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Nuclear Threats by the United States in the Korean and Vietnam Wars: Toward a Grounded Theory of International Governmental Crime

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NUCLEAR THREATS BY THE UNITED STATES IN THE KOREAN
AND VIETNAM WARS: TOWARD A GROUNDED THEORY
OF INTERNATIONAL GOVERNMENTAL CRIME

by

David Kauzlarich

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NUCLEAR THREATS BY THE UNITED STATES IN THE KOREAN AND VIETNAM WARS: TOWARD A GROUNDED THEORY OF INTERNATIONAL GOVERNMENTAL CRIME

David Kauzlarich, Ph.D.
Western Michigan University, 1994

Criminologists have generally ignored the crimes of governmental actors and agencies. This study delves into this neglected area of sociological inquiry by addressing definitional, legal, empirical, and theoretical dimensions of the phenomenon of governmental crime. The four research objectives are to:

1. Demonstrate that socially deleterious governmental actions can be studied criminologically through the epistemological framework of international law.

2. Document the existence of such governmental crimes in the area of nuclear weapons.

3. Describe and compare the patterns of the United States' violations of international laws during the Korean and Vietnam wars.

4. Inductively generate hypotheses and theoretical propositions on the structurally located etiological factors related to the United States' criminal threats to use nuclear weapons.

Through relatively detailed legal and sociological arguments, it is established that violations of international law, particularly nuclear weapons threats, are illegal acts which can be studied criminologically. Qualitative, socio-historical case studies of U.S. threats to use nuclear weapons against the countries of North Korea
and North Vietnam are then presented as empirical examples. The similarities and differences between the cases are examined, and it is concluded that many structural similarities exist between the circumstances faced by the Administrations of Eisenhower and Nixon. A structural/institutional grounded theory of international governmental crime is then developed which posits that organizational goals, ideological and historical constraints, projected social reactions, and the opportunity for secrecy play key roles in the decision-making process leading to international governmental crime. While the theory is quite compatible with the data on which it is based, and thus sheds insight into factors likely to facilitate a certain type of governmental criminality, it is acknowledged that the degree of explanatory power relative to other instances of governmental crime is difficult to gauge. The endeavor concludes with a discussion of the strengths and weaknesses of the study and recommendations for future research.
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Nuclear threats by the United States in the Korean and Vietnam wars: Toward a grounded theory of international governmental crime

Kauzlarich, David Alan, Ph.D.

Western Michigan University, 1994
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I extend sincere appreciation to my mentor, advisor, and friend, Professor Ronald C. Kramer. He has inspired me throughout graduate school to confront the challenge of conjoining humanism and criminological inquiry. I can only hope that in the future I undertake these challenges with his grace, consistency, and brilliance.

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This dissertation is dedicated to my best friend, Sandy Suraud-Kauzlarich. I cannot thank her enough for being herself.

David Kauzlarich
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CHAPTER I

INTRODUCTION

The Problem

Criminologists have historically focused on the etiological factors involved in an individual's violation of a state's criminal law. Thus, scholars of crime have normally investigated the causes of crimes such as murder, burglary, theft, and other so-called conventional forms of criminality. While the study of these behaviors is certainly vital to an understanding of crime, the legalistic conception of criminality has limited the academic investigation of crimes committed by governmental agencies. Criminologists then have only been examining a part of the picture, glimpsing at only a few behaviors which can be legitimately studied in a criminological fashion. Such a preoccupation with only particular kinds of criminality contributes to a myriad of obfuscations, not the least of which is the production of a falsified image of crime.

This research represents a challenge to the traditional legalistic conceptualizations of crime by creating a framework in which deleterious actions of governments can be brought within the parameters of criminology through the epistemological framework of international law. The value of international law for the discipline of criminology has yet to be discovered by most criminologists. In many ways then, the study conducted here stretches the parameters of
the discipline into a new domain of study. In this endeavor, a distinct framework for the scholarly classification of criminality is created and then employed in order to shed insight into an ubiquitous but overlooked phenomenon: what I shall call governmental crime.

The type of international governmental crime to be investigated in this research is one which has had a staggering effect on international global economy, politics, and war. Although used only once in the history of humankind, nuclear weapons have undoubtedly changed the face of the world. For fifty years the citizens of the world, and particularly the people of the former Soviet Union and United States, have lived with nuclear weapons aimed directly at their country's major military facilities, industrial bases, and cities. From the billions of dollars invested in these weapons to the more than likely possibility of rendering the entire planet uninhabitable, the nuclear weapon is an inescapable social, political, and physical fact.

It is commonly thought that the United States has not actively considered or threatened to use nuclear weapons since the bombing of the Japanese cities of Hiroshima and Nagasaki in August, 1945. But nothing could be further from the truth. Based on governmental reports, memoirs, and secondary histories, this study clearly demonstrates that nuclear weapons have indeed been used by the United States as a means to achieving political and military dominance in times of perceived global crisis.

This research represents an attempt to understand nuclear
weapons policy criminologically. At first thought, many may find this goal questionable, if not outlandish. Indeed, one may ask how such an objective is plausible, given the undeniable fact that nuclear weapons and policies regarding these weapons have been practiced by global powers for decades without legal incrimination. This view is understandable, yet far from accurate. Simply because some activity is engaged in pervasively, or not subjected to prosecution, it does not necessarily follow that this action is lawful behavior. One need only recall the absence of enforcement and prosecution of white collar crimes in the United States as an example.

Three of the many goals of scholarly research, as I understand it, are to uncover false truths, sensitize others to alternative routes in which to understand phenomena, and to fill gaps in a discipline via the use of research in other disciplines. I believe this research holds prospect for attaining these goals: It creates an alternative framework for the understanding of what constitutes criminality, employs an interdisciplinary approach to understand the legal status of nuclear weapons, and questions the legality of an assumed legal activity.

Research Objectives

The four research objectives of this endeavor are:

1. To demonstrate that socially deleterious governmental actions can be studied criminologically through the epistemological framework of international law.
2. To document the existence of such governmental crimes in the area of nuclear weapons.

3. To describe and compare the patterns of the United States' violations of international laws during the Korean and Vietnam wars.

4. To inductively generate hypotheses and theoretical propositions on the structurally located etiological factors related to the United States' criminal threats to use nuclear weapons.

The first objective of this endeavor is of course theoretical and conceptual in nature and is designed to act as both a foundational framework and prolegomenon to the later empirical sections. The remaining research objectives require empirical development and are devoted to the explication of the behavioral qualities of the phenomenon identified in the introductory definitional chapter.

Temporal Limitations

The examination of violations of international law by the United States in regard to nuclear weapons is confined to the periods of the Korean and Vietnam wars. Much has been written about the U.S. decision to end the hostilities of World War II by using nuclear weapons against Japan. And in spite of the fact that the bombings were clearly in violation of the principles of international law, there is a lack of quality data and consensus on the entire incident. Most historical reconstructions of the decision are quite speculative because many governmental documents pertaining to the action remain classified. Moreover, since the focus of the dissertation is on
U.S. threats to use nuclear weapons, rather than general nuclear weapons policy and the whole history of World War II, to conduct a quality analysis of the bombing of Hiroshima and Nagasaki would require a dissertation itself. Finally, U.S. threats to use nuclear weapons in the Korean and Vietnam wars appear to be qualitatively and ontologically distinct from the circumstances surrounding World War II. The United States never actually threatened to use atomic weapons against the Japanese, but simply did so. During the Cold War, the situation was reversed: The United States on many occasions did in fact threaten, both explicitly and implicitly, the use of such weapons, but never executed a nuclear attack. Because of limited access to data, extant research on the issue, and qualitative behavioral distinctions, this research will not delve into the U.S. atomic bombings of Hiroshima and Nagasaki.

Nuclear Threats Defined

This dissertation is devoted to an analysis of crimes committed by the United States government in regard to nuclear weapons. Specifically, the crimes studied are those instances in which the United States has explicitly threatened to use nuclear weapons. Explicit nuclear threats are defined as verbal or otherwise directly communicative warnings that nuclear or atomic bombings are imminent or forthcoming. The United States directed explicit threats twice during the Cold War, in both the Korean War and the Vietnam War.

There are three basic reasons explicit threats to use nuclear
weapons have been selected as the primary focus of this study. First, the circumstances in which the threats took place represent the highest level of consideration on the atomic or nuclear option. That is, while the U.S. has moved its nuclear machinery and resources periodically throughout the Cold War in response to changing global situations, the actual verbal threat to use the weapons indicates that the weapons were as close to being used in the Korean and Vietnam Wars than on any other occasions. Thus, in these instances the danger of nuclear war was more probable than on other occasions. Secondly, the idea of threat in the body of international law which regulates military operations requires that for a threat to occur, an identifiable, concrete provocation or communication must be articulated. Thus, in order to remain consistent with the definitional approach of the study, only explicit threats to use nuclear weapons are considered illegal under international law. This compels the endeavor to be internally consistent throughout the study. Finally, focusing only on explicit threats increases the attention given to these instances in terms of depth. Thus, more attention to detail can be given to explicit nuclear threats. Sacrificing breadth for depth, commonly a major dilemma in social research, is not viewed problematic here, since the study represents a significantly distinct approach to conceptualizing the phenomenon of crime.

Outline of the Research

Chapter II provides the definitional and epistemological framework for the project. Here a review of the definitional literature
is conducted, criticisms are mounted against previous conceptualiza-
tions of governmental crime, and a definition and typology is created
to adequately place governmental activities into the criminological
domain. Chapter III is devoted to an explication of the bearing
international law has over nuclear weapons. Here the precise mechan-
isms for incriminating U.S. nuclear weapons policy are introduced.
Chapter IV details the methods employed in the latter empirical sec-
tions of this work. It is here that I explain the historical and
comparative method, along with the specific data sources and general
methodological approach of the study. Chapters V and VI chronologic-
ally document the instances in which the United States explicitly
threatened to use nuclear weapons. These chapters then are the crux
of the study, and entail the articulation of the structural, institu-
tional, and individual level factors involved in the decisions to
threaten the use of nuclear weapons; Chapter V is devoted to threats
during the Korean war, while chapter VI details threats during the
Vietnam conflict. In Chapter VII, an attempt is made to develop a
grounded theory of the crimes, and thus is comprised of theoretical
reflections and deliberations on the possible causes of governmental
crime, as evidenced by the previous case studies. Extant theories of
organizational criminality are also explored in order to gauge the
value of the grounded theory. The final chapter provides a general
summary of the research, a discussion of the limitations of study,
and directions for further research.
Reflexive Statement on the Study

This research stems from my interest in calling attention to ignored forms of state violence. As a humanist attempting to be consistent with the principle of praxis, I cannot ignore the fact that many harmful activities of states dwarf the harms, both qualitatively and quantitatively, caused by civilian acts of criminality. I view state violence as comprising a variety of manifestations which act to cause harm to citizens, the environment, and the potential harmony of the globe. These harmful acts include the denial of civil, political, and human rights, the pulverization of democratic civilian movements, military or political subversion of sovereign governments, disregard for the environmental consequences of war and weapons production, and the interference and destruction of indigenous cultures. These acts, inter alia, represent harms which can only occur with the direct or indirect complicity of the state. These acts, however, are rarely investigated criminologically.

A concern with state violence and governmental criminality does not mean that traditional civilian crimes such as murder, sexual assault, and robbery are harmless or are unimportant to the discipline of criminology; on the contrary, they are typically devastating to the victim, community, and society as a whole. It is important for criminologists to continue the study of these behaviors. But state violence is in many ways a more deceptive and elusive phenomenon, in that it is often difficult to discern the real victims and perpetrators, or even if a crime has occurred at all.
Indeed, most acts of state violence are committed by the more socially and economically powerful, and almost always result in harm to the least powerful.

Traditional academic criminology has a ceiling, a conceptual limit which acts to preclude the study of certain types of behavior. Criminology is very much a closed and limited ontological system, but there is enough room to at least expand the conceptual net of inquiry. Building on the work of some iconoclastic criminologists, and my own work in the area of the definition and conceptualization of crime, this research represents an attempt at raising that criminological ceiling to a level which allows more harmful behaviors to become subject to criminological study. I view this attempt at expanding the criminological parameter as one of the more important purposes of the study. Thus, I use international law to criminologically incriminate state violence, and reject other approaches to the definition of crime, because I feel a more legalistic approach will facilitate wider acceptance of the very idea of governmental crime. Mainstreaming the concept of governmental crime into the discipline of criminology is important for the very reason it is important to speak of governmental crime and state violence. I can see no other way which holds the potential for effectively drawing attention to state violence than by illustrating its importance to the very academic discipline which purports to investigate harmful activities. This is why I go to great lengths in illustrating what international law is, and how it can be employed both scientifically and pragmatically to
the problem of state violence.

It is hoped that on epistemological, theoretical, and pragmatic levels, this research furthers the scholarly understanding of governmental crime. Equally important, it is desired that this scholarly understanding in some way furthers the movement toward the recognition, and hopefully eradication, of the problem of state violence.
CHAPTER II

DEFINITIONAL FRAMEWORK

The conceptual journey leading to the empirical analysis of international governmental crime in this dissertation requires the justification of the logic and definitions employed. This chapter provides a review of the intellectual history of the concept of elite criminality and governmental crime, a discussion of two important definitional questions which surface from my attempt to create a distinct conceptualization of governmental crime, and a formal definition of the phenomenon. The chapter concludes with an explication of the manners in which governments may be held criminally responsible for their actions under international law.

From White Collar to International Governmental Crime

Edwin Sutherland coined the term white collar crime in his 1939 presidential address to the American Sociological Society. The two main goals of his address were to (1) emphasize that white collar crime is real crime, and (2) show that the poor were not the only group which engaged in criminality (Green, 1990). In the years of 1940 and 1949 Sutherland published what are now considered landmark works in the field of criminology, with the principal importance of these publications residing in their definition and conceptualization of white collar crime. Sutherland's invention of the term white collar crime changed the face of criminology by spawning an entire
although Sutherland's pioneering works were a great achievement, many problems existed in his conceptualization. First of all, his definition of white collar crime was ambiguous. He (1940) defined this phenomenon as "a crime committed by a person of respectability and high social status in the course of his occupation" (p. 2). Obviously this definition was unclear and open to many different interpretations. Geis and Meier (1977) have even referred to it as an "intellectual nightmare" (p. 25). Another problem with Sutherland's conceptualization is that he used the term white collar crime inconsistently. At various points in his ground-breaking treatise White Collar Crime he mentions fraud in different repair businesses (some of which are blue collar occupations), white collar crimes in politics, fraud in income tax returns, and fraud committed by a shoe salesman. Thus, there is considerable confusion as to what Sutherland actually meant by the concept of white collar crime (Schlegel and Weisburd, 1992).

It was several years after Sutherland's work that conceptual breakthroughs in white collar crime research surfaced. One of the earliest of these breakthroughs was Clinard and Quinney's (1973) effort to define white collar crime in more operational terms. They bifurcated the concept of white collar crime into corporate crime, crimes organizationally based and directed towards corporate goals, and occupational crime, acts committed by individuals during the course of their occupation for their own personal gain.
Clinard and Quinney's breakthrough prompted another epistemological advance in white collar research. Drawing on the work of organizational sociologists like Cohen (1977), Ermann and Lundmann (1978), and Gross (1978), many criminologists in the late 1970s offered the argument that crime and criminal activity can be located on a higher level of abstraction. These theorists, reacting against the atomistic epistemology that only individuals could be considered criminal, advanced the notion that organizations are social actors in their own right that can be studied criminologically because they persist over time, develop and maintain procedures, and pursue goals (Hall, 1987). Thus, the organizational theorists maintained that organizations themselves can and should be the unit of analysis rather than the individual member of the organization. As Schrager and Short (1978) stated,

> preoccupation with individuals can lead us to underestimate the pressures within society and organizational structure, which impel those individuals to commit illegal acts. These difficulties make necessary and possible the analysis of organizations as potentially criminal agents. Recognizing that structural forces influence the commission of these offenses does not negate the importance of interaction between individuals and these forces, nor does it deny that individuals are involved in the commission of illegal organizational acts. It serves to emphasize organizational as opposed to individual etiological factors, and calls for macrosociological rather than individual levels of explanation. (p. 410)

Although there were several different formal definitions of organizational crime offered during this time (see Finney & Lesieur, 1982; Ermann & Lundman, 1978), Schrager and Short (1978) provided the most popular definition.
Organizational crimes are illegal acts of omission or commission of an individual or group of individuals in a legitimate formal organization in accordance with the operative goals of the organization, which have a serious impact on employees, consumers, or the general public. (p. 411)

The realization that crimes can be committed by institutions and organizations led to the development of a whole new field of criminological inquiry. No longer is the criminologist required to treat the individual as the only unit of analysis. Indeed, there is a growing interest and a substantial amount of empirical and theoretical work in the area of corporate crime, organizational crime, and most recently, state-corporate crime (see Kauzlarich & Kramer, 1993; Kramer, 1992; Kramer & Michalowski, 1990). While these areas of criminological investigation have certainly deepened the level of understanding of what constitutes criminality, there remain several areas virtually untouched in this tradition, the most important being the study of governmental crime.

There are only three major criminological works which have specifically addressed the phenomenon of governmental crime. While each of these attempts have been based on the assumption that organizations can be units of analysis, one finds little reference in any of these works to the manner in which international law may serve as a framework of incriminating governmental behavior. This is the major flaw in past attempts to define and study governmental crime.

The first attempt to define governmental crime was made by Chambliss in his 1988 presidential address to the American Society of
Criminology. Chambliss (1989) invented the concept of state-organized crime and defined it as a "state’s acts defined by law as criminal and committed by state officials in the pursuit of their job as representatives of the state" (p. 184). Chambliss uses the examples of piracy and smuggling as indicative of the kind of criminality one could define as state-organized crime.

The second attempt to investigate governmental crime is Grabosky’s (1989) work in Australia. Using 17 examples of governmental crimes ranging from instances of organizational to occupational crime, Grabosky, like Chambliss, uses domestic criminal law to illustrate the wrongdoings of governmental actors and organizations. Examples of governmental crimes employed in this study are violations of environmental law, police misconduct, and individual-level political corruption.

Barak’s (1991) anthology is the third important scholarly attempt to investigate governmental crime. Noting that his book is the first major treatise on the topic, the case studies which are contained in this work, like both Chambliss’ and Grabosky’s, are largely confined to the study of a government’s violation of its own criminal code. Examples include political repression in Peru, police abuses of Aboriginal peoples in Australia, and violations of prisoners rights in the United States. Importantly, however, Barak’s anthology is on many occasions not focused on criminality strictly defined, or as conceptualized in this dissertation. Instead of limiting the analysis to violations of domestic criminal law, there are many
instances in which the governments in question have simply acted immorally or wrongfully, not illegally. Thus, unlike Chambliss and Grabosky's work, Barak's book takes more of a social harms approach, rather than a legalistic path, to the question of governmental criminality.

This brief review of the literature on elite criminality and governmental crime demonstrates that conceptualizations of this phenomenon have been deficient in that little reference has been made to the importance of international law as a framework of incrimination. Additionally, the corpus of work in this area has been more concerned with the domestic actions of a government, not their international conduct. Thus, the research proposed here clearly fills a gap in the existing literature. This review also seems to prompt two other germane questions regarding the sociological analysis of international governmental crime proposed here. The first, and perhaps most easily answered question is, is governmental crime real crime? The second is, why is it important to reject social harms approaches for the study of governmental crime? These questions are answered in the following.

Real Crime?

Governmental transgressions of international law are real crimes. To support this contention, one needs only to borrow from Sutherland who made clear in his 1940 and 1949 works that white collar crime is real crime because the actions in question violated some
form of administrative or regulatory law. Just as crimes such as fraud, price-fixing, and bribery are prohibited by law, so too are many of the actions carried out by the Soviet Union and United States in regard to nuclear weapons. Therefore, governmental crime is real crime because a codified set of legally binding principles or customary laws have been violated. It must be remembered, however, that the scholarly classification of an event as criminal and the prosecution of a criminal act are qualitatively different. In the former, the requirement of incrimination rests on the ability of the scholar to recognize acts which violate existing laws, while the latter comprises a detailed study of factors such as mens rea, concurrence, and other principles of legality. This research, then, is not an attempt to create a framework in which illegal governmental actions can be prosecuted. Nor is its aim to delineate the requirements for convicting governmental transgressors in a court of law. Rather, my intention is to demonstrate that international law has much jurisdiction over the actions of governments, and in doing so, one may classify violations of international law as criminal for the purposes of scholarly study.

Problems With Social Harms Definitions

The phenomenon of crime has historically been conceptualized as a violation of a state's domestic criminal law. This conception of criminality has been erroneously assumed by mainstream criminologists to be an objective, natural fact. While scholars such as Barak (1990;
1991), the Schwendingers (1970), Sellin (1938), and Tifft and Sullivan (1980) have observed this academic error, they have not offered definitions of crime which are thoroughly grounded in law (see Kramer, 1982). These social harms scholars instead label what they feel to be undesirable governmental behavior as crime. Examples include Henry's (1991) definition of state crime as acts which are "harmful" (p. 256), Kramer's (1992) definition of state-corporate crime as acts which are "illegal or socially harmful" (p. 234), and Sellin's (1938) definition of crime as a violation of "conduct norms" (p. 222). While acknowledging the importance of holding governments accountable for deleterious actions, these approaches must be rejected not because of their ideological nature, but because of their lack of legal reference.

The first defense of my negation of social harms approaches is largely based on Sutherland's (1940; 1949) argument that criminology is the study of lawmaking, lawbreaking, and the reactions to law-breaking. If one takes this definition seriously, it only follows that criminologists are not studying crime if such study does not in some manner concern itself with the reaction, transgression, or construction of law. According to this approach, an action can be profoundly malign and deleterious but be completely a-criminal. This approach also appreciates the phenomenological and constructionist argument that criminality is simply behavior which has been labeled as such. Thus, the creation of the phenomenon of international governmental crime in this dissertation is as much an invention as a
scientific discovery. The epistemology developed here then is somewhat multi-paradigmatic.

The second argument offered to justify my neo-legalistic approach deals more with prospects of legitimacy than actual substantive content. Of the many reasons social harms approaches have been rejected by traditional criminologists, the most prominent has been the perceived subjectivity and politicality of the approach. Indeed, this criticism is somewhat justified to the extent that social harms perspectives have been formulated from the critical tradition in criminology, a tradition characterized by Marxist and anarchist perspectives. Thus, because of the perceived political commitments of social harms scholars, the positivist dominated field of criminology has acted to marginalize these attempts at offering a new definition of crime.

But a definitional framework based on actual law, the position advanced in this dissertation, holds substantially more affinity with the focal concern of criminology, the study of transgressions against law. Thus, this method of incriminating the harmful actions of governments through international law not only advances a humanist perspective on crime and criminality (the goal of social harms scholars) but also is more likely to gain acceptance in the mainstream. As Kuhn (1962) brilliantly discovered, a paradigmatic change has less to do with the intrinsic validity of a theoretical movement than the political legitimacy of the theory. It is therefore reasonable to justify my rejection of social harms approaches on the hypothesis
that the approach offered here has an substantially larger opportunity to become assimilated into the major currents of the discipline of criminology.

A Definition and Typology of Governmental Crime

Governmental crime is defined in this dissertation as an illegal act of an individual or group of individuals in an institution of legitimate governance in accordance with the operational goals of the institution of governance. The uniqueness of this definition is two-fold.

First, the definition demands that for any action to be called governmental crime, a law or set of laws must exist which prohibit that action. Thus, this definition is neo-legalistic in that any binding law, not simply domestic criminal law, is an acceptable framework for incrimination. Moreover, an act which is morally reprehensible or socially deleterious is not necessarily criminal because of its malignant character. Rather the act in question must be a transgression against law, which could be either domestic or international.

