

**To Oppose Any Foe**



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## **The Legacy of U.S. Intervention in Vietnam**

Edited by

**Ross A. Fisher  
John Norton Moore  
Robert F. Turner**

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*To Ambassador Frederick “Fritz” Nolting,  
who served his country with distinction.*



“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 success of liberty.”

— President John F. Kennedy  
Inaugural Address  
January 20, 1961



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## Preface

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Three decades have passed since the last American helicopter lifted off from Saigon, but the Vietnam War still lives in the American memory. Political candidates tout their combat experience in the conflict, while journalists and voters question the lack of participation by others. American battles overseas are certain to draw at least some comparisons to the Vietnam War, whether it be from those who criticize the intervention in the first place or those who find fault with the military execution.

Public opinion is still deeply split on the morality and wisdom of the conflict. The Vietnam War was so costly and divisive that the controversy surrounding it continues to this day, and perhaps no history of the war approaching objectivity will be possible until several more generations of historians have passed. It will be their task to wade through the polarized views of the conflict in search of a version that most resembles the truth.

Perhaps the only thing that all can agree on is that the effects of the Vietnam War on the course of American history and that of Southeast Asia have been profound. The war's legacy has influenced historical trends, policy ideas, political alignments, and legal ideas both in the United States and in the rest of the world. This book is a compilation of work by some very able University of Virginia law students exploring that legacy.

All but two of the essays in this book were products of a seminar on "Legal and Policy Issues of the Indochina War," which for the past fifteen years has been taught by Professors John Norton Moore and Robert F. Turner, who in 1981 co-founded the University of Virginia's Center for National Security Law. Two of the essays in this compilation, Michael Charles Rakower's "The Khmer Rouge: An Analysis of One of the World's Most Brutal Regimes" and Benjamin Kringer's "The Third Indochina War: A Case Study on the

Vietnamese Invasion of Cambodia,” were written in another seminar taught by Professor Moore entitled “The Rule of Law: Controlling Government.” They were selected because they are germane to the themes of this book. These essays represent work of sufficient quality that we felt they should be shared with a broader audience.

The essays were chosen as well because they explore themes that have not been fully explored by other scholars in the field and express views that make an original contribution to the Vietnam debate. Many of these views have been expressed in some form by others, but the writers of these essays have each added something of value to think about for those interested in examining the Vietnam War in another light. The broad theme of the book is a multifaceted analysis of the legacy of America’s involvement in Vietnam, a commitment that the United States undertook many years before the first Marines landed on its shores and the name of the country became a household word in American living rooms.

The title is drawn from President John F. Kennedy’s inaugural address in January 1961, in which he promised that America would “pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, to assure the survival and success of liberty” around the world. This pledge, which reinforced a commitment made with but a single dissent by the U.S. Senate when it consented to the ratification of the SEATO Treaty in 1955, ultimately led to America’s long and arduous struggle in Indochina. As editors, we will not pass judgment on whether this commitment was imprudent or the promise too sweeping. Indeed, we hold differing views on the subject and want to emphasize that the authors of these essays argue on behalf of their individual views alone.

Yet, we have agreed that each of these essays makes a contribution toward achieving a better understanding of the causes and consequences of the Vietnam conflict. Moreover, they have been chosen with an eye toward those who have best profited from the use of primary sources in the formulation of their arguments, for with a subject as controversial as the Vietnam War, it is especially important to step back from the overheated rhetoric and look to the raw facts to draw conclusions. Excessive reliance on secondary sources, though sometimes necessary in historical research, can have egregiously

unfortunate results when opinion on a topic is so split. Heroes become villains, incompetents become geniuses, victories become defeats, and sometimes even right becomes wrong, all depending on one's personal views of the issue being studied. For instance, the 1968 Tet Offensive was a devastating political defeat for the United States, but in fact it was a smashing military victory because the Viet Cong ranks were repulsed and decimated in the encounter. For each American or South Vietnamese soldier killed during the Tet Offensive, Hanoi or the Viet Cong lost ten. Certainly, the repulse was costly, but perhaps that is the crux of the matter. One's view of whether the incident was a victory or a defeat depends on personal opinions regarding the broader conflict and whether the struggle was worth the cost.

