notably the area along the Jordan Valley, to be held by Israel endlessly. The Democratic Front for Peace and Equality also opposes the "Jewish character of Israel" reasoning. It holds the view that this is a racist position that looks upon any Arab as a danger for Israel.

To discredit the Peace Now opposition Begin says that accepting their program would mean retreating to the pre-1967 war boundaries. However, the group claims this is not their intention. Politically they put themselves in line with the Labour and DMC platforms, as they openly said after meeting the Deputy Prime Minister, DMC's leader Yigael Yadin.

Begin's supporters argue that the officers' program of compromises in the West Bank, the Labour party position, did not bring peace closer while that party was in power. The Arabs want all of the West Bank, a claim Peace Now rejects.

Nevertheless, Peace Now initiated by the reserve officers, is presently the most outspoken opponent of the Begin government. Being non-partisan enables it to mobilize opponents from different parties and to appear to be above traditional politics.

"THIRD WORLD" MYTHS

Populist nationalism submerges socialism

By Richard L. Sklar

REVOLUTION IN THE THIRD WORLD: Myths and Prospects

By Gerard Chaliand
Viking Press, New York, \$11.95

This book is an appraisal of the 20th century revolution against alien, colonial, and semicolonial domination in Africa, Asia, and Latin America.

Audacious? Indeed. But the author, Gerard Chaliand, knows whereof he writes. Two of his previous books—*Armed Struggle in Africa* and *The Peasants of North Vietnam*—are classics of their kind: reports of revolutionary life by a deeply sympathetic observer, every bit as realistic as he is committed to revolutionary goals and values.

To put his latest achievement into perspective: I know of nary an American author who could write about the entire Third World with as sure a common touch as that of Chaliand. A few other Europeans may possess the same rare combination of comprehensive knowledge and universal empathy. None, however, uses it better than Chaliand, as he guides us expertly and with ease through the everyday lives and selected social disorders of those who were honored by Fanon as "the wretched of the earth." His plain words are meant to dispel populist myths that envelop and enervate revolutionary thought and practice. Four such myths are effectively debunked.

First, the very expression "Third World" is mythical insofar as it attributes "a semblance of unity" to the highly diversified collection of peoples and states that fall within the meaning of the concept by any definition. Second, it is simply mythical to believe that rural-based guerillas are presently poised to spearhead social revolutions in nonindustrial countries. On the contrary, there are precious few countries where the revolutionary potential of an ex-

isting guerilla movement is even credible. The weakness of Latin American revolutionary movements, in particular, are vividly demonstrated by Chaliand with special reference to the paradigmatic case of Columbia.

Third, Chaliand exposes as a myth the notion that "national" revolutions normally evolve into "social" revolutions. "National" revolutions do assert local control over the resources of a country. They also create a new ruling class, centered upon an "administrative bourgeoisie" that absorbs and displaces the old ruling class, as in Algeria, Egypt, and Peru. When this happens, "social" revolution, which implies class struggle and a basic change in the class content of power, hardly gets off the ground.

Fourth, the belief that revolutions led by vanguard parties produce freedom is sadly mythical. Vanguard parties in power do not create free societies. Their invariable product, according to Chaliand, is bureaucratic despotism. Freedom for the working class cannot be attained by mere nationalism, or the takeover of management by a state at the expense of private ownership. Socialist freedom means that working people themselves will become the effective managers of industrial and political life. With all due respect to China, Chaliand does not see this happening anywhere in the world. In all of the so-called "people's democracies," worker control is prevented by one or another form of centralized "political monopoly."

Four myths down; but there are two more that are not debunked in this book, and should be. One that lies undisturbed by Chaliand is the myth of capitalist imperialism as it is propagated by those who call themselves "dependency" theorists. This myth posits the subservience of local ruling classes in nonindustrial countries to the dominant classes of the industrial countries. Its net effect is to block comprehension of the nature and strength of



In his latest book, Gerard Chaliand (above) dispels populist myths that enervate socialist thought and practice. He cautions against viewing "national" revolutions as synonymous with "social" revolutions.

ruling classes in newly developing societies. Chaliand's own stated intent to affirm the primacy of "political considerations" in Third World studies could be used to dispel this confusing myth, which only obscures the entrenchment and staying power of capitalism on a world scale.

Of even greater significance is the undisturbed myth of "bureaucratic" abuse as an explanation for tyranny in the Communist world. Chaliand deplores the perversion of socialism by Communist regimes. But he does not accurately identify its root cause. In his view, "bureaucracy is the central issue." However, the so-called "bureaucratic problem" in contemporary socialist thought should be exposed for what it is: a populist myth that conceals a far better explanation for the

persistence of despotism in socialist countries. Bureaucracy, after all, is an indispensable means for the achievement of social equality. In any society, bureaucracy is abused. In the socialist countries today, bureaucracy and socialism are both badly abused as a direct result of the deprivation of liberty. The myth of "bureaucratic socialism" (implying the possibility of a nonbureaucratic socialist alternative) impairs the ability of socialists to comprehend the nature of these abuses.

The myths that survive in this book, like those that are demolished, are populist myths. Populism, as Chaliand shows, is the graveyard of socialist ideas.

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