Second, the definition demands that governmental crime be viewed in organizational rather than individual terms. Rather than seeing governmental crime as caused by the individual's desire for self-gratification or personal profit, the phenomenon is conceptualized here as a product of institutional and structural pressures for the achievement of some governmental goal. Thus, the crucial distinguishing factor is the motivation of the crime. This logic is
consistent with Clinard and Quinney's (1973) definition of organizational crime: crimes which are not motivated from an actor's immediate desire for individual personal gain but instead motivated by the desire to advance organizational goals. Following this framework, a U.S. Secretary of Defense who embezzles millions of dollars from defense contractors would not be a governmental criminal. The U.S. government could, however, be defined as criminally liable if under the direction of the military, a violation of the Geneva Conventions occurred in a time of international conflict.

On an ontological level, the definition proposed here necessarily involves at least four general kinds of criminality. The first, domestic-international governmental crime (DIGC), refers to criminal acts by governments that occur within the state's geographic jurisdiction which run contrary to the state's obligation under international law. Examples of such actions would be transgressions of the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Political Rights of Women. The second, international-international governmental crime (IIGC), refers to criminal acts by governments which occur abroad in violation international law. Examples include violations of the Genocide Convention, the Geneva Conventions, and the Nuclear Non-Proliferation Treaty. The third, domestic-domestic governmental crime (DDGC) refers to criminal acts which occur within the state's geographical jurisdiction in violation of the criminal or regulatory code of the
state. Examples include police violations of procedural law and direct violations of a state's constitution. The forth type of governmental crime is international-domestic governmental crime (IDGC). This particular category of crime refers to a state's criminal conduct abroad in violation of its own criminal or regulatory code. Most illustrative of this phenomenon is the United States-Iran-Contra incident.

Again, governmental actions can be categorized as governmental crime if they violate either legally binding domestic or international law. It is important for criminologists to study all forms of governmental crime. Because of space limitations this dissertation is concerned only with type IIIGC, international governmental behaviors which violate international law. However, in the theoretical section of this study, the prospects for understanding all types of governmental crime created here will be examined.

Using international law as a legal framework, as mentioned earlier, goes well beyond prior criminological research and theorizing on governmental crime. While scholars such as Barak (1991), Frappier (1984), Kauzlarich, Kramer, and Smith (1992), Michalowski and Kramer (1987) and Tushnet (1988) have made reference to bodies of law which may serve to regulate international governmental behavior, their use of the term crime lacks specificity in that it is unclear whether such laws are actually legally binding on governments. As such, these studies are inadequate, as are the social harms approaches, for the criminalization of governments called for in this study.
Suitable mechanisms for the scholarly classification of illegal governmental actions under international law are (a) those laws which a government has accepted through ratification, the standard used by traditional scholars of international law; and (b) customary international law, which although it is sometimes uncodified, serves as a legal standard for state behavior.

This study will examine one area of international governmental crime: United States violations of international laws regulating the threat to use nuclear weapons during the Korean and Vietnam wars. Nuclear weapons violations, because of their grave threats to the totality of life and their prominent position in international relations, have been chosen as the prototype in this study. Additionally, there is a dearth of criminological studies regarding nuclear weapons policies. Thus with many questions both unasked and unanswer ed concerning nuclear weapons, this research may provide important insights into this overlooked phenomenon. Finally, there is a substantial body of literature on the question of the legality of nuclear weapons. Found almost exclusively in the scholarly legal community, most of the writings in this area treat the nuclear weapons issue quite extensively, with the most popular conclusion that the actual use and threat to use nuclear weapons would be violations of international law. Having discussed the research objectives and definitional framework on which this study is based, the next chapter is devoted to a review of the research conducted on the legal status of nuclear weapons. This review is intended to establish the
substantive framework by which the nuclear weapons policies of the United States may be considered criminal under international law, and therefore subject to criminological investigation.
CHAPTER III

THE ILLEGALITY OF THE USE AND THREAT
TO USE NUCLEAR WEAPONS

The overwhelming normative consensus now operative in international society would legally condemn all contemplated roles for nuclear weapons. Not even a retaliatory use of nuclear weapons could be easily reconciled with most interpretations of the laws of war. (Falk, 1983, p. 527).

History of the Debate

The status of nuclear weapons under international law is a subject which has received a substantial amount of attention in the scholarly legal community. All of the scholars interested in this issue have approached the question by reference to the laws of war, which are considered legally binding principles governments are obliged to conform to both in times of war and in their general military planning. The laws of war are essentially a conglomeration of principles based on the general postulate that humanity and proportionality are keys to protecting nonbelligerents in times of international conflict. They are also "generally aimed at protecting individuals and objects in armed conflicts against the effects and horrors of war" (Mohr, 1988, p. 83). There are five basic principles of the laws of war:

1. That in any armed conflict the right of the parties to choose methods of warfare is not unlimited.

2. That only as much force may be used as is required to
overpower the enemy.

3. That superfluous injury and unnecessary suffering must be avoided.

4. That a certain amount of chivalry, fairness, and respect should prevail even in the relations between hostile parties.

5. That the use of weapons or tactics that cause indiscriminate harm as between combatants and noncombatants is prohibited (Bledsoe & Boczek, 1987; Lawyers Committee on Nuclear Policy, 1990).

The laws of war are found in international agreements, treaties, and various customary laws. According to Miller (1975), they are neither changed nor destroyed on any of the following bases:

1. That the law is alleged to be vague or uncertain;
2. That military necessity makes it impossible to comply with the law;
3. That the opposing state is guilty of the same or other violations of the law; and
4. That the law has been so widely violated that it is no longer binding. (p. 37).

Thus, the laws of war are indeed legitimate legal principles which have been interpreted by international courts as holding jurisdiction over the activities of a state (Miller, 1975).

Since arguments supporting the contention that the use and threat to use nuclear weapons are illegal under international law are fully presented in the next two sections of this chapter, I will discuss the opposing view in this first section. As we will find, both arguments for and against the legality of nuclear weapons hinge on the interpretation of the laws of war. Thus, there is a high degree of uniformity in the logic used to adjudicate the legal status of
nuclear weapons. It also must be remembered that most legal scholars agree that the use and threat to use nuclear weapons violates international law. Nevertheless, it seems important to review the arguments to the contrary, most of which were published between 1945 and 1960.²

There are three main theses which have historically guided legal scholars to the conclusion that the use and threatened use of nuclear weapons are legal under international law:

1. There is insufficient scientific evidence on the effects of nuclear weapons.

2. The laws of war have become impotent with the emergence of nuclear weapons.

3. There is no express prohibition of nuclear weapons. Each of these assertions will be reviewed and briefly critiqued.

The critique is limited in this section because the later portions of this chapter illustrate the deficiencies of the approaches.

The first argument, that insufficient scientific evidence exists to reasonably calculate the effects of an nuclear bombing, is of course archaic. This argument is no longer employed to support the legality of the use and threat to use nuclear weapons. When Lauterpacht (1952), Stone (1954), Tucker (1950) offered this argument to defend the legality of nuclear weapons, there indeed may have been limited information, especially to the general public, on the effects of nuclear weapons. The only available evidence on the effects of nuclear weapons at the time these scholars wrote was the
U.S. bombings of Hiroshima and Nagasaki, and this information was not readily attainable during the 1950's. Given that the primitive atomic bombs dropped on the country of Japan did not result in wholesale deaths of the entire Japanese citizenry, and that some individuals indeed survived these bombings, these scholars determined that the laws of war are not necessarily broken by the use of nuclear weapons.  

The reason that this argument is no longer used to support the legality of nuclear weapons is because in the contemporary period it is almost ludicrous to suggest that we have no scientific understanding of the effects of nuclear weapons. Many studies have established the general contours of the destruction which would be caused by the use of nuclear weapons (see Office of Technology Assessment, 1979; McNaught, 1984; Perdue, 1989; United Nations, 1980, 1990; World Health Organization, 1987). Although it seems unnecessary to regurgitate the documented evidence on the power of these weapons, Perdue (1989), after reviewing the scientific evidence, concluded the following:

In the event of a major exchange, estimates of quick death range from several hundred million people to the World Health Organization's figure of 1.1 billion people. The number of critically injured who would require available health care would perhaps approach another 1 billion persons. Given such an event, the basic services and organizations of society would collapse. Medical care, water, electricity, fuel transportation, communication, food supplies, sanitation, and civil services would all be devastated. (p. 73)

The total stockpile of nuclear weapons in the world today exceeds the explosive power of the Hiroshima bombing by over 3 million. The
bombings of Hiroshima resulted in 130,000 Japanese deaths within three minutes of the detonation of the bomb, while 70,000 died later as a result of exposure to radiation (Weiner, 1990). Thus, most legal scholars find it difficult to accept the argument that the use of and threat to use nuclear weapons would be lawful because there exists an inadequate understanding of the results of a nuclear exchange.

The second argument in defense of the legal status of nuclear weapons is that the laws of war have become obsolete in the nuclear age. Claimed by such scholars as Stowell (1945), Thomas (1946), Borchard (1946), and Baxter (1953), this contention is based on the assumption that many of the laws of war were written prior to the genesis of the atomic weapon, and thus are not subject to the laws regulating contemporary governmental military planning. While it is undoubtedly true that some of the principles of the laws of war were penned prior to the nuclear age, these laws have been consistently interpreted by both scholars and the courts as attempts to control any weapons or any method of warfare. In like manner one need only note that while the U.S. Constitution's framers were not cognizant of all the potential behaviors to consider when creating the Bill of Rights, the basic principles of the Constitution are continually used to judge the lawfulness of actions (Meyrowitz, 1990). It is argued by many legal scholars involved in the nuclear weapons issue that since international laws not concerning the laws of war have been interpreted as binding on new technological and political
developments, so too do the laws of war hold jurisdiction over nuclear weapons (Meyrowitz, 1990). Additionally, one must consider that a significant amount of the conventional laws of war have been developed in the age of the nuclear weapon. Examples include the Genocide Convention and the Geneva Conventions.

The third most common argument in defense of the legality of nuclear weapons is that there exists no express prohibition of nuclear weapons in the body of international law. Thus, scholars such as O'Brien (1961) and Schwartzenberger (1958) argue that since there is no treaty, convention, or other international agreement which specifically prohibits the threat to use and actual use of nuclear weapons, one must conclude that these weapons and corresponding policies are lawful. Although at first thought this argument seems reasonable, it becomes less valid when one considers that the entire history of domestic, municipal, and international law is based on precedence setting in which new behaviors are constantly being weighed against existing principles of law. International courts, as we will see in the next section, have consistently allowed the interpretation of behaviors not explicitly prohibited by law to be subject to existing law.

By analogy, one can imagine the foolishness of a claim by a defendant in a domestic court that they did not commit a murder because they have killed someone in a fashion not specifically prohibited by law. Thus, anyone who purposefully kills another by using, for example, computer disks to bludgeon, video cassette tape to
strangle, or gardening sheers to stab, would under this logic be inculpable because the law does not specifically stipulate computer disks, video cassette tape, or gardening sheers as methods of killing. Much more seriously, imagine a Nazi commander defending him or herself on the grounds that the manners of execution employed toward Jews were not specifically prohibited by law, and therefore were legal. The argument that nuclear weapons are legal because they are not specifically mentioned in the laws of war is simply invalid.

The three arguments used to justify the legality of nuclear weapons have little support in the academic legal community. They have been reviewed and briefly critiqued here in order to demonstrate that the legal status of nuclear weapons under international law is neither a new nor an ignored issue in the legal community. The next two sections of this chapter are devoted to an explication of the specific mechanisms by which U.S. nuclear weapons policies may be classified as criminal for the purposes of scholarly study.

Illegality of the Use of Nuclear Weapons by the U.S.

Conventional Law

The most unquestionable framework in which to adjudicate the legality of U.S. nuclear weapons policies is by reference to conventions which have been signed and ratified by these governments. By accepting the provisions of a treaty or convention, a state is obligated to comply with both its spirit and specific prohibitions. Three legally binding frameworks have been offered by legal scholars
as acceptable frameworks of incrimination in regard to nuclear weapons policy, (see Bilder, 1984; Boyle, 1987; Falk, 1983; Feinrider, 1986; Lawyers Committee on Nuclear Policy, 1990; Meyrowitz 1981, 1990; Miller & Feinrider, 1984; Mohr, 1988; Vickman, 1988; Weston 1983; 1983a).


Table 1 documents the year each of these agreements entered into force, the dates in which the United States became legally obligated to comply with these agreements, and the relevant substantive prohibitions found within these agreements. The Geneva Gas Protocol, Genocide Convention, and Geneva Conventions have been interpreted by many legal scholars as constituting the specific prohibitions which outlaw the existence of nuclear weapons prima facie (see Lawyers Committee on Nuclear Policy, 1990; Meyrowitz 1981, 1990; Mohr, 1988; Vickman, 1988; Weston 1983).

Because nuclear weapons are analogous devices of poisonous gas (the Geneva Gas Protocol), capable of deleting an entire ethnic or racial group (the Genocide Convention), and would wreak violent death and mutilation (the Geneva Conventions) it is clear that the actual
Table 1
Treaties and Conventions Applicable in Determining the Legality of U.S. Nuclear Weapons Policy

<table>
<thead>
<tr>
<th>Treaty</th>
<th>Entered Into Force</th>
<th>United States ratified</th>
<th>Relevant prohibitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1925 Geneva Gas Protocol</td>
<td>February 8, 1928</td>
<td>April 10, 1975</td>
<td>The use of asphyxiating, poisonous, or other gases, and all analogous liquid materials or devices.</td>
</tr>
<tr>
<td>1948 Genocide Convention</td>
<td>January 12, 1951</td>
<td>October 14, 1988</td>
<td>Conspiracy, attempt, complicity, incitement, and actual execution of genocide.</td>
</tr>
</tbody>
</table>

use of these weapons of mass destruction would violate legally binding international laws. Again, this conclusion has been reached by the majority of scholars working in this area.

Customary International Law

According to Roberts and Guelff (1982),

despite the importance of international agreements in the contemporary development of the law, any work concerning the laws of war which is limited to international agreements runs the risk of distorting not only the form but also the substance of the law. The codification of rules into particular agreements which began to occur in the second half of the nineteenth century did not displace customary law. (p. 4)

There are numerous sources of customary international law to draw upon in adjudicating the legality of the use of nuclear weapons.
The classic statement of the role of customary law is found in the famous Martens Clause of the 1907 Hague Convention IV (quoted in Roberts & Guelff, 1982):

"Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and belligerents remain under the protection of the rule of the principles of law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience. (p. 45)"

And as stated by the Nuremberg Tribunal (quoted in Roberts & Guelff, 1982), in their deliberations over the genocidal practices of the Nazis in World War II,

"the law of war is to be found not only in treaties, but in the customs and practices of states which gradually obtained universal recognition, and from the general principles of justice applied by jurists and practiced by military courts. The law is not static but by continual adaptation follows the needs of a changing world. (p. 41)"

Given these guidelines set by jurists in prominent international conclaves, it is clear that for some state action to be labeled criminal under international law, no specifically codified law need be broken. Thus state actions can be viewed as lawful or unlawful to the degree that they violate basic codes of behavior as established and practiced by international audiences. Thus the argument that the use of nuclear weapons would be lawful given the absence of an express prohibition is sophist. As Meyrowitz (1990) aptly asserts,

"the legality of nuclear weapons cannot simply be judged by the existence or the lack of existence of a treaty rule specifically prohibiting or restricting their use. Traditionally, legal rules, both domestic and international, have been interpreted to encompass matters not specifically mentioned or even contemplated by the drafters of those"
legal declarations. As a result, the legal status of nuclear weapons must be judged in light of the varied sources of international law. (p. 39)

Similarly (as quoted in Friedman, 1972), a Japanese federal court ruled in Shimoda et al. vs. the State of Japan (1963), that it can naturally be assumed that the use of a new weapon is legal as long as international law does not prohibit it. However, the prohibition in this context is to be understood to include not only the case where there is an express rule of direct prohibition, but also the case where the prohibition can be implied from the interpretation and application by analogy of existing rules of international law (customary and treaties). Further, the prohibition must be understood also to include new cases where, in light of the principles of international law which at the basis of these rules of international law, the use of new weapons is deemed contrary to these principles, for there is no reason why the interpretation of rules of international law should be limited to literal interpretation, any more than the interpretation of rules of municipal law. (p. 1690).

What then are the principles of customary law which hold relevance to the nuclear weapons challenge? The first principle is that combatants and noncombatants are protected from unnecessary and aggravated suffering. First articulated in the 1907 Hague Conventions, this principle is perhaps the most accepted limitation on states involved in military hostilities (Weston, 1983; Singh and McWhinney, 1989; Miller, 1975; Bailey, 1972). The second principle of customary law relevant to the nuclear weapons challenge, also grounded in the Hague Conventions, is that the means of injuring an enemy is not unlimited and that at all times distinction must be made between combatants and civilians. Indicating the profound global support for the relevance of these principles was the unanimously passed December 16, 1965 U.N. General Assembly Resolution 2444 (XXIII) which "underscored the need
to apply humanitarian principles to armed conflicts" (Meyrowitz, 1990, p. 17).

Additionally, many states have incorporated these principles into their military manuals, a clear indication this principle has gained nearly universal acceptance. For example the 1956 Field Manual published by the U.S. government contained the following provisions (quoted in Singh & McWhinney, 1989):

2. Purposes of the Law of War: the conduct of armed hostilities on land is regulated by the law of land warfare which is both written and unwritten. It is inspired by the desire to diminish the evils of war by:
   a. Protecting both combatants and noncombatants from unnecessary suffering.
   b. Safeguarding certain fundamental rights of persons who fall into the hands of the enemy, particularly prisoners of war, the wounded, the sick, and civilians.

3. Basic Principles
   a. Prohibitory Effect: The law of war places limits on the exercise of a belligerent’s power in the interests mentioned in paragraph 2 and requires that belligerents refrain from employing any kind or degree of violence which is not actually necessary for military purposes and that they conduct hostilities with regard for the principles and purposes of humanity and chivalry.
   b. Force of Customary Law: The unwritten or customary law of war is binding on all nations. (p. 55)

The U.S. Department of Defense (quoted in Falk, 1983) official manual also addresses the importance of the laws of armed conflict.

All action of the Department of Defense with respect to the acquisition and procurement of weapons, and their intended use in armed conflict, shall be consistent with the obligations assumed by the United States Government under all applicable treaties, with customary international law, and in particular, with the laws of war. (p. 526)

Similarly the British Manual of Military Law sets the same limitations on its citizens in recognizing the "principle of humanity which

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says that all kinds and degrees of violence as are not necessary for the purposes of war are not permitted" (quoted in Singh & McWhinney, 1989, p. 56).

Customary law, then, has much influence in prescribing the manner in which states may conduct war. To further buttress the relevance of customary law to the nuclear weapons question a number of international agreements and United Nations declarations categorically denounce the use and threat of nuclear weapons. The most important of these declarations was the United Nations General Assembly resolution 1653 (XVI) adopted by a vote of 55 to 20 on November 24, 1961. The resolution, quoted below, demonstrates the legal and moral sentiment of the majority on nuclear weapons (quoted in Meyrowitz, 1990).

The use of nuclear and thermonuclear weapons is contrary to the spirit, letter, and aims of the United Nations and, as such, is a direct violation of the Charter.

Any State using nuclear and thermo-nuclear weapons is to be considered as violating the Charter of the United Nations, as acting contrary to the laws of humanity and as committing a crime against mankind and civilization. The use of nuclear and thermonuclear weapons would exceed the scope of war and cause indiscriminate suffering and destruction to mankind and civilization. (p. 26)

Other resolutions of the U.N. General Assembly demonstrate the international community's opposition to nuclear weapons, and thus could be considered a source of customary international law (Meyrowitz, 1990; Riggs & Plano, 1988). Of particular importance is Resolution 808 (IX) which on November 4, 1954 with a vote of 57 to 1 called for "The total prohibition of the use and manufacture of nuclear weapons and
While U.N. General Assembly resolutions normally do not have the force of law in a strict sense, they may have legal force "if they are regarded as statements of customary international law or authoritative interpretations of the U.N. Charter" (Riggs & Piano, 1988, p. 23). The various U.N. General Assembly resolutions dealing with nuclear weapons outlined above are thus satisfactory frameworks for prohibiting the actual use of nuclear weapons. Because many of these resolutions have been overwhelmingly passed by the international community, have been based on interpretations of customary international law, and have made explicit reference to the laws of humanity and the United Nations Charter, the only reasonable conclusion is that the use of nuclear weapons would transgress international law. Further buttressing this contention is the case of Ryuichi Shimoda et al. vs. the State of Japan (1963), which is the only instance of a governmental court action which has addressed the legality of the use of nuclear weapons.

In a class action suit, family members and some actual victims of the U.S. bombing of Hiroshima and Nagasaki filed a grievance in Japanese federal court seeking damages for injuries sustained from the bombardment. The judges based their analysis of the lawfulness of the bombings, not of nuclear weapons per se. Nevertheless the Court ruled that indeed the U.S. bombing constituted a violation of international law based on both customary and legally binding treaties. The court ruled (quoted in Friedman, 1972), that

weapons of mass destruction."
it is proper to conclude that the aerial bombardment with
an atomic bomb of both Hiroshima and Nagasaki was an illegal
act of hostilities under international law as it existed at
the time, as an indiscriminate bombardment of undefended
cities. (Section 8)

The atomic bombing of both Hiroshima and Nagasaki is believed
to be contrary to the principle of international law prohibit­
ing means of injuring the enemy which cause unnecessary suf­
fering or are inhumane. (Section 11, p. 1693)

In relevance to U.S. law the court ruled:

With regard to the United States, it is known that treaties
are the supreme law of the land in accordance with article
6, paragraph 2, of the Constitution of the United States,
and that customary international law is also part of the law
of the land. Such being the case, it would seem to be a
fair assumption that an act contrary to international law
constitutes an unlawful act in the municipal law of the
United States. (Section 2, p. 1694)

The Shimoda case, as a legitimate legal decision, lends strong support
to the contention that the use of nuclear weapons violates several
existing international laws.¹⁰

Illegality of the Threat to Use Nuclear Weapons

The question of whether threats to use nuclear weapons are le­
gal practices is best treated as qualitatively distinct from the
question of the legality of the actual use of nuclear weapons. Hav­
ing established that the use of nuclear weapons would clearly violate
extant international laws, the discussion will now turn to a review
of the most germane issues concerning the illegality of the threat to
use nuclear weapons. Since the focus of the dissertation is inter­
national governmental crime exemplified by U.S. threats to use nu­
clear weapons, the following is intended to set the specific
framework for the empirical sections of the study which detail the criminal threats to use nuclear weapons by the United States in the Korean and Vietnam wars.

Perhaps most germane in determining the legality of the threat to use nuclear weapons are the principles found in the United Nations Charter. The primary purpose of the U.N. Charter was to render the use of force between states unlawful and to end the scourge of war (Henkin, 1991; Swing, 1991). According to Henkin (1991), the Charter "remains the authoritative statement of the law on the use of force (and) acts as a principal norm of international law" (p. 38). The Charter "constitutes basic rules of international conduct that all member states are ostensibly committed to observe" (Riggs & Plano, 1998, p. 24). The United States has been a member of the U.N. since 1945, the year the organization was created.

Chapter One, Article One of the U.N. Charter states (quoted in Riggs & Plano, 1988), that the purpose of the United Nations is to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. (p. 367)

Moreover, (quoted in Riggs & Plano, 1988), Article Two of Chapter One (4) states that all members shall refrain from the threat or use of force against the territorial integrity or political independence of any state, or in any state in which the United Nations is taking preventive or enforcement action. (p. 368)

As a source of customary and treaty law, then, the United Nations
Charter clearly prohibits the threat to use force, and intentional breaches of peace.

The only exception (quoted in Riggs & Plano, 1988) to the prohibition of Article 2(4) on the threat to use force is found in Article 51 of the Charter.