Thus can broader historiographical trends be influenced by the spirit of the time period in which the author is writing as well as his or her personal opinions. History is full of such examples. Historians' views of Reconstruction, for instance, have undergone a dramatic revision in the last few decades, completely overturning the dim view of the era that had reigned since the late nineteenth century. Earlier views of the radical Republicans as vindictive conquerors have been replaced by an image of them as munificent apostles of a biracial democracy whose opinions were ahead of their time. President Andrew Johnson has been transformed in historical accounts from a champion of moderation and reconciliation into a petulant and egotistical racist. Which version is right? One has to look to the original sources and judge for oneself, and the values of the historian inevitably enter into the equation. With time, a similar phenomenon may occur with regard to the Vietnam War.

It is too soon to say what direction that shift may take. The bulk of present-day Vietnam War chroniclers, taking their cue from a string of prizewinning journalistic accounts, still regard the Vietnam War as a tragic mistake and portray its perpetrators as hubristic and arrogant Cold Warriors. "Vietnam" has thus entered the American political lexicon as a synonym for "foreign policy failure." That account may have some merit, but it is being challenged by a new breed of scholars and historians who contend that the cause in Vietnam was noble and the objectives important. And that view is

strengthened by the realities that followed the American withdrawal and the Communist conquest of South Vietnam, Laos, and Cambodia—including the slaughter of an estimated three million human beings by the new Communist regimes, more lives than had been lost in the previous fourteen years of combat. Now is a good time for scholars to explore other possibilities aside from the caricatures that have emerged from authors on both sides whose bitterness diminishes the value of their work.

This book is divided into three sections, each representing a different aspect of the Vietnam legacy: historical, legal, and contemporary. The first section deals with the historical legacy of the war and begins with an analysis of the U.S. commitment to support President Ngo Dinh Diem in his fight to stave off Ho Chi Minh's attempts to conquer South Vietnam. Many contend that it was the seminal event of Diem's overthrow that triggered the decision in 1965 to escalate the conflict, and thus it sets the scene for the other essays. Subsequent essays in this section deal with the consequences and logic behind U.S. intervention in the Vietnam conflict. The book then turns to the aftermath of U.S. withdrawal with regard to the fate of Vietnam and the broader region of Southeast Asia. The slaughter of Cambodians at the hands of Pol Pot's Communist regime and the deaths of tens of thousands of South Vietnamese represent serious consequences of U.S. withdrawal that have not drawn the amount of attention they deserve. The second section analyzes the effect of the Vietnam War on legal developments, a variegated subject because so many controversies involving international and constitutional law have arisen as a result of the conflict. Legal issues with regard to the legitimate use of force, naval warfare, intelligence gathering, and human rights have all witnessed developments as a result of the Vietnam controversy. Finally, the book concludes with essays on the influence that the Vietnam War exerts on contemporary policy issues like the U.S. mission in Somalia, the proper advisory role of the Joint Chiefs of Staff, the ongoing war in Iraq, and international terrorism.

President Kennedy's words hold renewed meaning at a time when America is so broadly engaged overseas in defense of its liberty, values, and security. Terrorism rather than Communism is now our principal global adversary in a different "long, twilight struggle." In a

sense, the lessons are similar. We have learned since September 11, 2001, that even after the end of the Cold War, our cause remains inextricably tied to the success of freedom throughout the world. Yet, differences remain. The invasion of Iraq, for instance, has drawn intense controversy with regard to whether it was a proper front in the war on terror, just as Americans still argue over whether Vietnam was the right place for engagement in the battle against Communism. Continuing the debate about the best way to advance the cause of freedom and listening with an open mind to differing views on that subject is a fitting tribute to the liberty for which America fights.

Ross A. Fisher  
John Norton Moore  
Robert F. Turner



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Special thanks goes to the authors of these essays for graciously agreeing to the publication of their papers in this book. Each one has something valuable to say, and we hope that their arguments will compel readers to think on this subject from fresh perspectives.

Equally valuable are the speakers who have visited the seminar from which these essays originated. They consist of scholars and authors, former government officials, veterans, and, in some cases, all of the above, and they all share a passion for learning from the experiences of the Vietnam War and educating others about it. Some are still living and others have passed away, but all have made an immeasurable contribution to the understanding of the authors who wrote the essays in this compilation. Distinguished speakers who have addressed the seminar include: Dr. Norman Graebner, Professor Robert O’Neil, Dr. Lewis Sorley, Dr. H. R. McMaster, Colonel Harry Summers, the Honorable James Schlesinger (former Director of Central Intelligence and Secretary of Defense during the final days of the war), General Al Grey (former Commandant, U.S. Marine Corps), Admiral Thomas Moorer (former Chairman, Joint Chiefs of Staff), Commander Paul Galanti (USN, retired, and POW during the Vietnam War), Dr. Robert E. Morris, Dr. Marin Strmecki (who assisted President Nixon in writing *No More Vietnams*), Professor W. Hays Parks, Dr. Jeffrey Addicott, Dr. Gary Solis, and the Honorable William E. Colby (former Director of Central Intelligence and CIA Station Chief in Saigon before the war).

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**Ross A. Fisher** is from Great Falls, Virginia. He attended Princeton University and graduated *summa cum laude* in 1999 with an A.B. degree in history. While writing his senior thesis, he worked extensively with the papers of George W. Ball, the under secretary of state for Presidents John F. Kennedy and Lyndon Johnson. Mr. Fisher attended the University of Virginia School of Law, where he received a J.D. and a Masters Degree in History in 2004. He is now an attorney at the law firm of Kaye Scholer LLP in Washington, D.C., and lives in Arlington, Virginia.

**John Norton Moore** is the Walter L. Brown Professor of Law at the University of Virginia School of Law, where he serves as Director of the Center for National Security Law, which he founded in 1981. For more than two decades he also served as Director of the Graduate Law Program at the University of Virginia. A former four-term chairman of the American Bar Association's prestigious Standing Committee on Law and National Security, he is the author or editor of 27 books and more than 160 scholarly articles. He has held seven presidential appointments in government, including serving two terms from 1986 to 1991 as the first Chairman of the Board of Directors of the United States Institute of Peace. He has also served as Counselor on International Law to the Department of State, Ambassador to the Third United Nations Conference on the Law of the Sea, and Chairman of the National Security Council Interagency Task Force on the Law of the Sea. He has served twice as a member of U.S. legal teams arguing cases before the International Court of Justice. He served for two decades on the editorial board of the *American Journal of International Law*, and contributed numerous articles to the *Journal* and other legal periodicals on various aspects of the Indo-China conflict. He is a member of the Council on Foreign Relations, the Order of the Coif, Phi Beta Kappa, and many other professional

and honorary organizations. He also served as the Legal Advisor to the Kuwait Representative to the United Nations Iraq-Kuwait Boundary Demarcation Commission. With respect to the Indochina War, Professor Moore has been actively involved with the legal issues of the conflict for more than three decades and was the principal co-author of the lengthy legal brief on the conflict approved by the American Bar Association in 1966 and placed in the *Congressional Record* by Senator Jacob Javits. Professor Moore worked on the legal issues while Counselor on International Law to the Department of State, met with congressional leaders on the issues, wrote the book *Law and the Indo-China War*, which won the Phi Beta Kappa Award at the University of Virginia, was a principal figure in the national legal debate on the war, and, more recently, edited *The Vietnam Debate: A Fresh Look at the Arguments* (1990) and *The Real Lessons of the Vietnam War: Reflections Twenty-Five Years After the Fall of Saigon* (2002).

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1975 book, *Vietnamese Communism: Its Origins and Development*, was one of about two dozen books on Vietnam recommended in the *Washington Post Book World* in April 1985, and one of about a dozen books mentioned in an author's postscript to President Nixon's *No More Vietnams*. Professor Turner has served as Special Assistant to the Under Secretary of Defense for Policy in the Pentagon, as Counsel to the President's Intelligence Oversight Board at the White House, as Principal Deputy Assistant Secretary of State for Legislative and Intergovernmental Affairs, and as the first President of the U.S. Institute of Peace. Author or editor of more than a dozen books or monographs and many articles, he has testified before more than a dozen committees of Congress on various issues of international and constitutional law and is a member of the Council on Foreign Relations, the Academy of Political Science, the Committee on the Present Danger, and other professional organizations.



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