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. (p. 370)

The intention of this article is simply to allow a state under attack to defend itself. Importantly, however, the right to defend is limited so that this right is only absolute until the Security Council provides an international plan of action to halt hostilities. Thus, the Security Council ultimately retains the authority to enact the specific responses to an armed invasion.

In the history of the United Nations, the specific legal meaning of the Article 51 exception in relationship to Article 2(4) has been defined in only one case: Nicaragua v. The United States (1986). Here the International Court of Justice (ICJ) ruled that Article 51 applies only when a state has been subjected to an armed attack. Specifically the Court ruled that

states do not have a right of collective armed response to acts which do not constitute an armed attack. If no armed attack occurred, collective self defense is unlawful, even if carried on in strict compliance with the canons of necessity and proportionality. (p. 237)

The conclusion is unavoidable, then, that when a country threatens or actually uses force against another territory, a criminal act has
occurred (see Boyle 1991; Nuremberg Campaign, 1990). Since the occasions in which the United States has threatened to use nuclear weapons have not occurred in response to an armed invasion of the U.S. homeland, the instances in which the U.S. has threatened to use atomic weapons must be deemed unlawful. While it may be true that some U.S. treaty obligations treat the invasion of a U.S. ally as an invasion of the U.S. homeland, nuclear weapons threats are still illegal because of their violation of the principles of proportionality and necessity.

Another framework by which to judge the lawfulness of the threat to use nuclear weapons is by reference to the 1945-46 Nuremberg Principles. These principles of international law originated from the Allied prosecution of Nazi war criminals, and are considered legally binding rules of conduct upon all states (Baudot, 1977). Table 2 provides a complete reproduction of the prohibitions created at the Nuremberg Trials.

What is unusual about the prohibitions found in the Nuremberg Charter is the outlawing of not only malign conduct of belligerents in war, but also the significant amount of attention paid to the crimes of conspiracy, planning, and threatening to commit the crimes of murder and other inhumane acts. In its deliberations, the tribunal convicted many individuals, as well as organizations such as the German gestapo, of conspiracy to violate the principles of humanity and peace (Friedman, 1972).

While the magnitude of destruction and murder committed by the
Table 2

Substantive Prohibitions Found in the Nuremberg Charter

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which their shall be individual responsibility.

(a) Crimes against Peace: namely, planning, preparation, initiation, or waging of a war of aggression, or a war in violation of international treaties, agreements, or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing:

(b) War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment, or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder, or ill-treatment of prisoners of war or persons on seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

(c) Crimes against Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during war, or prosecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Source: Roberts and Guelff, 1982.

Nazis dwarfs the harm that nuclear weapons have been responsible for up to the contemporary period, this does not mean that the basic prohibitions and principles of the Nuremberg Charter are inapplicable to the nuclear weapons question. The basic argument used by legal scholars employing the Nuremberg judgement to adjudicate the lawfulness of the threat to use nuclear weapons is that since the use of nuclear weapons is a violation of international law (because of its
disproportionality and unpredictability), the planning and threat to use these weapons must also be criminal. The legal analogy drawn is this: Much like a Nazi commander's preparation and threat to exterminate Jews and other ethnic groups, the strategies of nuclear deterrence and mutual assured destruction constitute preparation, planning, and threats to use weapons which, if employed in time of war, would clearly violate extant international law. Since the case of the Nazi preparations to commit unquestionably illegal actions is conceptually similar to the planning and threatening of committing unquestionably illegal acts by the governments of the U.S. in regard to nuclear weapons, there seems little question that threatening the use of nuclear weapons is criminal under the legally binding principles of the Nuremberg Charter. As Falk (1983) states:

To the extent existing doctrines and plans rest on a conception of deterrence based on threats to civilian non-combatants and non-military objectives, these (threats) would be illegal under even the narrowest definition of the applicability of international law. (p. 528)

While the threat to use nuclear weapons is prohibited by many international laws, U.S. domestic law can also be employed to criminalize these actions. United States criminal law prohibits attempts to violate law, whether it be international or domestic. Conspiracy is defined in the U.S. Criminal Code (quoted in Myren, 1988) as "two or more persons conspiring to commit any offense" (p. 204). As Francis Boyle (quoted in Vickman, 1988) declared that

the threat to use nuclear weapons (i.e., nuclear deterrence/terrorism) constitutes ongoing international criminal activity. Namely, planning, preparation,
solicitation, and conspiracy to commit crimes against peace, crimes against humanity, war crimes, genocide as well as grave breaches of the Four Geneva Conventions of 1949, the Additional Protocol I of 1977, the Hague Regulations of 1907, and the Genocide Convention of 1948. (p. 4)

The framework outlined in the preceding pages sets a solid foundation for the analysis of the actual violations of international law committed by the United States. Formal international covenants and customary international laws have been shown to have substantial relevance to not only adjudicating the legality of the use of nuclear weapons, but also of the threatening to use these weapons. The next chapter presents the methods to be employed in the empirical analysis of these violations.
CHAPTER IV

METHODS

Qualitative research is generally labelled unsystematic, impressionistic, or exploratory, and the flexible quantitative research sloppy, or unsophisticated. These critics, in their zeal for careful verification and for a degree of accuracy they never achieve, have forgotten both the generation of theory and the need for carefully appraising the different degrees of plausibility necessary for sociology's diverse tasks. (Glaser and Strauss, 1967, p. 223).

This research is historical-comparative in design. It is historical in that the violations of nuclear weapons laws are identified within stated historical contexts, the Korean and Vietnam wars. Thus, this research investigates the only instances in which explicit threats to use nuclear weapons have occurred. The research is comparative in design in that the violations of nuclear weapons laws by the United States are analyzed on two separate occasions. This historical-comparative method is employed in order to produce a grounded substantive theory of international governmental crime (Glaser & Strauss, 1967).

Level of Analysis and Putative Variables

The foci of this study are the historically situated violations of nuclear weapons laws by the governments of the United States. Establishing a structural level approach such as this requires attention to the influences that actors in these governmental structures
become subject. A social-psychological examination of the heads of state, National Security advisors, and high ranking military officers is not executed in this research. Rather, such actors are viewed as products of larger economic, social and political pressures which act to instruct their role performances. The methodological logic of this approach holds substantial affinity with Braithwaite's (1984) classic analysis of crime in the pharmaceutical industry. In his structural examination of corporate crime, Braithwaite (1984) operates under the assumption that

most corporate crimes in the pharmaceutical industry cannot be explained by the perverse personalities of their perpetrators. One must reject the proclivity in an individualistic culture to locate the source of evil deeds in evil people. Rather than think of corporate actors as individual personalities, they should be viewed as actors who assume different roles, (with) the requirements of these roles defined by the organization. (p. 2)

Under this structural analysis approach, pressures upon state actors are anticipated to be such factors as quantitative and geographic military power, the degree of technological command over nuclear weapons, and the degree of economic and political vulnerability perceived by the governments under examination. These independent variables, though anticipated to play a germane role in the violations of nuclear weapons laws, are not presumed to be universally applicable to all historical time frames. To assume that only these factors are involved in the association would be a violation of the principles of grounded theory, explained later in this section.
Justification of Sample

This research investigates the phenomenon of governmental crime through an analysis of the behavioral differences and similarities of the United States' threats to use nuclear weapons. The sample for this research has been chosen in the manner prescribed by Glaser and Strauss (1967), which above all holds that the degree of theoretical relevance should guide the selection of sample groups.

The empirical sections of this dissertation are comprised of a complete analysis of the only instances which the United States has explicitly threatened to use nuclear weapons. While there have been instances in which the United States has implicitly or generally indicated a readiness to use nuclear weapons, only during the Korean and Vietnam wars were explicit threats directed toward another country. Thus, this study focuses on the population of violations of nuclear weapons-related international laws, rather than a sample. Admittedly, the population is very small: two cases. Despite this small number, the value of this research is intended to extend well beyond an explanation of these two events. The two cases then are considered a beginning point for theoretical progress on the general phenomenon of governmental crime.

Data Collection and Sources

Since this endeavor examines an established social and physical fact, the existence of nuclear weapons and policies concerning these weapons, much of the data spring from historical, biographical, and
descriptive accounts of the decisions and actions made throughout the tenure of the nuclear age by the governmental leaders of the United States. Thus, this research relies heavily on secondary data. Examples of Cold War histories include the work of Arbatov and Oltmans (1983), Berman and Baker (1982), Bialer and Madelbaum (1988), Gray (1977), Hollaway (1983), Laird and Herspring (1984), Newhouse (1989), and Scott and Scott (1982).

On the more biographical end of the spectrum, data are drawn from the memoirs and biographical histories of past presidents of the United States in order to discern the pressures and circumstances involved in their actions in regard to nuclear weapons. It is assumed that the private and public writings of past leaders may very well indicate the structural strains and pressures which played a role in the making of a certain decision. Additionally, there are a few studies such as Kull's (1988) and Bundy's (1988) which analyze situations confronted by former United States' heads of state in times of war or international conflict.

I suspect to gain additional or fresh insights on the United States' decision to threaten to use atomic and nuclear weapons against North Korea and North Vietnam by examining writings by Presidents Truman and Eisenhower; and insights on the threatened use of nuclear weapons during the Vietnam war by examining documents concerning and authored by Presidents Johnson and Nixon.

More generally, descriptive and historical data abound in various monographs and factbooks which document the policy changes,
military planning, geographical dominance, quantitative expenditures, qualitative technologies, and the perceived vulnerability of the United States. Thus, many of these extant sources of data provide a path for the elaboration of the history and contemporary evolution of global nuclear weapons policy.

Primary data are also collected through the use of governmental documents. Reports of the United States Department of Defense and Department of State are expected to be the most fruitful sources of data regarding the policies and actions carried out by the United States during the nuclear age. Additionally, recently de-classified documents describing meetings of the National Security Council and the Joint Chiefs of Staff serve as primary sources of data.

In case study research, the use of as many sources of data as possible aids in increasing the internal and external validity of the conclusions. This method, sometimes referred to as triangulation, obligates the researcher to cross-check the validity of conclusions and arguments as well as to remain cognizant of the fact that the seemingly true may in fact be false (Denzin, 1989; Feagin, Orum, and Sjoberg, 1991; Yin, 1984). As Yin (1984) notes,

the use of multiple sources of evidence in case studies allows an investigator to address a broader range of historical, attitudinal, and observational issues. The most important advantage presented by using multiple sources of evidence is the development of converging lines of inquiry, a process of triangulation. Thus, any finding or conclusion in a case study is likely to be much more convincing and accurate if it is based on several different sources of information, following a corroboratory mode. (p. 91)

This researcher is not interested in the theoretical conclusions of
authors, such as why a particular policy took a given form. Such a reliance on secondary interpretation may result in the research having a higher likelihood of reliance on the subjective claims of individual authors, rather than actual fact. Thus, the documents employed as sources of data in this study are only valuable to the extent that the objective history of nuclear weapons policy is described. Again, this history will be triangulated in order to ensure validity.

Yin (1984) has suggested an important tactic to consider when collecting qualitative data. He advises that a researcher create a data base separate from the final product of the study. Such a data base would contain all notes derived from sources, as well as all of the documents reviewed. This practice, according to Yin, allows future research on the issue to be much more manageable for both the primary researcher and others wishing to use the data base for further study. This method is employed in the research to further establish the reliability of the study.

Historical Method

Historical sociological research has a rich tradition. Marx, Weber, and Durkheim constructed many of their theories from the inspection of past social relations. In order to fully understand the dynamics involved in the violation of nuclear weapons laws, a historical analysis is not only insightful, but imperative.

According to Skocpol (1984), historical sociological studies
have four characteristics:

1. They ask questions about social structure or processes understood to be correctly situated in time and space.

2. They address processes over time, and take temporal sequences seriously in accounting for outcomes.

3. They emphasize the interplay of meaningful actions and structural contexts, in order to make sense of the unfolding of unintended as well as intended outcomes in individual lives and social transformations.

4. They highlight the particular and varying features of specific kinds of social structures and patterns of change.

This research is grounded in the tentative substantive hypothesis that the transgressions of nuclear weapons laws by the United States are to some degree enveloped within a historical context which served to make violations of law more or less likely at a given point. Thus, when employing a historical approach this endeavor will pay close attention to shifts in world political power arrangements, military strength (both quantitatively and geographically), and levels of nuclear technology. However, as mentioned earlier, the analysis is by no means limited to these variables.

The historical analysis offered in this study is not comprehensive. Indeed, to tell the entire history of nuclear weapons policy, with all of its subtle and less pronounced dynamics is both unnecessary and inefficacious for the purposes of this research. Independent of the fact that nuclear weapons and policies regarding
these weapons have received an enormous amount of scholarly attention, one of the objectives of this study is to frame the question of etiology in a criminological fashion. This means that particular attention will be given to the instances in which violations of law have actually occurred. Of equal importance, however, are the structural level precipitating factors which appear to be associated with these violations. While it is injudicious to ignore general historical trends and the visible patterns in which nuclear weapons policies have resided, this does not mean that all patterns and trends are associated with the violations of international law under study here. Determinations regarding the importance of certain historical events must be discovered through the process of research (Bloch, 1949; 1961; Moore, 1966).

Skocpol (1984) identifies three major strategies in historical sociology: (1) those using a general theoretical model to explain historical instances, (2) studies employing certain basic concepts to develop a meaningful historical interpretation, and (3) those seeking to analyze causal regularities in history. Because this research project employs Glaser and Strauss' (1967) grounded theory method, a method which places primacy on inductive approaches to causation, and is interested in the etiological patterns of international governmental crime, this study falls generally into the third strategy described by Skocpol. As delineated in the next section of this chapter, the grounded theory method requires an almost tabula rosa approach in which the researcher finds both theory and concepts.
through the process of research, not prior to the research act.

According to Skocpol (1984), scholars employing the causal regularity approach

focus on developing an adequate explanation for a well-defined outcome or pattern in history. Neither the logic of a single overarching model nor the meaningful exploration of the complex particularities of each singular time and place takes priority. Instead, the investigator assumes that causal regularities—at least regularities of limited scope—may be found in history. He or she moves back and forth between aspects of historical cases and alternative hypotheses that may help to account for those regularities. The crucial point is that no effort is made to analyze historical facts according to a preconceived general model. Alternative hypotheses are always explored or generated.

Thus, the causal regularity approach to history allows for the selective analysis of historical patterns and trends, but more importantly for the purposes of this research, recognizes that inductive studies require that hypotheses and theories are sketched out during the process of research. In other words, hypotheses and theories are understood to be subject to change, not statically derived.

The Grounded Theory Method

Glaser and Strauss (1967) have designed a research method which takes an inductive rather than deductive approach to social reality. Over two decades ago, these scholars called for the abandonment of the traditional theory testing form in the social sciences in favor of a method which placed primacy on generating theory from data. They (1967) argued that

generating a theory from data means that most hypotheses and concepts not only come from the data, but are systematically
worked out in relation to the data during the course of the research. Generating a theory involves a process of re-
search. (p. 6)

Given the lack of an operable theoretical understanding of the phenomenon of governmental crime, and the relatively novel idea of the criminological study of the crimes of the state, the inductive method of grounded theory is likely to facilitate a deeper understanding of governmental crime than a logico-deductive test of extant theories of the state. Moreover, Glaser and Strauss' (1967) argument for employing grounded theory seems to be particularly appropriate for areas in which sociological inquiry has been limited or non-existent. Indeed, they write: "The masters have not provided enough theories to cover all the areas of social life that sociologists have only begun to explore" (p. 6). While there are several theories of the state and of organizations, governmental crime must be studied as a newly invented phenomenon which itself requires a focused, albeit relatively atomistic, comparative examination. Thus, the decision to generate a grounded theory of governmental crime rather than a deductive test of theories, is based on the operative hypothesis that international governmental crime is analytically and ontologically distinct from currently investigated forms of crime. Thus, it seems that the most effective and judicious manner to proceed is to start anew; that is to begin the theoretical understanding of international governmental crime from data concerning international governmental crime.

Central to Glaser and Strauss' comparative method of generating theory is the distinction between categories and properties.
Categories are more abstract conceptual entities which guide the general comparison of groups. Examples include perceived vulnerability or social loss. Properties are less abstract concepts which act as components, elements, or attributes of categories. Properties of perceived vulnerability may be phenomena such as strength, time, or geography. Properties of the category social loss may be entities such as loss rationales, social class, or race. Both categories and properties are concepts indicated by the data and data emergent. Thus, for the purposes of this study, little can be said about the prospective categories and properties without actual collecting, analyzing and interpreting the data. However, the variables discussed earlier in this section (the vitality of military and technological resources etc.,) are likely to play some role in the process of generating a grounded theory of international governmental crime. The strategy of constructing categories and properties, then, helps in structuring the comparative analysis and also acts as a guide for placing concepts into quasi-hierarchial, temporal, and spatial arrangement. As Feagin, Orum, and Sjoberg (1991) note,

critical to case study analysis is a study of the patterned actions of related individuals. The study of patterns in action means a study of the contextualization of actions and processes. It means an articulating the relationship of the social phenomenon of interest to the surrounding world in which it is embedded. The study of total complexes of social action is indispensable for much social analysis.
(p. 275)

Another important consideration when a scholar employs Glaser and Strauss' grounded theory method is the type of theory to be generated. The primary distinction is between substantive theory and
formal theory. A substantive grounded theory is area specific and would be exemplified by theories of gang behavior, the Holocaust, or obedience to authority. This type of theory is perhaps best labelled middle or lower range. A formal theory, however, seeks to explain a more general sociological fact such as crime, genocide, or authority and power. Glaser and Strauss suggest that to the extent a substantive theory holds promise for higher levels of abstraction and thus more generalized explanatory power, permuting a substantive theory into a formal theory is encouraged. Again, however, this decision can only be made after the creation and comparison of categories and properties; that is after the substantive grounded theory has been produced. Thus, to the extent that the theory produced in this research regarding violations of nuclear weapons laws possesses significant strength and integrity, a general formal theory of international governmental crime will be constructed. If the substantive theory seems incapable of shedding theoretical insight into other types of international governmental crime (human rights violations, foreign intervention), there will be no attempt to create a formal theory of international governmental crime in the dissertation.
CHAPTER V

ATOMIC WEAPONS AND THE KOREAN WAR

This chapter traces the United States' considerations on the use of atomic weapons in the Korean War, with particular attention given to the U.S. threat to use such weapons. The general political and military environment between the years of 1950 and 1953 is reviewed in order to place the atomic considerations into a proper historical context. The status of U.S. and Soviet atomic weapons during the conflict is then presented along with the particular discourses of the Truman and Eisenhower administrations on the atomic question. The final section of the chapter is devoted to an analysis of salient variables which appear to be related to the decisions to threaten the use of atomic weapons on the countries of North Korea and China. First, in order to place the United States' involvement in the Korean War into proper context, a brief review of the evolution of the Cold War is presented.

The Backdrop of the Cold War

The Cold War has been given an extraordinary amount of scholarly and popular attention. One can reasonably assume that most have some familiarity with the conflictual relationship between the United States and the Soviet Union in the period beginning with World War II and ending in the late 1980's. Therefore, a complete description and analysis of this period is not necessary to meet the research goals of

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this study. The first section of this chapter, then, represents an attempt to place the 1945-1950 period of the Cold War into a context which allows us to understand the general environment and structural conditions which preludes and provides a backdrop to U.S. involvement in Korea.

The United States, Great Britain, and the Soviet Union emerged from World War II as major global powers. The Allies successfully defeated the imperialist endeavors of both Japan and Germany and soon established themselves as the political and economic carpenters of a new Europe. The February 1945 meeting of the Allies at Potsdam, which took place just after the German surrender and immediately prior to the Japanese surrender, inter alia, resulted in a plan to divide Europe into separate areas of occupation.

Germany was essentially divided into two occupation zones. The United States, Great Britain, and France occupied the west section of the country and the west section of Berlin, while the Soviets were given occupation rights of the eastern portion of the country as well as the eastern portion of Berlin. The parceling of Germany was thought to be a temporary solution to the problem of rebuilding the physical, economic, political, and social structure of Germany. However, the temporary solution became a permanent solution in the years to follow with the formation of two German countries: The eastern portion of Germany was established as the Soviet influenced German Democratic Republic (GDR), and the area to the west was converted into the Western style capitalist state Federal Republic of Germany.
Outside of Germany, the geo-politics of the world also changed significantly. As a result of the war, both the West and the Soviet Union gained a massive amount of territory, with the former either controlling or having great influence in Western Europe, the Philippines, and Japan. The Soviets controlled much of eastern Europe and created communist regimes in such countries as Yugoslavia, Rumania, and Poland. Thus, during the early stages of the Cold War, many battle lines were drawn between the West and the East, pitting the antithetical political economies of capitalism and communism against one another.

After the war, the United States retained its close friendship with Great Britain. The Soviet Union, which incurred the most casualties of all the Allies in World War II, was increasingly viewed with suspicion by the West. While conflicts between the Soviet Union and the United States date back decades before World War II, even during the war President Truman was so skeptical of Stalin's plans for post-war Europe that he withheld any mention of the U.S. Manhattan project from him at the Yalta Conference (Newhouse, 1988). This distrust, whether well founded or not, was mutual.

Immediately after World War II, several events solidified the hostilities between the West and East. The Soviet occupation and support of revolutionary movements in the Middle East, in particular in Iran, serves as a good example. Prior to the Russian and U.S. entrances into World War II, the Allies had agreed to share oil
rights in Iran. While the Western powers had withdrawn most of their forces in the region, the Soviets held their positions because they perceived inequity in the distribution of oil, claiming the West was reaping all the benefits. While the Soviets eventually withdrew from the region, primarily because they indeed ultimately obtained concessions from the West, the Soviets had demonstrated their resolve in Cold War economic and political posturing. In fact, Truman (1956) recalled he seriously thought about bombing the Iranian stationed Soviet troops with atomic weapons during the crisis.

Also adding to the conflict between the Soviets and the U.S. was the Berlin blockade of 1948. Since Berlin was approximately one hundred miles into East German territory, the West had historically used East German roads and railroads to administer the reconstruction of West Berlin. On June 24, Stalin instituted a blockade of all transportation routes to West Berlin with the intent of severing the West’s ties to the city. While there is some evidence to suggest the United States considered using atomic weapons in order to break the blockade, the decision was made to air-lift supplies into West Berlin, thus avoiding another world war. Stalin eventually lifted the blockade in July 1949, but the rifts caused by the event reinforced already significant antagonisms.

Another important event in the early stages of the Cold War was the 1949 communist revolution in China. The United States had supported Chiang Kai-shek’s fight against Mao’s communist forces, but only half-heartedly since Europe was perceived as the more important
area of the post-war geography. When China became communist, the United States found itself facing more than one large country influenced by Marxist doctrine. The situation became exacerbated in 1950 with the signing of the Sino-Soviet Defense Treaty, which in effect galvanized the Chinese and Soviet relationship against the West.

The relationship between the Soviet Union and the United States in the years immediately following World War II undoubtedly played a role in the United States' decision to intervene in the Korean conflict. Communism, exercised through the political economies of the Soviet Union and its satellites was perceived as the real enemy of the United States. In the U.S. view, the economic and political importance of protecting developing nations from the influence of communism soon began to dominate the military and political discourse.

The military manifestations of the early Cold War period seldom found the United States and Soviet Union directly squaring off. It was in areas prone to influence by either country, areas such as Europe, Asia, and Southeast Asia, where the conflicts and interventions most often occurred. Perhaps no other statement confirms the underlying logic of the United States' concern during this period than the 1947 thoughts of Truman's Secretary of State Dean Acheson (1969).

Soviet pressure on the Straits, on Iran, and on northern Greece had brought the Balkans to the point where a highly possible Soviet breakthrough might open three continents to Soviet penetration. Like apples in a barrel infected by one rotten one, the corruption of Greece would effect Iran and all to the east. It would also carry infection to Africa through Asia minor and Egypt, and to Europe through Italy and France. (p. 219)

The background of the Cold War has been summarized in an
attempt to flush out the general global climate of the years immediately following World War II. Several details have been omitted from the review because it seems more appropriate to discuss them within the context of 1950-1953 Korean War. It is to this conflict that the remaining sections of this chapter are devoted. Of particular interest is the United States' threat to use atomic weapons in violation of international law.

Political and Military Background of the Korean War

Communist North Korea, supported in purpose by both China and the Soviet Union, invaded South Korea on June 25, 1950. The invasion prompted a strong U.S. military response aimed at protecting the South Koreans from communist imperialism and a unified communist Korea. This was the first occasion, with others to follow, the United States deployed massive ground troops to thwart communist aggression in Asia. While the intervention was formally conducted under U.N. auspices, the United States accounted for 85 percent of the armed forces supporting the South (Riggs & Plano, 1988). The war itself lasted only three years, but as the case study will document, there exists a substantial amount of evidence that the U.S. seriously considered the use of atomic weapons both during the war and also to enforce the 1953 Armistice. Korea had been historically used by Russia and Japan as a strategic weapon for influence in Asia. As a result of a treaty signed in 1896, Korea was divided into North and South regions, with the Russians controlling the former and the
Japanese controlling the area below the 38th parallel. Toward the end of World War II, as a result of the Soviet's declaration of war on Japan in late August 1945 and the U.S. atomic bombing of Hiroshima and Nagasaki in early August of that year, a formal agreement between the Soviet Union and the U.S. was reached: Japanese forces north of the 38th parallel would surrender to the Soviets, while Japanese forces south of the parallel would surrender to the U.S. Ultimately this agreement turned North Korea into a Soviet satellite and South Korea into an occupied U.S. state. The cold war battle line was thus drawn in Korea.

While the U.S. vigorously supported the South Korean government led by Rhee, it was not entirely convinced of the strategic value of the region. Indeed, Truman felt that even during the early phases of the war, Korea was only of marginal importance to U.S. interests (Acheson, 1969).

The U.S. had in 1946 just sponsored, via the United Nations, free elections to be held in the South. Although aware of the political and economic instability of the region, the U.S. was more concerned about Western Europe and further Soviet influence in Germany. In fact there was nearly a complete U.S. withdrawal from Korea culminating in June 1949: South Korea was left with no tanks, airplanes, or other heavy artillery, only a few rocket launchers, rifles, and small arms ammunition (Goulden, 1982). The Soviet Union, on the other hand, held a great deal of interest in North Korea. It installed a dedicated and faithful communist regime and deployed a
significant amount of military personnel, artillery, ammunition, and weapons immediately following World War II.

The invasion of South Korea was assumed to be the product of the Soviet Union's desire to further establish communist authority in Asia. Although there is some degree of uncertainty on this issue, most U.S. policy makers seem to have subscribed to the theory that even if the invasion was not a direct product of Soviet imperialism, it was an indirect result of Soviet attempts of hegemony. Interestingly, Khrushchev (1970, p. 370) later denied that Stalin directly supported the invasion, but added that "Stalin did not try to dissuade" (p. 370).

The U.S. decision to commit itself militarily in Korea rests in part on the goals articulated in the Truman Doctrine, the famous foreign policy delivered before a joint session of Congress on March 12, 1947. Truman (1956) remembered this speech as "a turning point in American foreign policy, which now declared that wherever aggression, direct or indirect, threatened the peace, the security of the United States was involved" (p. 106). The Truman Doctrine, undoubtedly influenced by George Kennan's (1947) essay on the importance of containing communism, was primarily grounded in concerns over the political stability of Greece and Turkey, countries which played a key role in Cold War military posturing. While attempting to persuade Congress to grant funds to these struggling countries, the larger point of the address was to set the framework for supporting potentially friendly sovereigns, or politically unstable developing
countries, for the purposes of United States influence and superiority across the globe. The President ended his address looking to the future (quoted in Lincoln, 1968).

The seeds of totalitarian regimes are nurtured my misery and want. They spread and grow in the evil soul of poverty and strife. They reach their full growth when the hope of a people for a better life has died. We must keep that hope alive. If we falter in our leadership, we may endanger the peace of the world-and we shall surely endanger the welfare of our own nation. (p. 20)

Less than three months after the announcement of the Truman Doctrine, Secretary of State George Marshall outlined a similar approach to the problem of Europe which emphasized the importance of economics. The Marshall Plan eventually set a more concrete basis for U.S. influence in Europe, and ultimately served, as evidenced by the Soviet rejection of the plan, as another instance in which Cold War lines were drawn. Thus, the Marshall Plan solidified Western influence in Western Europe, and at the same time forced the Soviets to structure their own economic vision of Eastern Europe. Perhaps more importantly, the nature and form of U.S. foreign policy changed most dramatically as a result of the U.S. National Security Council study entitled NSC-68, submitted to Truman at a meeting on April 25, 1950. This study called for a significant increase in defense spending in order to confront the challenge and threat posed by the communists in general and the Soviet Union in particular. Secretary of State Dean Acheson (1969), a primary drafter of the document, remembered,

our analysis of the (Soviet) threat combined the ideology of communist doctrine and the power of the Russian state into
an aggressive expansionist drive, which found its chief opponent and, therefore, target in the antithetic ideas and power of our own country. While our own society felt no compulsion to bring all societies in conformity with it, the Kremlin hierarchy was not content merely to entrench its regime but wished to expand its control directly and indirectly over other people within its reach. (p. 375)

In sum, NSC-68 pointed to the need of containing the Soviet Union by surrounding the country with both conventional and atomic weapons, a more specific but nevertheless generally consistent approach with the policy articulated in the Truman Doctrine. The report envisioned a 6,000 mile belt of nuclear bases spreading from bases in northern Europe, through the Middle East, across Southeast Asia, and extending into Japan and Korea. This led to the recommendation that an immense increase in atomic weapons research, design, and manufacture would be the most effective means of keeping the Soviets in check. In the report, atomic weapons were seen as playing a key role in the U.S. policy of calculated and gradual coercion.

As for NSC-68's impact on the decision to enter the Korean War, Acheson (1969) believed that the conflict put the theoretical and hypothetical scenarios of containment and thwarting communist expansionism into practice. And as Nitze's admitted to Newhouse (1989) "It [the war] translated a think piece into an operational document" (p. 82).

Status of Atomic Weapons During the Conflict

The Soviet Union first produced a nuclear reaction in December 1946, detonated its first atomic device in August 1949 and its first
thermo-nuclear device in August 1953 (Cochran, Arkin, and Hoenig, 1984). Soviet nuclear weapons, however, were not fully operational or deliverable until late 1955. The United States was well ahead of Soviet nuclear weapon capabilities, having at least 2 weapons in 1945, 9 in 1946, 13 in 1947, 50 in 1948, 250 in 1949, and 450 in 1950 (Cochran et. al, 1984). While the U.S. certainly had the atomic advantage, both in megatonnage and numbers of weapons, the monopoly was soon viewed as questionable after the first Soviet atomic test in 1949 (see Table 3).

The Soviet's first atomic in 1946 test was quite a surprise to the U.S. Administration. Indeed, the estimates of Soviet atomic capabilities was predicted to be at least four to ten years away (Acheson, 1969; Powaski, 1987). Truman (1956) recalled that while he had expected the Soviets to test such a weapon sometime in the future, he was surprised that it had occurred so soon. Other accounts suggest that there was more anxiety over the Soviet test than Truman indicated: Acheson (1969) recalled that the Soviet explosion "was the immediate cause of the review of our military and foreign policies" (p. 345); Powaski (1987) has argued that the general citizenry was shocked and frightened with the explosion, despite the U.S. Administration's attempt to reassure the U.S. people; and York (1975) found that Truman was so shaken that he required his informants to personally sign a document stating that they believed the Soviets had detonated the bomb.

One of the more significant effects of the Soviet detonation,
Table 3
United States and Soviet Union Atomic Stockpile During the Korean War

<table>
<thead>
<tr>
<th>Year</th>
<th>United States</th>
<th>Soviet Union</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>1946</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>1947</td>
<td>13</td>
<td>0</td>
</tr>
<tr>
<td>1948</td>
<td>50</td>
<td>0</td>
</tr>
<tr>
<td>1949</td>
<td>250</td>
<td>First atomic test</td>
</tr>
<tr>
<td>1950</td>
<td>450</td>
<td>0</td>
</tr>
<tr>
<td>1951</td>
<td>650</td>
<td>0</td>
</tr>
<tr>
<td>1952</td>
<td>1000; First Hydrogen Bomb Detonated</td>
<td>10-20</td>
</tr>
<tr>
<td>1953</td>
<td>1350</td>
<td>fewer than 280; First Hydrogen Bomb Detonated</td>
</tr>
</tbody>
</table>

along with the buttressing of the Truman Doctrine and NSC-68, was the U.S. decision to develop the hydrogen bomb. As early as fall 1949, Truman had considered developing the weapon, one with several times the explosive power of the fission atomic weapons currently in the U.S. stockpile. Two committees were charged to examine the problem: The General Advisory Committee (GAC) of the Atomic Energy Commission (AEC), comprised mostly of scientists, and a special committee of the
National Security Counsel comprised of Secretary of State Acheson, Chair of the AEC David Lilienthal, and Secretary of Defense Louis Johnson (Powaski, 1987). In the end the president concurred with the latter committee, and approved production of the weapon. Truman's ultimate decision on the H-bomb was grounded in concerns over the Soviet Union's atomic program. In the final meeting on the subject, Lilienthal presented his reservations about the project but was interrupted by Truman who asked "Can the Russians do it?" When all the participants responded affirmatively, Truman (quoted in Powaski, 1987) said "In that case, we have no choice. We'll go ahead" (p. 56).

By 1952 the conventional forces of the U.S. were rapidly rising along with a particular emphasis placed on the Air Force's role in the transferring and preparation of nuclear-ready airplanes and submarines. Quantitatively, the Soviet Union was still significantly behind in the atomic race. Despite the testing of a thermo-nuclear device in 1953, the weapon had only 20% of the explosive power of a comparable U.S. bomb (Clarfield and Wiecek, 1984). The Soviets had no nuclear capable bombers until the 1955 production of the Bear A, while the U.S. had operationalized the nuclear capable B-47 and B-52 bombers by 1952 (Clarfield and Wiecek, 1984). All told, U.S. defense spending quadrupled between the years of 1950 and 1953. When Eisenhower became president in 1953, the U.S. atomic stockpile approached 1350. At that time the delivery systems of atomic weapons still relied on aircraft; it was not until the successful operationalization
of the thermo-nuclear bomb in 1955 that ground-released inter-
continental missiles entered official U.S. strategic policy.

Truman and Atomic Weapons in Korea

The June 25, 1950 North Korean invasion of South Korea prompted
a quick response from the United Nations. While the Soviet delega-
tion was not present, the other members of U.N. Security Council
adopted a resolution calling for the withdrawal of North Korean
forces below the 38th parallel. This resolution, adopted on the same
day of the invasion, not only lamented and criticized the actions of
North Korea, but also requested military support from all U.N. mem-
bers to the repel the attack. The United States accepted this offer
on June 27, and ultimately provided the vast majority of military
personnel and equipment.

On June 30 Truman ordered an embargo on all U.S. exports to
Korea, a naval blockade of the entire Korean coast, and most import-
antly, aerial bombardments and ground troop attacks of North Korean
strongholds. After initially incurring significant losses, U.N.
forces, under the direction of General Douglas MacArthur, crossed the
38th Parallel into North Korea on October 9 and besieged the North
Korean capital of Pyongyang. The result of this U.N. victory was
that the West's troops maintained a highly threatening position by
their presence on the Chinese mid-eastern border. Subsequently, the
Chinese entered the war on November 27 and promptly forced U.S.
troops beneath the 38th Parallel. Now the U.N., in actuality the
United States, was fighting a second country and faced the uncomfortable position of risking a third world war.

Suddenly a relatively small conflict began appearing as a more pervasive and potentially explosive military situation. The introduction of the Chinese into the civil war of Korea certainly raised the likelihood of an international war, pitting communist versus capitalist. With an estimated 200,000 Chinese ground soldiers in the war, the result was an immense escalation of hostilities. Consideration of the use of atomic weapons then began to surface.

The first major possibility of the use of atomic weapons since World War II developed within the later stages of the Truman Administration. In July 1950, prior to the entrance of Chinese forces into the conflict, Truman ordered atomic bombs to be delivered to Great Britain. This marked the first time the U.S. allowed atomic bombs to be transferred across the Atlantic. Presumably this action was quite preatory, given that Truman (1956) believed the fighting in Korea would come to a close quickly and thus perceived it as a relatively minor conflict. But shortly after the Chinese allied themselves militarily with North Korea, the question of the use of atomic weapons surfaced.

Truman soon authorized a Joint Chiefs of Staff report ordering atomic bomb components to be stored on a warship patrolling the Mediterranean (Kaku and Axelrod, 1987). Furthermore, according to then Secretary of State Dean Acheson (1969) the Commandant of the U.S. Air Force College Orville Anderson announced at a speaking engagement
that "the Air Force, equipped and ready, only awaited orders to drop its bombs on Moscow" (p. 478).

At a press conference (quoted in Newhouse, 1988) on November 30, 1950 Truman asserted that "we will take whatever steps are necessary to meet the military solution" (p. 355). Furthermore, he answered the question of the possibility of using atomic weapons on the Chinese and North Koreans by stating "That includes every weapon we have," and that "There has always been active consideration of its use. I don't want to see it used." When furthered asked if the bomb would be used against civilian or military targets Truman responded "It's a matter the military people will have to decide" (p. 355).

It is difficult to interpret these statements as overt threats to use atomic weapons against the Chinese and North Koreans. Indeed, immediately after Truman made these comments he added, (quoted in Newhouse, 1988), "it is a terrible weapon, and it should not be used on innocent men, women and children who have nothing whatever to do with this military aggression. That happens when it is used" (p. 356). The British press, and several erroneous reports in U.S. newspapers appeared shortly after the speech implying that not only was Truman prepared to use the bomb but that General MacArthur, a vocal advocate for the weapon's use in Korea, had been given the autonomy to order an atomic attack (Acheson, 1969). This prompted a visit from high ranking British officers to confer with the President on the meaning of his statements. According to Acheson (1969) and Eisenhower (1963) the British were always more tentative about NATO use
of nuclear weapons. At the meeting, the foreign delegation was
briefed on the issue and were told that the use of atomic weapons was
not actively being planned. Later that night Truman released a press
statement to the citizens of the United States (quoted in Acheson,
1969), in an attempt to normalize the situation.

Replies to the questions do not represent any changes in
this situation. Naturally there has been consideration of
this subject since the outbreak of the hostilities in Korea,
just as there is consideration of the use of all military
weapons whenever our forces are in combat. However, it
should be emphasized that, by law, only the President can
authorize the use of the atomic bomb, and no such author­
ization has been given. (p. 479).

The extent to which Truman actively considered using atomic
weapons is difficult to discern. Most data suggest that the atomic
option was not popular among Truman's closest advisors. In an inter­
view with Newhouse (1988) Paul Nitze, director of the State Depart­
ment's Policy Planning Group during the Korean War, confided that

no one in the executive branch to my knowledge was pushing
for the use of nuclear weapons. We were persuaded that the
stockpile was too small to have allowed nuclear weapons to
be used to any decisive effect against China, North Korea,
or the Soviets in the event they entered the war. (p. 83)

Army Chief of Staff J. Lawton Collins, General Hoyt Vandenberg, and
the remaining Chiefs of Staff decided for a number of reasons against
the use of the bomb on Korea and China. Fear of a Soviet-Chinese
conspiracy to divert U.S. atomic weapons to Korea in order to allow
for an easier invasion of Europe as well as the lack of good targets
are identified were identified as important factors in this decision
(see Newhouse, 1988).

There were others in high military positions, however, who
thought of the atomic option in Korea as viable. Stuart Symington, Chair of the National Security Board, Major General Orville Anderson, Commandant of the Air War College, and Secretary of the Navy Francis P. Matthews all called for a nuclear attack against China and possible targeting of the Soviet Union in various speeches and top secret reports (see Kaku and Axelrod, 1987). In fact Matthews approved of the September 3, 1952 recommendation of the Deputy Assistant Secretary of State to spread the word on the possible U.S. use of nuclear weapons "so that it would get circulation in Korea and Japan, and China" (Department of State, 1984). This plan called for pamphlets to be dropped which read:

The U.S. has consistently refused to accept prohibitions on the use of atomic weapons. As the Presidential campaign grows, the pressure (to use them) will get much greater. The Government will probably not be able to resist it. There is one way to prevent the use of atomic weapons in Korea. This is to get an armistice without delay. (p. 484)

While there is no evidence that this plan was carried out, it is clear that the nuclear weapons option was considered quite promising by many political and military officials.

Truman, despite some of his public announcements to the contrary, evidently thought very seriously about using atomic weapons. In an entry (quoted in Kaku & Axelrod, 1987), in his personal diary on January 27, 1952, he wrote:

It seems to me that the proper approach now would be an ultimatum with a ten day expiration limit, informing Moscow that we intend to blockade the China coast from the Korean border to Indo-China, and that we intend to destroy every military base in Manchuria. This means all-out war. It means Moscow, St. Petersburg, Mukden, Vladivostock, Peking,
Shanghai, Port Arthur, Dairen, Odessa, Stalingrad, and every
manufacturing plant in China and the Soviet Union will be
eliminated. This is the final chance for the Soviet Gov­
ernment to decide whether it desires to survive or not.
(p. 73).

There is no indication that Truman seriously discussed with others or
actually planned to implement such a massive attack on China and the
Soviet Union. His memoirs and other data support this interpretation.
Publicly, at least, Truman also appeared keenly aware of the impact
and import of the use of atomic weapons. In his final message (quot­
ed in Kaku & Axelrod, 1987) on the state of the union, he asserted
that

the war of the future would be one in which man could ex­
tinguish millions of lives at one blow, demolish the great
cities of the world, wipe out the cultural achievements of
the past-and destroy the very structure of a civilization
that has been slowly and painfully built up through hundreds
of generations. Such a war is not a possible policy for
rational men. (p. 79).

After all the consideration of using atomic weapons in Korea at
the time of Truman’s presidency, why were they not used? Recently
declassified documents reviewed by Kaku and Axelrod (1987) as well as
a close reading of the discussions by the National Security Council,
the Joint Chiefs of Staff, and other governmental officials suggests
that the principal reason was the fear of depleting the U.S. stock­
pile, rendering an atomic defense of Europe against a Soviet attack
significantly improbable.

To understand the situation, it must be remembered that the
Soviet Union was viewed suspiciously by the U.S. government. Indeed
Stalin had succeeded in establishing numerous satellite countries in
Eastern Europe, contrary to his pledges of withdrawal at the 1945 Potsdam Conference. United State’s foreign policy was characterized by an immense preoccupation with the security of Europe. The primary threat at that point was not so much the security of some isolated civil war in Asia, but the Soviet Union’s perceived global imperialist aspirations. This perception was officially codified in the top secret report SHAKEDOWN, soon recognized as a contingency war plan by Truman. The basic tenet of the proposal was to respond to a Soviet movement into Western Europe by an apocalyptic nuclear attack on Moscow. The report (quoted in Kaku & Axelrod, 1987), just recently declassified, deserves extended citation because of the degree of specificity and conviction contained within its pages.

The initial strike would be launched on approximately D+6 days. Heavy bombers flying from Maine would drop 20 bombs in the Moscow-Gorky area and return to the United Kingdom. Simultaneously, medium bombers from Labrador would attack the Leningrad area with 12 weapons and reassemble at British bases. Meanwhile, medium bombers based in the British Isles would approach the U.S.S.R. along the edge of the Mediterranean Sea and deliver 52 bombs in the industrial regions of the Volga and Donets Basin; they would return through Libyan and Egyptian airfields. More medium bombers flying from the Azores would drop 15 weapons in the Caucasus area and then stage through Dhahran, Saudi Arabia. Concurrently, medium bombers from Guam would bring 15 bombs against Vladivostock and Irkutsk. (p. 74)

This elaborate plan to completely destroy major military and governmental bases in Moscow was penned in 1949, a time in which the United States possessed only 250 weapons. The mission described in SHAKEDOWN require a first day assault of over 100 weapons, plus several hundred secondary and contingency bombs. If this war plan was taken seriously by Truman, and by all indications it was, using the atomic
bomb on North Korea and China would have significantly compromised the U.S. position vis-a-vis the Soviet Union. An atomic attack over the Korean War would, quite simply, leave the U.S. in a relatively vulnerable defensive posture in terms of atomic weapons, personal, and delivery systems.

Truman left office in January 1953, a few weeks before Joseph Stalin died. The Korean War, however, was continuing and U.S. casualties were estimated at that time at 21,000 killed, 91,000 injured, and 13,000 missing (Eisenhower, 1963). Republican Dwight D. Eisenhower, who was one more than one occasion labeled the peace candidate, had promised if elected to bring the war to a quick end. His strategy concerning the conflict was clearly more combative, perhaps because of his military background, and he clearly displayed a position of intolerance with the present U.S. strategy in Korea. Truman considered the atomic weapons option quietly, and ultimately found it unworthy of further analysis. It was in 1953 that the world witnessed for the first time since Hiroshima and Nagasaki the atomic option being more than simply entertained. It was in 1953 as well that the world witnessed the first explicit threat to use atomic weapons against an adversary.

Eisenhower’s Atomic Strategy in Korea

Eisenhower’s public statements and private ideas concerning atomic weapons are somewhat enigmatic, and often times inconsistent. His farewell address to the nation in 1961, the famous speech warning...
against the dangers of the military-industrial complex and his Atoms for Peace plan delivered in 1953 to the U.N. General Assembly all indicate his sensitivity to the deleterious effects of militarism and his hope for a peaceful world without the threat of global nuclear war. Eisenhower also reportedly shunned the use of atomic weapons later in his presidency in a meeting with Robert Cutler, his special assistant for national security, when there was talk of using atomic weapons: "You boys must be crazy. We can't use those awful things against Asians for the second time in less than ten years. My God" (quoted in Newhouse, 1988, p. 102).

In the spring after his election, Eisenhower (1963) reports having felt that there were three possible lines of action in Korea: (1) continue the war hoping for a quick armistice, (2) reinforce present troops and add more conventional forces, and (3) use atomic weapons to end the war quickly. He (1963) appeared to find the atomic option most attractive.

To keep the attack from becoming costly, it was clear that we would have to use atomic weapons. This necessity was suggested to me by General MacArthur while I was president elect. The Joint Chiefs of Staff were pessimistic about the feasibility of using tactical atomic weapons on front-line positions; but such weapons would obviously be effective for strategic targets in North Korea, Manchuria, and on the Chinese coast. (p. 180)

Eisenhower recalled that his two major reservations about using such weapons were (1) the possibility of a Soviet retaliation, since in 1953 it was (erroneously) suspected to have a significant nuclear weapons stockpile; and (2) the British response, which would undoubtedly been less than positive given the U.K.'s general dislike of
Eisenhower (1963) felt that atomic weapons provided the most fruitful avenue for a U.S. victory in part because of his conviction that "it would be impossible for the United States to maintain the military commitments it now sustains did we not possess atomic weapons and the will to use them when necessary" (p. 180). Ever aware of British and French opposition to the use of atomic weapons on any occasion, Eisenhower (1963) thought that even if the use of such weapons on Korea and China occurred, "the rifts so caused could, in time, be repaired" (p. 180). However, in a meeting of the National Security Council on March 31, 1953 (Department of State (1984), Eisenhower indicated

there were not many good targets, tactical targets. It would be worth the cost if, through use of atomic weapons, the U.S. could (1) achieve a substantial victory over the Communist forces, and (2) get to a line at the waste of Korea. (p. 826)

Eisenhower and his administration was also concerned about the Soviet Union's response to a massive atomic attack on China. Knowing that China had yet to develop atomic weapons (thus being a relatively minor threat), it was well known that the Soviets possessed several weapons (although yet un-operational). It was also suspected the Soviets were working on a hydrogen bomb.

Retrospectively, Eisenhower's contemplation of the use of atomic weapons can be understood by examining his general attitude toward the nature of the weapons versus traditional weapons. He commented on October 30, 1953, some three months after the war's end that "in
the event of hostilities, the United States will consider nuclear weapons to be as available for use as other ammunition" (quoted in Newhouse, 1988, p. 91). In March 1955 he also indicated his support for the use of atomic weapons in any conflict: "In any combat where these things can be used on strictly military targets and for strictly military purposes, I see no reasons why they shouldn't be used just exactly as you would use a bullet or anything else" (quoted in Newhouse, 1987, p. 91). Eisenhower also turned phrase-maker by referring to atomic weapons as a Bigger Bang For the Buck, and began a policy of reliance on atomic weapons rather than conventional forces, known as the New Look. These statements, as mentioned before, do contradict other public statements he made on the horrible effects of nuclear weapons versus other weapons. The goal here is not too delve into the cognitive dissonance or conflictual social-psychology of Dwight Eisenhower. The data presented here are enough, however, to establish the fact that Eisenhower did in fact contemplate the use of atomic weapons in Korea.

In the winter and spring of 1953, the advantages and disadvantages of using atomic weapons on North Korea and China were discussed at several secret meetings of the NSC and JCS. According to a National Security Council study released for deliberation on April 2, 1953, (Department of State, 1984), the major political advantages of using atomic weapons were identified as (Department of State, 1984:

1. The avoidance of a United Nations and United States military disaster in Korea;
2. A decisive end to the war which would make unnecessary continued military confrontations with China; and
3. A decisive end to the war which would make unnecessary a military confrontation with the Soviet Union. (p. 846)

While it was perceived that there were numerous military and political advantages entailed in using atomic weapons on Korea, the administration found many more political disadvantages. The NSC report identified these problems as:

1. The disproportionality of destruction of Korea and China relative to military objectives in Korea.

2. Use of such weapons on Korea would involve the West in general hostilities with Communist China.

3. Use of such weapons against China would involve the West in hostilities with the Soviet Union.

4. Use of such weapons would lead to enemy retaliation in kind against vulnerable U.S.-U.N. targets;

The NSC report also recommended that U.S. allies should be consulted prior to the use of atomic weapons in order to avoid a political fallout. The Council also advised the President to consider to what extent the political fallout from other free nations might dissipate support for the general objectives of the United States in Korea.

Eisenhower communicated his concern with the possible backlash resulting from the use of atomic weapons in several meetings. In the January 8 1954 meeting of the National Security Council, where possible courses of action were discussed if the truce were broken, he asserted, "our people have understood the atomic weapon, but we must
be a little more patient with our allies, who had not fully grasped the import of atomic weapons" (Department of State, 1984, p. 1704).

At a December 10, 1953 meeting of the NSC, Eisenhower was deeply concerned about Secretary of State Dulles' report of his meeting with British Prime Minister Churchill when Dulles informed the president that Churchill believed "there would be a world-wide revulsion" to the use of weapons (Department of State, 1984, p. 1654). Also at the meeting the President recalled agreeing with Churchill's recommendation earlier that year that he should not mention the United States' considerations on using the atomic bomb at his address to the United Nations. Eisenhower did not mention the plans in his December 8 Atoms for Peace plan. On January 8, 1954 during a National Security Council meeting, Eisenhower again brought up his concerns with reactions to the use of atomic weapons if North Korea violated the truce: "The real problem was how to get public opinion in the free world to grasp the fact that the Communists did renew their aggression" (Department of State, 1984, p. 1705).

There is little doubt that Eisenhower and his administration seriously considered world opinion in their deliberations over the use of the bomb. It is clear that the global social reaction to their use was anticipated to be negative and potentially damaging to the U.S. Perhaps this explains Eisenhower's concern for changing the perception of atomic weapons, a tactic detailed in the following.

On February 11, 1953, at a NSC meeting which included all of Eisenhower's key military and political advisors, serious consideration on the use of tactical nuclear weapons on North Korean
strongholds surfaced. While there was some disagreement, Secretary of State Dulles and Eisenhower eventually came to the conclusion that, as a general policy, atomic weapons should not be distinguished from conventional weapons (Department of State, 1984). The minutes of the meeting read, (Department of State, 1984):

Secretary Dulles discussed the moral problem and the inhibition on the use of the A-bomb, and Soviet success to date in setting weapons apart from all other weapons as being in a special category. It was his opinion that we should try to break down this false distinction.

(p. 770)

Following Dulles' statement, Eisenhower then indicated his agreement and suggested that perhaps U.S. allies should be consulted on the issue and even that the allies should be requested to supply more conventional military personnel and equipment if they refuse to consider the atomic option. According to the minutes of the meeting, Eisenhower ultimately concluded that he would not make that demand upon the British. It is unknown whether he eventually employed this tactic.

This subject again took center stage in a March 31, 1953 discussion of the National Security Counsel. The minutes of the meeting state, (Department of State, 1984):

Mr. (Deane) Malott (special civilian advisor to the president) argues that he nevertheless believed that we ought to use a couple of atomic bombs in Korea. The President replied that perhaps we should, but we could not blind ourselves to the effects of such a move on our allies, which would be very serious since they feel that they will be the battleground in an atomic war between the United States and the Soviet Union. Nevertheless, the President and Secretary Dulles were in complete agreement that somehow or another the tabu which surrounds the use of atomic
weapons would have to be destroyed. While Secretary Dulles admitted that in the present state of world opinion we could not use an A-bomb, we should make every effort now to dissipate this feeling. (p. 825)

On May 20, 1953 (Department of State, 1984), Eisenhower furthered discussed how the atomic weapon could be normalized:

It was the President's view that we ought to at once to (sic) begin to infiltrate these ideas into the minds of our allies. If the ground were prepared and the seeds were planted in a quiet and informal way, there was a much better chance of acceptance than if we suddenly confronted the allied governments with a full-fledged plan to end the war by military decision. There was general agreement with the President's point. Secretary Smith re-emphasized his views that a quick victory would go far to sell our allies on even the most drastic course of action in Korea. (p. 1066).

Thus, not only do we find that the possible social and political reactions to the use of atomic bombs in Korea were considered important in the Eisenhower Administration's deliberations, but also that the Administration indeed believed that attempts should be made to normalize the atomic bomb into the category of conventional weaponry so that the social reaction to their use would be less pejorative. Indeed, it appears as though the Administration operated under the assumption that atomic weapons should be regarded not qualitatively but quantitatively distinct from conventional weapons.

Several meetings were scheduled in the winter and spring to consider the question of targets. By March, as Chair of the Joint Chiefs of Staff General Omar Bradley recalled (quoted in Kaku & Axelrod, 1987), that

the JCS took the unprecedented step of recommending that the timely use of atomic weapons should be considered against military targets affecting operations in Korea and planned as an adjunct possible military course of action involving
direct action against Communists China and Manchuria. In the meantime, Ike had independently reached the decision the JCS were now voicing: if necessary, use atomic weapons in Korea. (p. 81)

All of the evidence, both secondary and primary, points to Eisenhower's serious consideration and actual targeting of U.S. atomic weapons. There is no question that the use of atomic weapons was viewed as an acceptable method of ending the hostilities in Korea. Indeed, of the six courses of action outlined by the Joint Chiefs of Staff and the National Security Council during the latter parts of the war, four were considered possible only if they were implemented with the aid of atomic weapons drops on Korea and China.

The strongest evidence that an atomic threat was made against North Korea and China is found in Eisenhower's (1963) memoirs:

The lack of progress in long-stalemated talks demanded definite measures on our part to put an end to these intolerable conditions. One possibility was to let the Communists authorities understand that, in the absence of satisfactory progress, we intended to move decisively without inhibition in our use of weapons, and would no longer be responsible for confining hostilities to the Korean Peninsula. We would not be limited by any world wide gentleman's agreement. In India and in the Formosa Straits area, and the truce negotiations at Panmunjon, we dropped the word, discreetly, of our intention. We felt quite sure it would reach Soviet and Chinese Communist ears. Soon the prospects for armistice negotiations seemed to improve. (p. 181)

Adding further validity to the existence of the threat (quoted in Lens, 1982), Eisenhower claimed later in his presidency:

I let it be known that if there was not going to be an armistice, we were not going to be bound by the kinds of weapons that we would use. I don't mean to say that we'd have used those great big things and destroyed cities, but we would use them enough to win. (p. 43)
The next stage of the threat was carried out by Secretary of State Dulles on a visit to India on May 20, 1953. At a meeting with Indian Prime Minister Jawaharal Nehru, Dulles, according to his notes, Dulles dropped the word that "if the armistice negotiations collapsed, the United States would probably make a stronger rather than a lesser military exertion, and that this might well extend the area of conflict" (quoted in Adams, 1961, p. 34). Later, Dulles admitted to Berding (1965, p. 129), that the intent of the meeting was to make clear our "intention to wipe out the industrial complex in Manchuria if we did not get an armistice." The message was transferred from India, probably through the Ambassador to China, to Beijing. Eisenhower was very careful not to make such an atomic threat directly to the face of the Chinese. All of the data indicate that the Chinese were very much made aware of the threat given by Dulles, as well as the earlier threat by Eisenhower's negotiators at Panmunjom.

Obviously, the threat was not carried out. On July 27, 1953 a truce was signed between the United Nations and North Korea. The question of whether the atomic threat was instrumental in ending the war is not easily answerable. According to Eisenhower, Nixon, and many other top decision makers, the threat of an atomic attack ended the war. While an informed hypothesis, one cannot ignore the fact that the Chinese continued to attack U.S. forces after the threat, and perhaps more importantly the death of Joseph Stalin might be considered an important variable as well. This question is of no concern here, however. What is of concern, and what has been
demonstrated here rather clearly, is that both the Eisenhower and Truman administrations actively considered using atomic weapons during the three year conflict. While Truman discarded the idea of an atomic bombing of Korea rather quickly, Eisenhower saw threatening the use of the bomb as a effective manner to end the war.

**Salient Variables in the Atomic Decisions Involving Korea**

What were the key factors involved in Eisenhower's decision to threaten the use of atomic weapons? Although there appear to be several, I will focus on only the most salient here. The following identification of salient factors is preliminary, in the sense that it is intended only to flesh out the contextual variables believed to be significant in the decisions. These variables are anticipated to play a significant role in instructing the last chapters of this dissertation, at which time they will be compared to the circumstances surrounding the U.S. nuclear threat against Vietnam.

**Goals and Means**

On a preliminary analytical level, the most obvious answer to the question of why this threat occurred is that Eisenhower and his administration wanted to end the war. Given that one of his more salient campaign promises was to halt hostilities quickly, we should not be surprised that he indeed intended to resolve the conflict as quickly as possible. While campaign promises are on many occasions just that, left to wither away after election, there is reason to
believe the promise to end the Korean War was intended to be fulfilled. This is also evidenced by primary and secondary accounts of his frustration with armistice negotiations, and his desire to secure a final peace agreement quickly both as the president and as a military advisor prior to 1953. Thus, one may identify Eisenhower's threat to use atomic weapons as a means to achieving a goal.

While identifying the ending of the war can accurately be described as a goal, more specificity is needed to flesh out the specific mechanisms that instructed the particular means to achieve that goal. Thus, the question must be: Why were atomic weapons perceived as an effective means to achieving armistice? The obvious answer here is that atomic weapons were accurately believed to be much more powerful than conventional weapons, capable of completely destroying any given target. Additionally it was perceived by the U.S. that in terms of cost-effectiveness, the use of atomic weapons would require less money and person-power to deliver than conventional bombings or a heavy ground troop deployment. Since the United States indeed possessed several hundred atomic weapons between 1950 and 1953, it is reasonable to assume that the goal of ending the war could be, both militarily and economically, most successful via the use of atomic weapons.

That the threat to use atomic weapons was largely a product of the U.S. desire to end hostilities in Korea is an assumed fact. Like much organizational behavior, the calculations involved in assessing the most efficacious manners in which to achieve goals are extremely
instrumental in nature. That is, these decisions are made through the intellectual exercise of cost-benefit calculation. However, since the U.S. only threatened the use of atomic weapons and did not carry out the threat, we must examine other factors which influenced the decisions not only regarding the threat, but the failure to execute the threat. This is where other variables enter the equation.

**Vulnerability**

The idea that the perception of vulnerability may seriously influence organizational behavior seems to apply very well to U.S. behavior in Korea. On a structural level of analysis, the entire discourse on the use and threatened use of atomic weapons in Korea, as well as the initial decision to intervene in Korea, can be confidently surmised to have resulted from the U.S. fear of communism spreading throughout Asia. Indeed, the data reveal that the most important factor involved in U.S. entry in the conflict was to free South Korea from the imperialism and influence of the Chinese and Soviet backed forces of North Korea. This belief was of course in full congruence with the Truman Doctrine, Marshall Plan, and official U.S. foreign policy codified in such documents as NSC-68.

It is in this sense that the primary cause of U.S. involvement in Korea, and ultimately the threatened use of atomic weapons, was the fear of ideological, political, and economic vulnerability. This is the structural explanation for many U.S. activities in Korea. And as the summary of the beginning stages of the Cold War earlier in
this chapter illustrates, the antagonistic climate from post world War II to Korea provided the backdrop for concerns of vulnerability. But there is also another way in which to conceptualize the importance of this notion when considering U.S. actions in Korea. While on a less abstract level of analysis, the importance of military power, particularly atomic power, during the Korean conflict is also important for understanding the behavior of the United States.

The United States possessed several hundred atomic weapons during the early periods of the conflict. Even during the latter stages of the war, the U.S. was extremely concerned of the possibility of draining their stockpile through an attack on North Korea and China. The fear of overextending U.S. atomic resources, personnel, and equipment in Asia acted as a major impediment to the execution of atomic attacks. Indeed, by stationing a majority of atomic paraphernalia several thousand miles from the volatile areas in Europe, the United States could find itself atomically unprepared in the event of a Soviet invasion of Western Europe or Allied controlled West Germany. It seems appropriate then to identify the perception of military vulnerability as an important variable in the U.S.'s decision not to stage an atomic attack during the Korean War. While this holds especially true for the Truman administration, it was undoubtedly a major factor for Eisenhower's administration as well.

The notion of vulnerability then seems to have two sides. On the one hand, the perception of vulnerability to a Soviet attack of Europe by the U.S. allocation of large amounts of atomic resources
in Korea and in Asia acted as a control mechanism to restrain the use of atomic weapons. On the other hand, the principal reason the U.S. intervened in Korea was to protect its economic, ideological and political interests from the vulnerability which would result in the event of a world heavily influenced by Soviet and Chinese communism.

**Anticipated Allied Reactions**

The historical data indicate that the Eisenhower Administration was immensely concerned about the reactions of its allies in the event of an atomic bombing of Korea. The data also indicate that the Administration predicted a hostile global response. On more than one occasion entire meetings of the National Security Council were devoted to this very issue.

One way to place this perception, and in many ways a very real fear, in connection with other discourses on the atomic option is to consider the Administration’s desire to erase the distinction between atomic and conventional weapons. A considerable amount of politicking occurred with the British in order to convince them that atomic weapons were simply more powerful weapons, not ontologically distinct entities. Despite these attempts, Churchill consistently discouraged their use in the war.

While identifying the very real concern the Administration displayed over the nature of global reaction to the use of atomic weapons, it is difficult to argue that it was the only major deterrent to their use. Indeed, the data point to two other factors which also
appear logically related with the decision not to drop the weapons: the successful negotiation of an armistice and the concern of over-extending atomic resources in Asia at the expense of protecting Western Europe. This, however, does not mean that the expectation of negative reaction could not have played a decisive role in the decision not to use the weapons. Indeed, it would be reasonable, simply by the sheer quantity of discourse over the issue, to argue that the United States’ policies during the conflict reflected this concern. In fact it is clear that the concern manifested itself behaviorally given Eisenhower and his administration’s attempts to convince others to consider the atomic option.

Now if we take the variable of global reaction seriously, a reasonable conclusion is that since a successful lobby for erasing the distinction between atomic and conventional weapons was not foreseeable, perhaps secretly threatening to use the weapons would accomplish the goal of ending the war. Thus, in order to avoid negative global reaction, the atomic weapon could be used only as an instrument of threat rather than of actual use.

On one level it could be argued that the attempt to normalize and minimize the awesome power and effects of atomic weapons occurred because of the perception of necessity and urgency on the part of the Eisenhower and his Administration. Since data clearly support the urgency hypothesis was quite extant, perceived by both Eisenhower and his advisors, we come back to the idea of goals. Indeed, what better way to end the war than to fully destroy major military bases and
ground troop stations in Korea? And what better way to execute these attacks than through the use of atomic weapons?

Discussion

It is impossible to determine whether Eisenhower would have eventually carried out his atomic threat. While data indicates that specific targets were selected for the mission, and that Eisenhower and his advisors seriously considered the particulars of such an attack, it would be speculative to conclude the atomic plans would have come to fruition. Data indicate, however, that Eisenhower viewed his threat as instrumental in expediting armistice talks. Perhaps his threat was indeed a bluff, intended only to scare the communists into submission. Regardless of whether the threat would have been carried out, one cannot ignore the fact that negotiations improved significantly after the threat was made. It is possible then, that Eisenhower and his associates discarded the idea of using atomic weapons because of the now likely possibility of an end to the war. But even after the July 27 armistice was officially concluded, many NSC and JCS discussions were occupied with the possibilities of the atomic option if the war resumed. The majority of Eisenhower’s advisors reached the substantive conclusion that if indeed the war resumed, atomic weapons would certainly be used (see Kaku and Axelrod, 1987).

In this last section of this chapter, I have attempted to identify important structural and institutional variables which appear to related to the decisions relating to the use of atomic weapons in Korea. Three important variables have surfaced from the
analysis: Goals and means, vulnerability, and anticipated global response. These variables, in the truest sense data-emergent, will be juxtaposed with other variables which emerge from the remaining case study on the U.S. threat to use atomic and nuclear weapons during the Vietnam conflict. The final analysis of these variables will be conducted on a more theoretical level in the final chapter of the dissertation, in which a conceptual framework for understanding the violations of international law will be attempted. It is here that a grounded theory of governmental crime will be constructed.
CHAPTER VI

NUCLEAR WEAPONS AND THE VIETNAM WAR

This chapter is devoted to an examination of United States' nuclear weapons threat during the Vietnam War. Much like the preceding chapter on the atomic threat during the Korean War, the main objectives of this chapter are to: (a) place the Vietnam conflict into proper historical perspective via a review of the 1953-1965 period of the Cold War, (b) identify the military and political background of the Vietnam War, (c) describe the global status of nuclear weapons during the conflict, (d) expose the instances in which the United States threatened to use nuclear weapons, and (e) extract variables from the case study which appear to be associated with decisions to threaten the use of nuclear weapons.

The Cold War Between 1953 and 1965

Antagonistic relations between the Soviet Union and the United States accelerated with the passing of the Korean War. The United States, under the executive leadership of Eisenhower until 1961, continued its policy of containment. Although the U.S. did not commit itself to any particular region to the same quantitative degree it had in Korea, the U.S. did engage in economic, political, and low-intensity wars in a variety of areas around the world.

Perhaps the area in which the United States held the most
Interest immediately following the Korean War was Southeast Asia. The U.S. did not commit a significant number of troops to Vietnam until 1965, but supported the French occupation of the region since 1950. Between the years of 1950 and 1954, the United States funneled over $1.2 billion to the French, accounting for nearly 70% of cost of the occupation (LaFeber, 1991). The U.S. commitment to this region became even more significant when in 1954, the French were defeated at Dienbienphu, and Vietnam was divided into North and South. By 1955 French influence in the area had diminished and the United States installed Ngo Dinh Diem as president of South Vietnam. As described in much richer detail later in this chapter, heavy U.S. commitment in this region continued until 1973.

Outside of Southeast Asia, the United States also applied its policy of containment, again enveloped in the fear of communist expansion. Of particular importance is the policy designed by the Eisenhower administration, eventually labeled the Eisenhower Doctrine, which held that the United States would support any Middle Eastern country threatened by communism. In part, U.S. involvement in the brief Suez Crisis of 1956 can be viewed as exemplar of this policy. More indicative of the policy, however, was the direct military involvement of the United States in the 1958 Lebanon Crisis, when 14,000 U.S. troops landed on Lebanese soil to support the government of President Chaumon. Although the Lebanese conflict was in real terms a civil war, the Eisenhower administration nonetheless applied the policy of containment to the region, attempting to both deter
Soviet expansion into the area and to prevent instability in remaining pro-Western Arab countries (Blechman and Kaplan, 1978). Indeed, during the mid to late 1950’s, the Middle East was viewed by the U.S. as susceptible to communist infiltration, especially because of Egyptian President Nasser’s apparent sympathy for communism and his more than casual association with the Soviet Union.

In relative terms, Germany and Berlin had become somewhat stable since the 1948 Soviet Blockade. However, in the late 1950’s and early 1960’s Berlin and Germany once again became principal maneuvering areas of the Cold War. On November 10, 1958, Soviet Premier Khrushchev demanded Western surrender of West Berlin. With Allied reaction extremely hostile to this proposal, Khrushchev hinted at the possibility of using "the greatest possible force" to enforce the proposal (Slusser, 1978, p. 357). The Soviet Premiere set a deadline of six months for the completion of negotiations on the question. For the next ten months, the U.S. and Soviet Union played a miniature war game by blocking roads and refusing passage to one another in various sections of Berlin. It wasn’t long before the crisis came to a halt, and by September 1959, the Soviets withdrew their demands. This battle in the Cold War ended where it began. Two years later the question of Berlin and the two Germanys again took center stage when Khrushchev made similar demands upon the Kennedy administration to allow the reunification of the entire city of Berlin with the communist East. The confrontation resulted in the construction of the Berlin Wall and the famous Checkpoint Charlie tank confrontation.

While Western Europe, the two Germanys, and the divided city of
Berlin were major sources of confrontation during this period of the Cold War, it was in 1961 and 1962 that the United States became involved in two of the most dangerous clashes between the Korean and Vietnam Wars: The attempted invasion of Cuba and the Cuban Missile Crisis. These events represent the general geographic movement of the Cold War from direct confrontation in Europe to peripheral, but nonetheless important areas of the globe.

On New Year's Day, 1959, the small island of Cuba, located some 90 miles from southern Florida, came under the leadership of the revolutionary communist Fidel Castro. The Kennedy administration feared such a close geographical relationship with a Soviet-supported government. The U.S. Central Intelligence Agency provided military training and equipment to revolutionary Cuban exiles, and promised air support for a coup de tat of the Castro regime. The 1961 Bay of Pigs invasion, fully supported and designed under both Eisenhower and Kennedy, failed miserably, with the Cuban revolutionaries sustaining total defeat, principally because of the U.S. decision to not supply the promised air support. In the end, the U.S. attempt to overthrow Castro represented the Cold War's dominant traits: fear of the domino effect and the importance of containment.

The last major confrontation between the Soviet Union and the United States prior to the U.S. entrance in the Vietnam War is the Cuban Missile Crisis, which again demonstrated the United States' concern with Soviet influence in areas outside of Eastern Europe. The crisis, although serious, was uncomplicated: In October 1962, the United States became aware of the construction of Soviet nuclear
missile bases on Cuban soil and instituted a thirteen day blockade of Soviet ships suspected of transporting nuclear weapon materials. Within two weeks of the blockade, the Soviet ships turned back to the Atlantic with the agreement that the United States would not attempt to re-invade Cuba and that it would evacuate some of its nuclear missile sites in eastern Turkey. Despite both sides considering the outcome beneficial, the antagonisms between the U.S. and Soviet Union were not reduced or diminished in intensity. The Kennedy and Johnson administrations maintained a policy of containment consistent with the cannons of the earlier administrations of Eisenhower and Truman. Indeed, President Kennedy (quoted in Lincoln, 1968), applied this logic to Cuba and other areas of U.S. interest.

It is clear that the forces of communism are not to be underestimated, in Cuba or anywhere else in the world. It is clear that this Nation, in concert with all the free nations of this hemisphere, must take an even closer and more realistic look at the menace of external Communist intervention and domination in Cuba. It is clearer than ever that we face a relentless struggle in every corner of the globe that goes far beyond the clash of armies or even nuclear armaments. The armies are there. The nuclear armaments are there. But they serve primarily as the shield behind which subversion, infiltration, and a host of other tactics steadily advance. (p. 133).

The Cold War continued throughout the post-Korean War era just as it had preceded immediately following World War II: A series of crises erupted every few years which manifested the deep animosity permeating superpower global relations. The only real thawing of the Cold War occurred during the period of detente, or lessening of international tension, which existed in the late 1960's and early 1970's. The 1968 Strategic Arms Limitation Talks (SALT) and the successful
Nixon Administration policy of forcing competition between the Soviets and Chinese abetted this relative time of peace between the superpowers.

U.S. policies, though undergoing slight revisions in different Presidential administrations, nevertheless maintained a commitment to thwart communist expansion influence via low intensity war. While in Cuba and Germany the world escaped a full military confrontation between the superpowers, the small country of Vietnam, which measures less in size than the state of California, proved to be the region where the Cold War turned exceedingly hot. Much like the U.S. entrance into the Korean War in 1950, U.S. intervention in Vietnam was the logical behavioral manifestation of U.S. containment policy. It is to this conflict, especially considerations on the use of nuclear weapons during the Vietnam War, that the rest of this chapter is devoted.

Political and Military Background of the Vietnam War

Vietnam represents the cornerstone of the Free World in Southeast Asia, the keystone to the arch, the finger on the dike. Her economy is essential to the economy of all of Southeast Asia. (President Kennedy, quoted in Lafeber, 1991, p. 232).

In the contemporary age, Vietnam has never experienced a prolonged period of peace. Controlled by the Chinese until the early 15th century, the country was first granted independence in 1428. However, the French invasion in 1861 further established the region as a colony, despite numerous clashes between the indigenous peoples
of the area and the French occupying forces. It was not until the
defeat of French in 1954 that the country of Vietnam gained any de-
gree of sovereignty (Karnow, 1983).

The country of Vietnam, however, ceased to exist by 1954. Much
like the experience of Korea, antithetical political ideologies be-
tween the dwellers of the north and south solidified severance. In
July, as a result of negotiations in Geneva, Vietnam was divided into
two sovereigns, North and South. The United States, Britain, the So-
viet Union, and France designed the plan along with representatives
of the north and south regions of Vietnam. In what was thought to be
a temporary solution to the problems of area, the areas of North and
South were demarcated at the 17th parallel. The Geneva negotiators
agreed to the creation of a communist-led North Vietnamese government
and a pro-Western South Vietnamese government.

The United States soon became the major supporters of the
government of South Vietnam, led by the brutal anti-communist Ngo
Dinh Diem, who ruled until his U.S. supported assassination in 1963.
The U.S. provided military advisors, ground troops, and other person-
nel and equipment to the South Vietnamese until its exit from the war
in 1973. By the year 1963, the U.S. funneled over $500 million in
aid and provided nearly 15,000 military personnel to the Diem admin-
istration (Karnow, 1983). In the North, Ho Chi Minh's communist
government received significant support from the Soviet Union and
China.

Between the years of 1954 and 1965, the two Vietnams were
engaged in constant low-intensity warfare. The North Vietnamese, inspired by a nationalist ideology which called for a return to a united Vietnam, increasingly stepped up attacks on bordering cities and chief military and political areas in the South. The Southern country too engaged in offensive attacks against the North, with a comparable level of violence directed toward communist sympathizers and dissenters in both areas of the region.

The decision of the United States to intervene in the civil war of Vietnam bears close resemblance to its decision to intervene in Korea: Fear of expanded communist influence in a pro-Western country threatened U.S. political and economic interests. The U.S. decision to fully commit and significantly escalate the hostilities was made in August of 1964, when the U.S. destroyer Maddox was purportedly attacked by North Vietnamese patrol boats in the Gulf of Tonkin, a small body of water adjacent to the Chinese-North Vietnamese border. While there are serious questions about the authenticity of the claims made by the U.S. government, the image invoked of the Gulf of Tonkin incident served to justify U.S. escalation of hostilities. On August 5, President Johnson requested Congress to allow him to take "any measures necessary to repel any armed attack against the United States and to prevent further aggression" (quoted in Lincoln, 1968, p. 294). Permission was granted by Congress two days later in the form of the Tonkin Gulf Resolution.

President Johnson order the first bombing campaign of North Vietnam, code-named ROLLING THUNDER, in early 1965 and committed more than 200,000 troops to the region by December of that year (Karnow,
1983). Under the Johnson Administration, the policy employed was one of gradual escalation whereby it was hypothesized that small quantities of ground troops and air-attacks would throughout the years lead to larger scale attacks, and ultimately U.S. victory. In large part, this policy was enacted to protect the secrecy of the U.S. bombing missions and to attempt to confine the hostilities within Indochina.

It is unnecessary for the purposes of this research to delve into the repeated negotiations, the quantity of bombings, and the specific operations designed by either party to the conflict. Nevertheless, it is important to note the general U.S. commitment during the war: By the end of the war in 1973, the U.S. had dropped over seven and one-half million tons of bombs on both North and South Vietnamese soil; committed 500,000 soldiers; employed over 400,000 tons of napalm to deforest suspected communist strongholds; lost over 50,000 soldiers; and had invested $150 billion in the effort (Harrison, 1982; Lens, 1982).

After eight years of war with the North Vietnamese, the United States withdrew from the conflict. South Vietnam's president Nguyen Van Thieu pleaded with the West to maintain its commitment in the area, but widespread disapproval in the United States with the war and continued failure in suppressing Vietcong influence ultimately made the decision to withdraw relatively easy (Nixon, 1986). The United States lost more than 50,000 soldiers (the third most deadly war of the U.S.) and had been solidly defeated by a less technologically developed third world country. All U.S. troops had evacuated
Vietnam by March 1973 (Harrison, 1982).

The U.S. withdrawal did not cease the fighting in Vietnam. North Vietnamese forces, in ultimate irony to the United States, drove again to the South and ultimately took control of the entire country with the capture of the South Vietnam capital of Saigon on April 30, 1975. Vietnam was no longer divided into the sovereigns of North and South. For the first time, U.S. containment policy had failed.

As noted earlier, the United States committed itself to Indochina, and particularly Vietnam, well before its 1965 commitment to full-scale escalation. The policy of containment, which guided U.S. foreign policy since World War II, also guided the final step of full-scale military intervention in Vietnam, even as early as 1952, when the U.S. was in the midst of the Korean War. In August of that year, the National Security Council (Pentagon Papers, 1971) formed its objectives on Southeast Asia,

> to prevent the countries of Southeast Asia from passing into the communist orbit, and to assist them to develop will and ability to resist communism from within and without and to contribute to the strengthening of the free world. (p. 27).

The Council also recommended continued and complete support of the French occupying forces, as well as contingency plans for air-strikes and ground troop deployment should the French come under Chinese attack, and an assortment of "aggressive military, political, and psychological program(s) to defeat or seriously reduce the Viet Minh forces" (Pentagon Papers, 1971, p. 30).

President Kennedy, as Eisenhower, continued the policy of
gradual escalation in Vietnam less than five months after taking office. In a proposal offered by an interdepartmental task force, Kennedy approved the following measures: Expanded "intelligence, unconventional warfare, and political-psychological activities," penetration of North Vietnamese communication systems, enlarged Central Intelligence Agency training for South Vietnamese nationals, and enhanced propaganda techniques to include the "testimony of rehabilitated prisoners, stressing the errors of Communism broadcast to Communist held areas, including North Vietnam, to induce defections" (Pentagon Papers, 1971, p. 120).

As detailed in a later section, Presidents Johnson and Nixon also maintained a strong commitment to Vietnam throughout their tenure in office. While other Administrations had covertly battled the North Vietnamese, these two Presidents escalated the conflict to a state of war. While the nuclear option was considered by the Johnson administration, it was under Nixon that the United States explicitly threatened to use nuclear weapons to force an end to the hostilities. Before discussing these considerations and threats however, it is necessary to review the status of nuclear weapons during the time of the U.S. intervention.

Status of Nuclear Weapons During the Conflict

The qualitative and quantitative expansion of nuclear weapons immediately following the Korean War made the situation faced by the United States and Soviet Union during the Vietnam War much more precarious. While Great Britain, France, and China also maintained a
nuclear stockpile by 1965, the former two countries' weapons were largely under the control of the North Atlantic Treaty Organization (NATO) alliance, while Chinese nuclear weapons remained primitive in comparison to U.S. and Soviet stockpiles. With the nuclearization of Western Europe by NATO in 1954, and the Soviet stationing of nuclear delivery systems and warheads both within their country and in sections of the Baltic states, the Cold War progressively revolved around the ability to deter and threaten the use of nuclear weapons to maintain security. This is in sharp contrast to the military situation during the Korean War when both the U.S. and Soviets depended mostly on conventional methods of warfare.

Table 4 illustrates the United States' and the Soviet Union's nuclear weapons stockpile from the end of the Korean war through the Vietnam War. The United States has always maintained the lead in pure numbers of nuclear weapons. However, if one takes into account the actual megatonnage of weapons during the early 1960's, there is nearly parity. But in the years after 1967 to the present, the Soviet Union possessed the advantage in pure destructive capacity: From the years of 1969 to the mid 1980's the Soviet Union maintained at least twice the amount of total megatonnage of the United States; in the years between 1972 and 1980, Soviet megatonnage was three times more powerful than U.S. destructive capabilities (see Cochran, et al. 1984). The noticeable difference between actual weapons and megatonnage is explained by the Soviet's tendency to build high-yield inter-continental ballistic missiles (ICBMs) and
### Table 4


<table>
<thead>
<tr>
<th>Year</th>
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<th>Soviet Union</th>
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<tbody>
<tr>
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<td>2760</td>
<td>280</td>
</tr>
<tr>
<td>1956</td>
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</tr>
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<tr>
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<tr>
<td>1973</td>
<td>28,700</td>
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</tr>
</tbody>
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submarine-launched ballistic missiles (SLBMs), and the United
States' strategy of making more of those weapons with lower yields.

Comparing the quantitative destructive capabilities of U.S. nuclear weapons during the Vietnam period and the bomb used on the Japanese city of Hiroshima, one realizes the astounding pace of advancement in nuclear weapons technology. The 12 kiloton (12,000 tons) bomb dropped on Hiroshima is estimated to have killed at least 130,000 people (Perkins, 1991). The U.S. had stockpiled 2,000 megatons (2 million tons) by the end of the Korean War, and 10,900 megatons (11 million tons) at the start of the Vietnam War. If the United States, during the Vietnam War era, had detonated all of its nuclear weapons, the destructive capacity would have been enough to kill the world's population some 35 times over (Perkins, 1991).

Fortunately, the undoubtedly omnicidal results of a total release of a nuclear weapons stockpile has not come to fruition. Rather, U.S. nuclear weapons policy has always been based on the concept of deterrence. This doctrine holds that a Soviet invasion of Western Europe or another pro-Western region would be deterred if it was made clear that the United States would respond to such an invasion with nuclear forces. This strategy, known as the first-use option, has been official NATO policy since 1967. Additionally, the policy of deterrence was hypothesized, especially during the 1950's and 1960's under the mutual assured destruction doctrine (MAD), to prevent any Soviet or U.S. first strike of homelands, since such a strike would be guaranteed to provoke equally damaging attacks on the country which first used nuclear weapons. While U.S. deterrence
policy has undergone minor changes throughout the tenure of the nuclear age, the theory most popular during the period of the Vietnam War was flexible response, which, in congruence with the first-strike policy of earlier years, held that any region threatened with Soviet occupation or invasion would be assisted by U.S. nuclear forces.

Johnson and Nuclear Weapons Considerations

President Johnson inherited the complicated situation in Vietnam fully aware of most of the U.S. covert operations in the region. As Vice-President, he had played, if not a major role in shaping U.S. policy in the area, the privileged position of informed spectator. His basic view on the importance of U.S. influence in the area again exemplifies the doctrine of containment. In a series of interviews with Doris Kearns (1973) Johnson recalled his position.

The Communists' desire to conquer the world is just like the lawyer's desire to be the ultimate judge on the Supreme Court or the politicians desire to be President. You see, the Communists want to rule the world, and if we don't stand up to them, they will do it. And we'll be slaves. (p. 316)

In the same interview (Kearns, 1973) Johnson very bluntly professed his belief in the domino theory.

So I knew that if the aggression succeeded in South Vietnam, then the aggressors would simply keep on going until all of Southeast Asia fell into their hands. Now I know these academics thought all they had to do was to write a lot of words proclaiming the death of the domino theory and their words alone could make the Communist threat vanish overnight. But while the impotent academics were talking, Moscow and Peking would be moving to extend their control and soon we would be fighting in Berlin or elsewhere. And so would begin World War III. (p. 330)

The question of the use or threat to use nuclear weapons during
the Johnson Administration manifested itself on a number of occasions. While there was considerably less discussion of the issue than in the Eisenhower or Truman Administrations, Johnson's advisors did examine their possible use frequently, but not in enough particularity to warrant the conclusion that the U.S. was close to executing a nuclear attack on the North Vietnamese.

Prior to full U.S. involvement in Vietnam, South Vietnamese General Nguyen Khanh and U.S. Secretary of State Dean Rusk met in May 1964 to discuss the possibility of an U.S. military intervention. With Khanh delighted at the prospect, Rusk delineated President Johnson's major concerns (Pentagon Papers, 1972), in the event of full-scale intervention

the U.S. would never again get involved in a land war in Asia limited to conventional forces. Our population was 190,000,000. Mainland China had at least 700,000,000. We would not allow ourselves to be bled white fighting them with conventional weapons. (p. 322).

Rusk continued, (Pentagon Papers, 1972) this time emphasizing the likelihood of using nuclear weapons.

This meant that if the escalation brought about a major Chinese attack, it would also involve the use of nuclear arms. Many free world leaders would oppose this. Many Asians seemed to see an element of racial discrimination in the use of nuclear arms; something we would do to Asians but not to Westerners. (p. 322).

According to the minutes of the conversation, Khanh replied "he certainly had no quarrel with American use of nuclear arms if the Chinese used masses of Humanity, we would use superior firepower" (Pentagon Papers, 1972, p. 322).

This meeting was probably based, at least in part, on the
discussions which took place a month earlier in a National Security Council meeting in April 1964. According to the minutes of the meeting, (Pentagon Papers, 1973), the discussion on whether to bomb North Vietnam into submission flirted with the nuclear option and there was speculation about whether the use of nuclear weapons against North Vietnam would bring in the Russians. Rusk had been impressed, so he said, by Chiang Kai-shek's recent, strongly expressed opposition to any use by the United States of nuclear weapons. Bundy conjectured for argument's sake that nukes used in wholly unpopulated areas solely for the purposes of interdiction might have a different significance than if used otherwise. It is not reported than any examination of effectiveness was essayed (p. 65).

At the U.S. sponsored Honolulu conference in June of 1964, top military and political officials discussed further plans of action against North Vietnam. When debating the possibility of conventional versus nuclear campaigns, Secretary of Defense McNamara noted that all of the planning thus far was on the basis that a Soviet or Chinese reaction to an attack on North Vietnam was likely only if such attacks were massive (Pentagon Papers, 1973). He argued that in order to ensure that the larger communist nations would not get involved, the first stages of attacks should be limited. He noted however, that it was essential that contingency plans be made in the event of the expansion of belligerents.

According to the minutes of the meeting (Pentagon Papers, 1973), the nuclear weapons issues then took center stage.

McNamara then went on to say that the possibility of a major ground action also led to a serious question of having to use nuclear weapons at some point. Admiral Felt responded emphatically that there was no possible way to hold off the communists on the ground without the use of tactical nuclear weapons, and that it was essential that the commanders be
given the freedom to use these as it had been assumed under
the various plans. He said that without nuclear weapons,
the ground force requirement was and had always been com-
pletely out of reach. (p. 175).

There is also mention of the possible use of nuclear weapons in
the November, 1964 National Security Council Working Group paper
Courses of Action, Southeast Asia.

This report (Pentagon Papers, 1973), submitted to the Joint
Chiefs of Staff for analysis, acknowledged the fact that a full mil-
itary commitment to the region

would involve high risks of a major conflict in Asia, which
could not be confined to air and naval action but would
almost inevitably involve a Korean-scale ground action and
possibly even the use of nuclear weapons at some point. (p.
623).

The Joint Chiefs responded critically to the analogy of Korea and
replied to the nuclear weapons hypothesis by stating:

[the phrase] possibly even the use of nuclear weapons at
some point" is of course why we spend billions to have them.
If China chooses to go to war against us she has to contem-
plate their possible use, just as anyone else. (p. 623)

It would be erroneous to conclude that there were not serious
doubts about the use of nuclear weapons on the North Vietnamese in
the period prior to full U.S. military escalation. Surveying the
opinions of the more powerful advisors such as McNamara, Rusk, and
Bundy during this time, there appeared to be a consensus that if
employed, they could be successful only if used sparingly, or "to
hold off an enemy to save a force threatened with destruction, or
to knock out a special target" (Pentagon Papers, 1973, p. 624).
A strategy which included major roles for nuclear weapons simply did
not exist at this time.
This does not mean, however, that all high-level advisors were against the use of the weapons in the region. In his autobiography, Commander Westmoreland (1980) criticized the Johnson Administration for not using them.

If Washington officials were so intent on sending a message to Hanoi, surely small tactical nuclear weapons would be a way to tell Hanoi something, as two atomic bombs had spoken convincingly to Japanese officials during World War II, and the threat of atomic bombs induced the North Koreans to accept meaningful negotiations during the Korean War. It could be that the use of a few small tactical nuclear weapons in Vietnam—or even the threat of them—might have quickly brought the war there to an end. (p. 91)

Despite Westmoreland's position, which paralleled a few other important advisors of Johnson, the President had difficulty accepting the argument. To understand this, it is important to note the strain Johnson experienced during the bombing campaigns against North Vietnam. While some of his military advisors recommended significantly increased forces and attacks against communist strongholds, Johnson was at first reluctant to expand the conflict. One of his greatest fears of such an increase was that excessive bombing could trigger Soviet or Chinese entrance into the hostilities. One should not underestimate the importance of this concern, since Johnson enacted moratoriums on bombings several times during the war in an attempt to end the war politically. Johnson outlined his position to Kearns (1973):

I saw our bombs as my political resources for negotiating a peace our bombs could be used as sticks against the North, pressuring North Vietnam to stop its aggression against the South. If China reacted to our slow escalation by threatening to retaliate, we'd have plenty of time to ease off the bombing. But this control—so essential to preventing World
War III—would be lost the moment we unleashed a total assault on the North. (p. 264)

Johnson very much feared an expansion of the war to a global dimension, as illustrated by the following comment to Kearns (1973):

I never knew as I sat there in the afternoon, approving targets one, two, and three, whether one of those three might just be the one to set off the provisions of those secret treaties. What if one of those targets triggers off Russia or China? (p. 270)

But Johnson did escalate the war, ordering more than 400,000 troops to the region by the end of 1966 and continued bombing campaigns of North and South Vietnam. Indeed, the United States secretly expanded the geography of the war into some regions of Laos and Cambodia, citing the areas as communist troop refuges. Nuclear weapons, however, were never a key ingredient in Johnson’s war policy. According to the Commander of U.S. forces in Vietnam, General William Westmoreland (1976), the President did charge the JCS on a few occasions with analyzing the option, but never considered their use anything but improbable. This should not be surprising considering Johnson’s concern with Soviet or Chinese entrance into the war; it was believed by the Administration that the use of nuclear weapons would undoubtedly bring about World War III. Indeed, in an interview with Kearns (1973) he went to great pains in illustrating his fight for a conservative bombing campaign, despite his general’s desire to completely saturate the North Vietnamese with bombs.

In late 1968, Johnson announced he was not seeking re-election. Dejected by the failure of both the U.S. effort in Vietnam and his plans for the Great Society, he retreated from politics.
until his death in 1973. Again, while there was some discussion on the issue, Johnson did not seriously consider nuclear attacks against the North Vietnamese.

Nixon and Nuclear Weapons in Vietnam

The United States intervened in the Vietnam War to prevent North Vietnam from imposing its totalitarian government on South Vietnam through military conquest, both because a Communist victory would lead to massive human suffering for the people of Vietnam and because it would damage American strategic interests and pose a threat to our allies and friends in other non-Communist nations. (Nixon, 1985, p. 46).

I do not believe that the United States should threaten any other nation. (Public Papers of Richard Nixon, 1971, p. 249).

Richard Nixon assumed the presidency in 1969, four years after Johnson had initiated the air-attack operation ROLLING THUNDER. While there are several reasons Nixon prevailed in the election, many have identified his position on the Vietnam War as an important variables in his election. Prior to and throughout the Vietnam War, Nixon emphasized two general goals: Not only to win the war, but to win it honorably. On several occasions, Nixon (1985) made public this concern, promising he would not be "the first U.S. president to lose a war" (p. 181). During his tenure in the White House, he repeatedly underscored the point that the United States would not tolerate defeat, and that such a defeat would symbolize U.S. inferiority and a lack of commitment to thwarting the spread of communism.

Nixon asserted a number of times during his campaign that he
had a secret plan to end the war and that he would bring peace (see Time, 1985; Haldeman, 1978). The U.S. public did not know the details of this secret strategy even after some year and one half later it failed. Nixon's plan involved the threat to use nuclear weapons, and is known as the November Ultimatum. The scheme, known among top officials as a part of operation DUCK HOOK, involved a dramatic escalation of the war, and the a solemn broadcast to the North Vietnamese that if a settlement was not reached by November 1, 1969, the United States would "be forced to take measures of the greatest consequences" (Nixon, 1978 p. 396). The plan, not dissimilar to Eisenhower's strategy some 16 years earlier, included a calculated threat to use nuclear weapons.

Nixon had been President Eisenhower's vice-president, and possessed knowledge of the internal dynamics of the settlement of the Korean War. He firmly believed the threat of the use of nuclear weapons could be used against the North Vietnamese in the same way that Eisenhower used the threat against the North Koreans: to scare them into an armistice. There is no question Nixon held the opinion that the chief reason for the abrupt end to the Korean War was Eisenhower's threat to use atomic weapons. At the national Republican convention in 1968, Nixon publicly announced this conviction when he stated: "I'll tell you how Korea was ended. Eisenhower let the word go out diplomatically that we would not tolerate this continued ground war of attrition" (Public Papers of Richard Nixon, 1973, p. 339). In a Time (1985) magazine interview, Nixon again expressed how instrumental he thought the atomic threat was in ending the war.
in Korea.

Dulles (through Eisenhower) said, You know, we are very concerned about Korea, and the President’s patience is wearing thin, and finally saying that unless the logjam is broken, it will lead to the use of nuclear weapons. It worked. The Chinese were probably tired of the war. And the Russians did not want to go to war over Korea. But it was the Bomb that did it. (p. 50)

According to Haldeman (1978), one of Nixon’s closest advisors, the President saw great affinity in the situation faced by Eisenhower and his predicament in the Vietnam War. Nixon believed Eisenhower’s military background distinguished him from other presidents in the sense that a threat made to foreign governments would be taken very seriously. Nixon, however, felt that his twenty year career in promoting anti-communist policies gave him comparable leverage in times of international crisis. Haldeman (1978) recalled his impression of Nixon during the first few weeks of his presidency:

Nixon not only wanted to end the Vietnam War, he was absolutely convinced he would end it in his first year. I remember during the campaign, walking along a beach, he once said I’m the one man in this country who can do it, Bob. They’ll believe any threat of force that Nixon makes because it’s Nixon. (p. 82)

The President undoubtedly viewed the threat to use nuclear weapons as the threat which would make believers out of the North Vietnamese. Haldeman (1978) also remembered a conversation with Nixon on the secret plan which offers the earliest evidence that the President strongly favored the nuclear threat.

Nixon said, I call it the Madman Theory, Bob. I want the North Vietnamese to believe I’ve reached the point where I might do anything to stop the war. We’ll just slip the word to them that ‘for God’s sake, you know Nixon is obsessed about Communism. We can’t restrain him when he’s angry-and
he has his hand on the nuclear button'—and Ho Chi Minh himself will be in Paris in two days begging for peace. (p. 83)

Haldeman (1978) then identifies the messenger of the threat. "As it turned out it wasn't Bill Rogers, the future Secretary of state, who slipped the word to the North Vietnamese, but a brilliant, impulsive, witty gentleman with an engaging German accent-Henry Kissinger" (p. 83).

Henry Kissinger, selected as the President's assistant for national security, engaged in secret meetings with the North Vietnamese beginning in early August 1969. These meetings were designed to ensure that the enemy was told in clear terms that the U.S. would no longer tolerate the present state of the war. Kissinger had been sent to Paris at least twelve times to engage in secret negotiations with the North Vietnamese. These meetings were so secret that only Nixon and a few of his advisors in the Defense and State Departments were made aware of the substance of the conversations. Nixon has offered several official reasons for this secrecy. "Privately, both sides can be more flexible in offering new approaches and also private discussions allow both sides to talk frankly, to take positions free from the pressure of public debate (Public Papers of Richard Nixon, 1974, p. 101). In fact, the issue of secrecy was so important that Nixon ordered his entire staff of both the State and Defense Departments to say nothing if asked "whether private talks have begun, as to when they begin, (or) as to what occurred" (Public Papers of Richard Nixon, 1971, p. 247). The Kissinger meetings in Paris exemplify this fear of exposure, and were characterized by Nixon (1978) as
"full of cloak and dagger episodes, with Kissinger riding slouched down in the back seats" (p. 396) of unmarked vehicles. In numerous statements it is clear that Nixon felt that if progress was to be made, it would come from these secret talks, not through negotiations in the public forum.

Kissinger's threat to use nuclear weapons against the North Vietnamese occurred on August 4, 1969. According to both Nixon's and Kissinger's (1979) memoirs, the Paris meeting was scheduled at the same time Nixon was meeting with Romanian President Nicolae Ceausescu in Bucharest, which according to Nixon (1978) provided "the perfect camouflage" (p. 394) for Kissinger's secret meeting. Nixon (1978) decided that a two-pronged approach to promulgating the November Ultimatum would make more of an impression on the North Vietnamese, so he informed Ceausescu, who's government was known to have good relations with the North Vietnamese, that "we cannot indefinitely continue to have two hundred deaths a week in Vietnam and no progress in Paris. On November 1 this year if there is no progress, we must re-evaluate our policy" (p. 395). Nixon apparently made other remarks to the Romanian President which pressed the point of the deadline, and that the U.S. was prepared to take extreme measures to end the war.

The first meeting between Kissinger and North Vietnamese chief negotiators Xuan Thuy and Mai Van Bo began surprisingly blunt, with Kissinger immediately threatening to use nuclear weapons if no progress was made. As Nixon (1978) describes:
Kissinger opened by saying that he wanted to convey a message from me personally. Kissinger said, I have been asked to tell you in all solemnity, that if by November 1 no major progress has been made toward a solution, we will be compelled—with great reluctance—to take measures of the greatest consequences. (p. 396)

The threat produced no immediate results for the U.S. Administration. While Nixon and Kissinger do not mention in their memoirs that the phrase nuclear weapons was used during this meeting, Nixon later admitted in a Time (1985) magazine interview that the threat had indeed been a nuclear one. This meeting ended as abruptly as it had begun with the North Vietnamese representatives demanding complete U.S. withdrawal from the conflict. Even though the U.S. was threatening to unleash its weapons of mass destruction, the North Vietnamese appeared uninhibited by the warning. The stalemate between the parties thus continued.

During the first stages of the series of secret discussions, Kissinger created a special research panel to look into escalation methods. In August and September, (quoted in Hersch, 1983), a panel consisting of top military and political advisors examined the Navy's DUCK HOOK plans, which are to this day still classified, and was ordered by Kissinger to examine objectively a number of options with regard to the war and the first task will be the most difficult of all. We've had a series of talks with the North Vietnamese in Paris. We've been very forthcoming; we've attempted to make concessions which have been unrequited and I refuse to believe that a little fourth-rate power like North Vietnam does not have a breaking point. It shall be the assignment of this group to examine the option of a savage, decisive blow against North Vietnam. You start without any preconceptions at all. You are to sit down and map out what would be a savage blow. (p. 126).
Roger Morris was placed in charge of compiling the research into summary form and had numerous private conversations with Kissinger on the panel's findings. Morris (1977) reports that at one point during the panel's discussion someone asked Kissinger about the use of nuclear weapons. Kissinger replied somewhat in the negative, but added, "you are not to exclude the possibility of a nuclear device being used for purposes of a blockade" (p. 103). Morris recalls that despite Kissinger's apparent disinterest in full nuclear planning, he received several folders on target sites to be bombed by nuclear means, and the predicted results of such nuclear attacks.

There are two other instances which indicate Kissinger seriously considered the nuclear weapons option. In an interview with Hersch (1983), Charles Colson, a close aid of Nixon, recalled NATO Ambassador Robert Ellsworth asserting in early 1969 that Nixon and Kissinger were planning nuclear bombings, and that the bombs would be dropped by the end of the year. Colson also added that the word around the Pentagon was that Kissinger had been lobbying for the use of nuclear weapons. Another occasion has been discussed by Hersch (1983) via interviews with two scientists retained for comment on the nuclear option by both Kissinger and the special panel charged with developing a "savage, decisive blow" (p. 129). According to the scientists, they "knew Henry (Kissinger) was involved in the planning and that he wanted it. The implications went way beyond local tactical considerations" (p. 129). The scientists also reported that many were against the nuclear option because of election politics.

In his memoirs, Nixon (1978) remembered the dilemma he faced
over the November Ultimatum.

I the weeks remaining before November 1, I wanted to orchestrate the maximum possible pressure on Hanoi. I was confident that we could bring sufficient pressure to bear on the diplomatic front. But the only chance for my ultimatum to succeed was to convince the Communists that I could depend on solid support at home if they decided to call my bluff. (p. 398)

Nixon (1978) also worried over the perceived legitimacy of his threat.

Having initiated a policy of pressure on North Vietnam that now involved not only our government but foreign governments as well, I felt that I had no choice but to carry it through. Faced with the prospect of demonstrations at home that I could not prevent, my only alternative was to try to make it clear to the enemy that the protests would have no effect on my decision. Otherwise my ultimatum would appear empty. (p. 399)

In order to make his ultimatum seem legitimate, Nixon instituted several courses of action: Advanced pressure on the Soviets to engage in discussion with the North Vietnamese on an armistice; threats of terminating U.S. aid to countries which continued exporting their products to Hanoi; and leaking an exaggerated report on plans to massively invade North Vietnam as well as to institute new port blockades. The most serious episode engineered to reaffirm the Ultimatum to the North Vietnamese was the movement of nuclear forces to situation DEF CON 1 in the month of October (Hersch, 1983).

The DEF CON system housed at the Pentagon is an alert device with five different levels of preparation for war, with DEF CON 1 commanding maximum nuclear force readiness. Not since the 1962 Cuban Missile Crisis had the U.S. gone to this war imminent stage of defense. Joseph Urgo, (quoted in Hersch, 1983) an Air Force security
sergeant, remembered being stunned by orders to guard two B-52 nuclear equipped aircrafts.

Nobody was telling us anything. All days off were cancelled and it went on and on. Putting those planes on the runway freaked me out. All my experience told me that they would never take a chance by putting two nuclear-loaded airplanes out in the open. Obviously we were in some sort of real situation. (p. 124).

In all, there were six aircrafts fully loaded with tactical nuclear weapons on the military portion of the Atlantic City, New Jersey airstrip as well as other aircrafts fully-loaded with nuclear bombs still hidden in the hangar. There is also evidence to suggest that dozens of nuclear-equipped airplanes around the U.S. were also placed on full alert. The alert lasted an unprecedented 29 days, during which time nuclear forces commander Air Force Colonel Ray Sitton was told nothing about the reasons for the alert (Hersch, 1983). Undoubtedly, the reason for the DEF CON 1 stage was to make the Soviets, who are known to have been aware of the alert, pressure the North Vietnamese into withdrawing from the region, emphasizing that the U.S's nuclear threat appeared to be materializing.

It is important to note that United States-Soviet relations were significantly less antagonistic during the latter part of Johnson's Administration and the majority of Nixon's presidency. The Soviets were still viewed with caution and suspicion, however the clashes between the superpowers which regularly occurred during the Truman, Eisenhower, and Kennedy Administrations were rare in the 1960's and 1970's. But while detente between the Soviets and U.S. prospered, Soviet-Sino relations depreciated significantly.
It is well documented that Nixon and Kissinger felt that the Soviets could be instrumental in ending the North Vietnamese presence in the South; indeed, Kissinger had met with Soviet Ambassador Anatoly Dobrynin on numerous occasions in 1969 to request the Soviets help in negotiating a settlement. Sometimes these meetings took on a strange character, like when Nixon purposely interrupted a Kissinger-Dobrynin meeting by phone to order Kissinger to say to his Soviet counterpart: "The President just told me in that call that as far as Vietnam is concerned, the train has just left the station and is now headed down the track" (Nixon, 1978, p. 399). This meeting took place just days before the full nuclear alert commenced. None of the Kissinger-Dobrynin meetings, however, resulted in any cooperation between the U.S. and Soviet Union on the issue. The October 1969 DEF CON 1, the readying of nuclear-equipped aircraft, and possibly the strange message from Nixon to Kissinger were clearly an attempt to fortify Nixon’s Ultimatum to the North Vietnamese through the Soviet Union.

Nixon was deeply frustrated with the lack of Soviet effort, and on many occasions spoke directly to Dobrynin on the issue. On October 20, at a private meeting between the two leaders, Nixon (1978) tried to make clear to the Soviet Ambassador these disappointments, while tacitly implying a reversal in detente if the Soviets did not involve themselves in ending the war.

I want you to understand that the Soviet Union is going to be stuck with me for the next three years and three months, and during all that time I will keep in mind what is being done right now, today. All you have done is repeat the same
tired old slogans that the North Vietnamese used six months ago. If the Soviet Union found it possible to do something in Vietnam, then we might do something dramatic to improve our relations, but until then, I have to say any real progress will be difficult. (p. 407)

Again, despite the clear demands and candid scolding of the Soviets, Moscow did not involve itself in any meaningful way in the U.S. effort to end the war.

The plan to escalate the war on November 1 if no major progress was achieved by that date never reached fruition. While Nixon (1978) was worried about future perceptions concerning the legitimacy of the threat, he notes in his memoirs that he simply could not escalate the war at that time.

I had to decide what to do about the ultimatum. I knew that unless I had some indisputably good reason for not carrying out my threat the Communists would become contemptuous of us and even more difficult to deal with. I knew, however, that after all the protests and the Moratorium, American public opinion would be seriously divided by any military escalation of the war. (p. 402).

Nixon knew that his ultimatum had failed on October 4 when an official North Vietnamese letter supporting and congratulating the peace movement was leaked to the U.S. press.

It is important to note two occurrences during the deliberations on the Ultimatum. The war had many stages, but in respect to the threat to use nuclear weapons as a part of the Ultimatum, the 1968 Johnson bombing halt and the secret bombing of Cambodia in early 1969 should not be underestimated as factors associated with Nixon's strategy.

While the U.S. was continuing ground wars in both North and South Vietnam, aircraft bombings of the region had been halted by
President Johnson on November 1, 1968. Nixon did not break this moratorium because he felt that if bombings were reinstated without his Administration setting a clear policy on the conflict, Johnson's work on negotiating a settlement may have been compromised. In fact, it is not unreasonable to assume that the Ultimatum date, set for exactly one year after the halt of bombings, was an attempt to show the differences in strategy between the Johnson and Nixon Administrations. Indeed, Nixon had severely criticized Johnson's handling of the war, particularly his relatively conservative approach to military bombing campaigns, arguing that a continued ground war of attrition without either escalation or further steps toward an armistice was an improper path. Thus, the Ultimatum can be viewed not only as a threat to escalate the war, but to interject two entirely different dimensions to the conflict: (1) the more radical position of the Nixon Administration; and (2) the possibility of nuclear attacks.

The second important occurrence during the formative stages of the Ultimatum was Nixon and Kissinger's secret bombings of Cambodia, a region paralleling the two Vietnams on the west. Considerable discussion took place in March 1969 on the question of where to bomb: North Vietnam or Cambodia. Nixon (1985) notes in his memoirs that he chose not to resume bombing the North region because it would "produce a violent outburst of protest (and) would have destroyed our efforts to bring the country together" (p. 107). Instead, the plan, known only to a handful of Nixon's advisors, was to bomb Vietcong ammunition posts in Cambodia, which were particularly damaging to the
U.S.'s efforts to gain victories on the western side of the two Viet­nams. The fourteen month, 110,000 ton bombings of Cambodia were kept under the strictest secrecy, with full public and Congressional knowl­edge of the events not surfacing until 1973. Both Kissinger and Nixon make clear in their memoirs the reason for the secrecy: To prevent domestic uproar.18

**Salient Variables in the Nuclear Decisions Involving Vietnam**

While President Johnson commenced the full-scale military en­trance of the United States into the civil war of Vietnam, it was President Richard Nixon who seriously considered nuclear options dur­ing the hostilities. There is no evidence to suggest that Johnson threatened to use nuclear weapons against the North Vietnamese as Nixon did. The following extraction of variables is therefore confined to the structural and institutional forces which shaped the Nixon Administration's nuclear strategy in Vietnam. As in the pre­vious chapter on Korea, this extraction is limited to the identifi­cation of the more outstanding factors involved in the decision, and is intended to set the foundation for the more detailed theoretical analysis conducted in the next chapter.

**Goals and Means**

Nixon's campaign platform rested, inter alia, on a promise to end the war. There is no indication that he planned to eschew this pledge--he fully intended to implement his secret plan. Indeed, his
first few months in the White House were characterized by significant planning and deliberations on exactly how to end the war. As noted earlier, Nixon was in stark disagreement with Johnson's conservative approach to military operations in Vietnam, and saw the solution to the problem as requiring the use or threat to use massive force. While the Administration did ponder purely diplomatic avenues without considering nuclear weapons, this approach was deemed ineffective after such negotiations failed to bring progress. The strategies of diplomacy and military force were then integrated: The answer to the problem eventually took the shape of threats to use significant nuclear force through diplomatic means—the specific plan was the November Ultimatum.

But why was the threat to use nuclear weapons deemed the most effective manner in which to achieve the goal of ending the war? One simple answer is that they were simply available. Since the Administration concluded that massive military force (or the threat of such force) was required to bring the hostilities to a halt, it was undoubtedly viewed as reasonable to threaten the use of those weapons which were most likely to invoke the greatest fear into the North Vietnamese—those weapons of nuclear nature. Indeed, it was no secret to the global community that the U.S. stockpile maintained the capacity to destroy the world some 35 times over. It was however, a secret to the global community, save the Soviets, the North Vietnamese, and possibly the Chinese, that nuclear weapons were being threatened to force an armistice. The secrecy was no accident, since

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Nixon himself demanded the strictest confidentiality during Kissinger's visits to Paris. But why was this threat kept so secretive?

**Anticipated Domestic Reaction**

The Nixon Administration was fully cognizant of the U.S. public's distress over the U.S. intervention in Vietnam. While Johnson's bombing halt in November 1968 was received warmly by the U.S. public, a sustained lack of progress in the negotiations demanded that the new President do something more significant to end the war. Opinion polls indicated that the U.S. public preferred a peaceful settlement through negotiation, rather than a prolonged military effort. Thus, the Nixon Administration faced two major possibilities, both of which demanded expediency: withdrawal or victory. As discussed earlier, the former option was quickly discarded by the Administration. Facing the prospect of reneging on a campaign promise and thus being accused of continuing the status quo in Vietnam, Nixon and his advisors came to the realization that pure diplomacy without the use or threat to use force would bring little progress.

The reason for the secrecy becomes apparent when one considers the deliberations on the secret bombing activities of Cambodia. Data clearly indicate that public opinion haunted Nixon and his associates on the nuclear option as it did on the Cambodian strategy. Recalling data on the Cambodia decision, Nixon undoubtedly expected that if knowledge of the bombings was disseminated, his Administration would meet with profound protest. Now, if the perception of losing legitimacy and support from the U.S. public explains Nixon's decision to
keep the conventional bombing of Cambodia and North Vietnam secret, there is little doubt that this same fear impacted the decision to maintain extreme secrecy in the strategy of nuclear diplomacy. If the U.S. public would not accept a conventional bombing, how could the Administration possibly publicize the nuclear option? Thus, the secretive nature of the Kissinger meetings was designed to shield the Administration from anticipated dissent. Moreover, since the secret bombings of Cambodia were conducted concurrently with Kissinger’s meetings in Paris, the evidence strongly suggests that public opinion played a major role in the decision to secretly threaten the use of nuclear weapons. Thus, the goal of winning the war was viewed as most attainable via the threat to use nuclear weapons, but with public opinion projected to be hostile to the strategy, the nuclear threat was kept secret.

Social Learning

Nixon was Vice-President of the United States for the entire tenure of the Eisenhower presidency. Under Eisenhower, he came to appreciate the importance of the policy of containment, as well as the significance of U.S. commitments to developing countries which for whatever reason dangled on the edges of capitalist and communist economies. As an extremely active Vice-President, Nixon made numerous official trips to both Korea and Indochina in support of the Eisenhower Doctrine. While Nixon’s involvement in ending the hostilities in the Korean was negligible, he learned the benefits which could be reaped from threatening uncooperative countries with weapons
of mass destruction. As noted earlier, Nixon was, and presumably until his death, convinced that Eisenhower's threat to use atomic weapons against North Korea had single-handedly ended the Korean War.

The import of Nixon's belief that Eisenhower's atomic threat was instrumental in ending the hostilities in Korea should not be underestimated. Nor should the fact that Nixon believed Eisenhower was a brilliant foreign policy methodologist be ignored. While there is no way in which to be absolutely sure that Nixon learned the value of nuclear ultimatums from Eisenhower, one cannot ignore the fact that these two presidents are alone in the extent to which they employed the nuclear threat. And while it is true that the post World War II Truman, Kennedy, and Johnson Administrations did not immediately inherit executive responsibility of directing an ongoing war, only Eisenhower and Nixon employed nuclear weapons as direct and immediate instruments of foreign policy. The emulation of Eisenhower by Nixon is further supported by data which indicate Nixon thought his position in respect to Vietnam was parallel to Eisenhower's in Korea. Indeed, it would negligent to disregard the structural and behavioral similarities between the situations.

Vulnerability

Adopting a more structural level of analysis, a foundational cause of the nuclear weapons threat against the North Vietnamese was the general ideological posture of the U.S. toward communism. Decades of U.S. foreign policy have been formulated under the assumption that a global communist majority, or even a large minority of
communist states, would jeopardize U.S. economic and political interests. The early Cold War policies of containment devised by the Truman and Eisenhower Administrations never really showed any signs of diminishing. Indeed, just as the Korean War can be considered an outgrowth of the legacy of containment theory, equally exemplary was U.S. intervention in Vietnam.

Discussion

It is certain that the Nixon Administration's threat to use nuclear weapons was an empty threat. Despite the fact that in his memoirs Nixon indeed called the Ultimatum a bluff, the fact that nuclear attacks on North Vietnam never commenced is more than enough evidence to suggest that even if sophisticated nuclear bombing raids were planned by governmental committees, the nuclear option was deemed improper well before the expiration of the Ultimatum. Thus, the Nixon Administration's threat to use nuclear weapons was indeed only that, a threat. The case study reveals the chief reasons for this: anticipated domestic reaction to the actual use of nuclear weapons.

The case study presented here, like the previous chapter on Korea, has resulted in the identification of variables likely to have played a major role in the criminal threat to use nuclear weapons by the United States in the Vietnam War. These data-emergent variables will be juxtaposed with the variables extracted from the analysis on the U.S. nuclear threat against Korea in order to form a grounded
theory of international governmental crime. It is to this endeavor
the study now turns.
CHAPTER VII

TOWARD A GROUNDED THEORY OF INTERNATIONAL GOVERNMENTAL CRIME

Having presented data on the illegal nuclear and atomic threats by United States against the countries of North Korea and North Vietnam, it is now appropriate to theorize about the causes of these threats. This is the first goal of the chapter. The discussion then moves to a more abstract level of discourse and is intended to advance the theoretical understanding of the phenomenon of international governmental crime. Finally, this grounded theory is compared with extant approaches to the theoretical understanding of organizational criminality in order to gauge its originality and value.

Explaining the Threats

United States interventions in Korea and Vietnam can be confidently viewed as a result of the general Cold War beliefs—beliefs which manifestly entails constant preparation for war. The chief reason for U.S. involvement in the Korean and Vietnam conflicts is not difficult to identify: The possibility of communist expansion into South Vietnam and South Korea was viewed as disastrous to U.S. economic, ideological, and political interests. It was not simply the problems envisioned with the transformation of the political economies of these two countries that disturbed the U.S., but more importantly, the effect such revolutions were thought to have on
other areas of the globe. Since the approach to foreign policy most prevalent during these periods of the Cold War was containment theory (and the domino theory in the case of Vietnam, it was hypothesized that communist revolutions in one area would lead to communist revolutions in adjacent countries. The projected snowball effect, then, of communist revolutions was the chief concern of U.S. policy makers, and ultimately serves as a foundational cause of the interventions. Given this ideological climate, it is not surprising that U.S. decision makers viewed the interventions in Korea and Vietnam as battles which mandated victory. The consequences of failing to contain communist revolutions, it was believed, would decrease U.S. credibility and influence in the global politick as well as open other politically and economically precarious countries to the possibility of communism. With communism becoming more prevalent during these periods of the Cold War (primarily because of expanded Soviet and Chinese influence) the U.S. viewed its role as that of world protectorate. Korea and Vietnam, for a myriad of reasons, were deemed by the U.S. as particularly vital to the containment of communism. A battle loss in either of these regions would be a major setback in the larger war: the dismantlement and containment of communism.

The situations faced by the Eisenhower and Nixon Administrations were quite comparable: Both presidents had taken office during an ongoing war, had pledged during their campaigns to end the respective wars, and opted for the threatened use of unconventional weapons as the primary method by which to end the wars. Thus not only did the Administrations face very similar problems at similar points in
their Administrations, but also saw the solution to the problems in the same way--secret threats to use atomic and/or nuclear weapons.

Given the profound degree of U.S. commitment to both of the wars, and the policy of no defeat, it should not be surprising to find that when traditional methods of diplomacy and warfare failed to bring a successful settlement, the methods were re-evaluated, supplemented, and altered. Indeed, both Administrations had attempted for quite some time to find a solution to the wars through traditional ground and aerial warfare, and diplomatic means. And as the data indicate, both Administrations experienced frustration with conventional armistice tactics. The decision was made to elevate and reinforce U.S. resolve in the conflicts. It was thought that the most effective manner in which to accomplish these goals was to threaten the use of weapons of mass destruction. Again, since all the available military means for winning the wars (aircraft, ground troops, and propaganda dissemination) had been exhausted, it was concluded that weapons of a different caliber were needed to force an end to the conflicts. Data show that both Administrations found the ultimate trump card in the atomic and nuclear weapon.

But the ultimate weapon which would guarantee U.S. victory was not dropped on Asian soil. Despite the meticulous planning of bombing targets and numerous estimates of the destructive capabilities, the small group of U.S. decision-makers in charge of military policy opted for a more subtle strategy. This strategy did not require actual bombing, only the threat to bomb.
One reason such relative caution found its way into the official threat policy during the wars was the U.S. fear of an expansion of the hostilities. During the Korean War, the U.S. experienced trepidation over the possibility of reprisals, since it was (erroneously) thought the Soviets had the capacity to stage a considerable retaliatory atomic or nuclear attack. Another reason the Eisenhower Administration opted for threat tactics was the fear that the over-investment of atomic forces in Korea would jeopardize the security of Western Europe. By only threatening the use of atomic weapons, rather than actually using them, the U.S. could maintain its military fortitude in regions other than Korea. Nixon faced a similar problem with the Chinese during his nuclear deliberations. While detente flourished with the Soviets, United States-Chinese relations were much more unstable, and since China did indeed possess operable, albeit primitive, nuclear weapons, the U.S. decided not to risk global nuclear war. In the case of Vietnam, this concern was more prevalent since there now existed five nuclear powers with much more powerful and advanced nuclear weapons missiles and delivery vehicles.

Generally, both of the case studies point to the importance of the estimated international reaction, most significantly the military reaction, in deliberations over atomic and nuclear policy. An expansion of hostilities was viewed as undesirable by both Administrations, and thus it was believed the actual use of weapons of mass destruction would compromise a variety of U.S. objectives. But this is only part of the reason threats were selected over the actual use option.
Social Control

The cases illustrate that the anticipated international and domestic response to nuclear and atomic threats played an important part in both deliberations and the actual execution of policy. The predicted response also shaped many of the specific tactics employed by both the Eisenhower and Nixon Administrations at the time of the threats. In the former case, it is clear that the projected international response to both the threat and contemplated use of nuclear weapons forced the Eisenhower Administrations to relay the threat inconspicuously. It is also apparent that the Eisenhower strategy of attempting to normalize the atomic weapon vis-a-vis conventional weapons was in response to U.S. knowledge of the aversion its Allies held to the use of atomic weapons. The Nixon Administration, too, predicted that public reaction to a publicized threat or use of nuclear weapons would be disapproving. This is why the meetings and deliberations in which the nuclear threat was conducted and designed were so secret in nature. This leads to the proposition that the nuclear threats during the Korean and Vietnam wars were conducted in secrecy in order to shield government decision makers from anticipated disapproval and rebellion. In Korea, it was the fear of international disapproval, in Vietnam, the fear of domestic outrage.

The social control mechanism of anticipated disapproval was in form similar, but in content dissimilar in the two cases. Nixon had inherited an extremely unpopular war, while Eisenhower continued the directorship of a moderately supported intervention. On this level,
data lead to the conclusion that the strain Nixon experienced over Vietnam was much more significant than Eisenhower’s in Korea. Nixon felt he had everything to win or lose by his decisions, while Eisenhower, though committed to a settlement, was subject to less public pressure to end the war. Additionally, Nixon faced not only the mandate to end the war, but to end it in the most peaceful of ways. Indeed, many U.S. citizens favored a complete withdrawal. The Korean War was less opposed than the Vietnam conflict, and there existed no substantial social movement which demanded the war end peacefully. In many ways then, Nixon’s Ultimatum reflected a concern with foundational presidential legitimacy, while Eisenhower’s plan was more influenced by his desire not to lose Allied support for future U.S. intervention endeavors.

While social control mechanisms such as domestic and international reactions played a chief role in U.S. decisions to threaten rather than use unconventional weapons, this control also forced the Administrations to conceal their illegalities. On one level, then, it can be argued that while social control prohibited the actual dropping of nuclear and atomic weapons, it also forced the threats to be conducted in secrecy. Since the actual use and threatened use was believed to be received disapprovingly, the conclusion reached by the Administrations was to execute the latter method because it could be shielded from important control audiences. While social control entities probably prevented the much more serious crime of the actual use of atomic or nuclear weapons, ironically, social control moved
the actual criminality into a concealed environment.

The obverse proposition would be that if the social control mechanisms were not operative, i.e. there was projected social approval, the threats would not have been secretive. There is little reason to question this postulate since the data clearly demonstrate that the reason the threats were concealed was to shield against international or domestic disapproval.

While it can be argued that social control played a chief role in preventing the use of nuclear and atomic weapons, it cannot be argued that this social control prevented illegalities. This is a simple, but important point not only because the threats, of course, occurred, but because the U.S. government's opportunity to conduct and design certain plans, which if publicized would prompt negative reactions, was a hallmark of the nuclear and atomic deliberations. The luxury both Administrations enjoyed, that of secrecy, lack of oversight and unaccountability for certain actions, acted to provide a degree of autonomy and discretion to the governmental actors. In sum, while social control prevented a greater harm, it was limited by the nature of governmental design--a design which allows for some decisions, designs, and behaviors to be conducted without the knowledge of social control entities.

Summary

The above explanation of the nuclear threats is relatively straightforward: Having committed itself to war in order to prevent
communist expansion, and having exhausted all traditional methods of achieving victory in those wars, U.S. decision-makers interjected into the predicament their most powerful military instrument—the nuclear and atomic weapon. But because of the perception that social and political disapproval would ensue, the weapons could not be actually dropped on the enemy. Instead, the weapon was threatened through secretive channels in order to achieve the operative goal. In the case of Korea, it is quite reasonable to identify the threat as the key in the ending of the war; in Vietnam, the threat was entirely unsuccessful.

This explanation appears to possess enough explanatory power to allow a more abstract level of theoretical analysis to be attempted. The following aspires to that goal: An increased theoretical understanding of the phenomenon of international governmental crime. It is important to note the following attempt is not intended to be a complete explanation of the phenomenon of international governmental crime. Rather it is an attempt to chart a course of theoretical understanding, with parsimony and clarity being the principal aims.

Toward a Grounded Theory

This section consists of four parts: (1) presentation of the presuppositions and assumptions which guide the theory, (2) discussion of the variables and decision making process which may lead to governmental crime, (3) recapitulation and synopsis of the forgoing through a diagramed model, and (4) a brief comparison of the grounded
theory with the most popular theoretical explanations of organizational crime.

Presuppositions and Assumptions

One of the first things to note about international governmental crime, as defined in this study, is that it should not be viewed atomistically. The individuals involved in the illegalities are occupiers of certain roles/positions, and their role expectations are defined within a larger environment which transcends individual actors. Governmental officials are charged, inter alia, with the responsibility of directing a country's general course of international policy--its basic position in the international arena. Most governmental actors do not create these broad role expectations, rather they become subject to them by virtue of the positions they occupy. That is, the general outline of appropriate behavior exists a priori. Although each individual, President, or Administration may confront a problem differently, or attempt solutions which others may not, it is imperative that we do not ignore the historical constraints which structure certain goals and behaviors--especially when speaking of international governmental behavior. In this study, it is reasonable to identify the theory of containment as the exemplar of these historical constraints. It is quite likely that other forms of international governmental criminality have their genesis because of the same, or similar, structural antecedents. The general point, then, is that in order to gain a clear understanding of international
governmental crime, we must view the actors as both subjects and objects of history. Actors follow a preexisting script, but also possess the ability to improvise.

Secondly, we must also realize that international governmental crime is composed and designed in a highly instrumental manner. Far from being capricious, the decisions leading to the execution of this type of criminality are beyond much question formulated through calculated cost-benefit analysis. Salient decisions are arrived at through a consideration of the probable latent and manifest benefits and costs of the action. Although not every possible ramification of an action cannot be accurately or confidently identified, every attempt is made to consider both the short and long range implications of a proposed behavior. Ad hominem and individual motivations have little to do with the genesis or continuation of international governmental crime.

Thirdly, the ontogenesis of international governmental crime should be viewed separately from conventional forms of criminality on two levels. It is important to distinguish the differences because, as discussed earlier, criminologists and the general public often times have a quite myopic view of nature, form, and definition of criminality. First, the actions which have been labeled criminal here are generally not perceived by the actors as criminal. While the action may be viewed as unfortunate or offensive, perhaps necessary, the type of activity in question is rarely considered within a legal framework. Indeed, deliberations over such actions are unlike-
ly to include considerations of how to avoid legal prosecution or punishment. It is as though actors go about their business without recognition of relevant laws at all. Unlike conventional forms of criminality where the actor is normally cognizant of the criminal nature of her or his acts, actors involved in international governmental crime are both unlikely to think of their behavior as criminal, or to become officially labeled as criminal. Secondly, there exists no legitimate system of international justice which regularly defines as one of its interests the business of governmental violations of law. Institutions like the World Court do exist, but have substantially little power and autonomy when compared to most state legal institutions. Thus, there is no recognition of either a legal framework which prohibits certain actions, or a system designed to enforce, prosecute, and punish those who engage in international governmental crime. On this level, perhaps the only similarity between conventional crime and international governmental crime is that they violate some set of laws. Traditional criminological explanatory variables such as belief in law and formal deterrents, then, seem inapplicable to phenomenon under study here.

A final presupposition, or assumption of the theory, is that international governmental crime tends to be a more radical, severe, or extreme method of goal achievement. This assumption, while possibly handicapping the theory's ability to shed insight into less discomforting or less extreme instances of international governmental criminality, is nevertheless consistent with the focus of this study—threats and considerations of atomic or nuclear attacks. Because the
case studies in which the grounded theory are based upon represent instances in which drastic, dangerous, and potentially omnicidal methods were either considered or employed, the content and form of the theory is expected to reflect this degree of seriousness. While this assumption, again, may limit the explanatory power of the theory, it nevertheless is consistent with the research on which it is based.

Goals and the Process of Selecting Means

Structural antecedents largely shape individual actions. If we accept the proposition that leaders of a state inherit generally, and specifically design, a course of international foreign policy designed to advance the economic and political interests, as well as eliminate the vulnerability of that state, it seems appropriate to conceptualize this process as aspiring to a goal. The process demands that a set of behaviors be designed to advance, further, or achieve these objectives. And though there are small and large goals, essential and nonessential goals, it reasonable to theorize that international governmental crime results from deep-seated ideologies which themselves produce important structural level goals. Principally, these goals are the eradication of vulnerability and the advancement of the political and economic interests of the state. Since the general structural-level theory of containment has dominated U.S. international policy, and since every U.S. Administration has applied this larger principles to smaller regional areas, it can be proposed that structural level goals are reinforced and maintained to the degree
that the attainment of the general goal would remove or ameliorate state vulnerability in a specific instance. Again, on a fundamental level, international governmental crime is likely to result from individual and/or organizational interpretations of historical and structural mandates. If we accept this proposition, it follows that if these structural antecedents are powerful enough to create role expectations, they are powerful enough to sustain interest in the general goal. The sheer power that historical mandates such as the prevention of communist expansion hold allows us to theorize that if decision making processes are not designed in congruence with the mandate, the legitimacy of the decision-makers might be questioned. Conversely, the power of historically situated ideology can be theorized to be so forceful that deviation from the ideology is uncommon, if not unthinkable.

Based on the data presented earlier in this study, the decision-making process to behaviorally pursue structural level goals, and thus behave in congruence with broad role expectations, can be generally theorized to be first explored through deliberations on the costs and benefits of a proposed method. In this and subsequent stages of the decision-making processes, only a few military and political elites engage in the deliberations. There may be disagreement among those few policy makers on the most appropriate and efficacious means, or even differences of opinion regarding the costs and benefits of a proposed action. But while lower level elites may have input into the discussions, as the data in this study have shown, the ultimate
interpretation of the perceived costs and benefits of a method of
goal attainment rests with the very powerful, most often the Presi­
dent, sometimes the Secretary of Defense or Secretary of State.

In this first stage of deliberations on whether to employ a
specific method of goal attainment, the most salient variables in­
volved in the calculus are the projected economic, political, and
military costs and benefits of the proposed action. Probable factors
in such an analysis are military capacity and readiness, avail­
ability of funds, temporal mandates, and the degree of geographical
importance a region possesses. Based on these factors and others,
if the method is viewed as too costly, it will either be eschewed or
tabled for future consideration. Conversely, if it is projected that
the method costs little relative to the benefits, the action will be
subjected to further examination, principally in order to gauge its
acceptance to important audiences, a process described below.

The case studies clearly establish that the anticipated social
response to methods and goals weigh heavily on the minds of decision­
makers. Thus, whether a particular method is applied for goal attain­
ment does not solely rests on the economic and military based cost/
benefit analysis. As the case studies illustrate, governmental
elites devote considerable energy to the projection of the degree
of acceptance a certain action may have on their constituents, be
they international or domestic audiences. While concerns over the
economic and military costs of a proposed action certainly play key
roles in decision-making, social control lingers, perhaps transcends,
Governmental decision-makers are to some extent accountable to the public for their actions, and to the extent accountability and disclosure exists, governmental decision-makers will either attempt to conform their policies to those wishes or attempt to convince the audience to conform to theirs. This normally means that there are either plans which are designed in congruence with public demands or plans which are designed to be made palatable to the audience, if public opinion is unknown or suspected of being disapproving. Either way, as far as international policy is concerned, there appears to be a strong aspiration on the part of the governmental elite to place governmental actions and public opinion in congruence, whether through justification or accommodation. The case studies indicate that both methods can be found in the decision-making processes which may lead to governmental crime.

If a particular method is deemed acceptable through cost/benefit analysis, the projected social response to that method is then deliberated.\textsuperscript{19} If important social control audiences are projected to react positively to the method, that method will under most circumstances be applied toward goal attainment. Actions which are criminal are unlikely to result in this case because it is assumed that if social control agents approve of a certain course of action, that method is unlikely to be criminal because of the very reason that it is thought to be socially and politically acceptable. While this assumption, that social control entities are opposed to criminal
methods, may perhaps be injurious to the theory's ability to explain some forms of international governmental criminality, it is for the reasons discussed earlier that this assumption is made. Indeed, it is based on the conception that international governmental crime is a more radical, severe, and certainly a more morally questionable method by which to attain goals. In other words, the methods are not deemed unacceptable because they violate the law, but that they tend to be more extreme. By definition, such acts would be defined as deviant or unacceptable by audiences, and thus unlikely to enjoy widespread public or political support.\textsuperscript{20}

If social control audiences are perceived to be disapproving of a certain method of goal attainment, that method will confront one of two principal consequences. First, there may be an attempt to market the method to important domestic and/or international audiences in order to convince them of its appropriateness. If the solicitations succeed, which indicates a sufficient degree of agreement is reached between the state and its important audiences, the method will most likely be applied. It is unlikely that this method is criminal, but quite likely it is more radical, or less traditional, than other means. The second governmental response to the perception of audience disapproval is to bypass attempts at solicitation and consider whether the method could be conducted in secrecy. Solicitation may be bypassed for the simple reason of time, or a lack of confidence and/or resources to successfully forge approval. This sets the stage for the secret implementation of methods, and is theo
rized to be the path most likely to lead to governmental crime.

After a method has been determined to be the best course of action, which indicates it has successfully passed cost/benefit analysis, has been perceived as acceptable to important audiences whether through solicitation or not, or holds the capacity to be conducted in secrecy if legitimation attempts fail or are unattempted, is finally selected and behaviorally applied in order to achieve the structural goal. Its effectiveness is then analyzed in much the same as when it was proposed, only at this time there are physical data to aid in the calculus. If it judged that the method appears to be furthering the goal, and sustains its relative cost/benefit ratio, that method is likely to be continued because it represents the most effective method of goal attainment. However, if it is determined ineffective, it will either be eschewed, or tabled for future refinement or supplement. In the latter case, if the method is viewed as having some positive results, but not the success envisioned during initial deliberations, it is likely to be supplemented by a different approach which has undergone similar projected cost/benefit evaluation. If, however, the method is producing very limited results, it is likely to be withdrawn from policy and fully replaced with another method.

This process may be labeled osmosis, meaning the practice eliminating unsuccessful methods in favor of methods thought to hold more effective capabilities. It is very much a process of trial and error which is permeated with speculation and physical evidence. In respect to conditions conducive to international
governmental crime, criminal methods are probably not the first choice of governmental decision-makers. Rather they are likely to be one of the latter methods which actors employ when more traditional methods fail. This is not to say that the objectively criminal methods are subjectively defined as criminal by the perpetrators, and thus are selected last because of the fear of legal reprisals. Instead, as argued at length earlier this section, criminal methods tend to be the perceptibly more severe, radical, or drastic means of goal attainment.

Propositions and Diagrammatic Model

Figure 1 illustrates the grounded theoretical model of the decision-making process which may lead to governmental crime. The model, as the theory, does not assume every or even most decision-making processes lead to international governmental criminality; rather, governmental criminality is presumed to be a product of the failure of or need to supplement more traditional or acceptable methods of goal attainment, if only because the criminal option tends to be the far more radical method.

It is important to keep in mind that the model found in Figure 1 presumes a number of things: (a) State actors, because of role expectations, actively pursue the achievement of structural-level goals; (b) operative instrumental rationality; (c) consideration of only available means/methods; and (d) methods may be selected and performed via knowledge of the success or failure of past methods of goal attainment.
Figure 1. Theoretical Model of the Decision-Making Process Leading to International Governmental Crime.
As suggested in Figure 1, governmental criminality is not likely to result from the path in which cost-benefit analysis reveals satisfactory results and projected social approval is anticipated to be positive, because we can presume that social approval of criminal methods is unlikely. Again, not because the methods are defined criminal by the participating actors or audiences, but because of their tendency to be more severe, or radical methods of goal consumption. As discussed earlier, criminality is more likely to result from the path of satisfactory cost/benefit analysis and projected negative social disapproval, again because criminal methods are likely to be considerably more radical than other means.

Figure 1 can be interpreted through the following theoretical propositions:

1. Available methods to achieve operative goals are subjected to cost/benefit analysis in order to determine their economic and military utility.

2. If the benefits of a method are perceived to outweigh the costs of the method, the probable social response to the method will then be determined. If the costs are perceived to outweigh the benefits, the method will either be eschewed or reevaluated.

3. If the social response is projected as positive, the method will be applied to the goal and evaluated for its effectiveness; if the method is perceived to be met with disapproval, actors will either attempt to market/sell the method to important audiences, or determine whether the method can be conducted without public knowledge.
4. If efforts at soliciting the method succeed, the method will be employed for goal attainment and evaluated for its effectiveness; this particular method is likely to be a more radical measure, but unlikely to be criminal. If efforts at solicitation fail, deliberations turn to whether the method can be employed secretly.

5. If it is determined the method can be executed secretly, it will be employed for goal attainment. This method is likely to be both radical and criminal. If the method cannot be conducted in secrecy, it will be eschewed.

6. After a method has been applied toward goal achievement, it will be evaluated for its effectiveness through cost/benefit analysis; if the method is successful, the goal no longer requires other means; if it is unsuccessful, it may be eschewed, supplemented with other methods, or reconsidered in a different form.

The theoretical model outlined here is not intended to be a grand theory of the full etiology and genesis of international governmental crime. The theory, as the research upon which it is based, of course, has qualities which limit its applicability to some instances of international governmental crime. These limitations are discussed in more detail in the next chapter of this study, when the entire research and theoretical endeavor is critically examined for weaknesses and limitations. At this point, it seems appropriate to discuss the theory’s originality when compared to other theoretical explanations of organizational criminality. This is the goal of the next section.
Juxtaposition to Extant Theories of Organizational Criminality

There are many theoretical explanations of organizational crime. The goal of this section is not to fully review these theories or to gauge their explanatory power with respect to international governmental crime. Rather, the section is intended to generally compare these theoretical approaches to the grounded theory in order to discern the theory's originality.

Social-Psychological Theories

Sutherland's (1949) differential association theory and allied social-psychological theories have been popular explanations of white collar crime and elite criminality. These theories have typically been more successful in explaining an individual's act of criminality, not concerted, organizationally based crimes. Theorists of this persuasion place primacy on the interactions between an individual and close, intimate others, with the chief premise being that criminal behavior is learned in association with those who define criminal activity as favorable. The effects of these definitions, whether criminal or non-criminal, are primarily dependent on the frequency, duration, and intensity of the definitions, as well as the belief of the individual, so that if one is more exposed to criminal then non-criminal definitions, criminality is likely and vice-versa.

The grounded theory proposed here does not regard the social-psychological level as a significant force in the genesis of govern-
mental crime. Clearly, the grounded theory focuses on a more structural level of analysis, paying considerably more attention to larger social and political forces—not the intimate associations of the actors. Despite this meta-theoretical difference, the theory does touch on the possibility that methods of goal attainment can be learned from experiences with others and from knowledge concerning the degree of effectiveness past methods of goal consummation have engendered. Additionally, the theory leaves some room for considering the effect certain actors have on their partners in decision-making, especially during deliberations and analyses of the effectiveness of means. Despite the occasional importance of this level of analysis, however, neither the case studies nor the grounded theory reveal it as critical to an adequate explanation of governmental crime.

Organizational Level Theories

As their name implies, organizational theories locate the causes of criminality in the structure of an organization itself. Rather than focusing on individual pathologies or the effects in which individual peers or colleagues may have on a person's behavior, these theorists insist that individual's within the organization are socialized into institutionally mandated role performances, and that many times such socialization facilitates, or occurs within, a criminogenic environment.

Even more importantly, these scholars employ a type of Mer-
tonian rational-goals-blocked model to explain organizational crim-
inality. Taking note of Merton's (1938) argument that conventional
forms of criminality largely result from structural-level socializa-
tion devices which render individuals to be desirous of wealth,
status, and success, the organizational theorists apply this notion
to institutions: Corporations and other organizations direct both
workers and management to pursue the goal of organizational success,
which may be making a monetary or political profit. These goals, it
is argued, occupy central importance, and require that certain means
are selected to achieve those goals. The primary explanation of
criminality, then, is much like Merton's innovation mode of adapta-
tion to strain: If legitimate means for achieving organizational
goals are blocked, the organization will employ illegitimate means to
achieve the goal (see Gross, 1978, 1980; Needleman & Needleman, 1979;

The social control of organizations is theorized to play a
significant role in whether an organization will innovate, or engage
in unlawful behavior. As Finney and Lesieur (1982) note "whether or
not a strong performance orientation and operating problems lead to
crime depends also on the operationality of various social controls"
(p. 275). Similarly, Kramer and Michalowski (1990) propose that
organizational crime is more likely to occur when various social con-
trol mechanisms fail to arrest the tendency toward using illegitimate
means to resolve strain.

Quite clearly, the grounded theory proposed in this study has
notable similarities with the organizational approach. First, they are similar in that institutional environments, rather than solitary individuals, are viewed as critical to adequate explanation of organizational criminality. Second, they share an interest in organizational level goals, and the power such aspirations hold over the behavior of individuals who occupy positions within the organization. And finally, both theories place significant value on the selection of means to achieve institutional goals.

The theories are disparate, however, on a number of key issues. First, the grounded theory does not envision formal social control mechanisms as deterrents to governmental crime. Most varieties of corporate and elite malfeasance are subject to official prosecution and judicial punishment. While it is true that such legal actions are usually little more than mild setbacks to organizational procedure and have little punitive power, research has shown corporations do indeed regard the possibility of legal reprisals as an important consequence to consider. However, as discussed earlier, social control of international governmental crime relies more on informal entities, normally international or domestic constituents and allies.

The second major difference between the theories is the precise manner in which criminality results from the selection of means to achieve goals. Organizational theorists tend to rely on the concept of innovation, i.e. using illegitimate means to achieve organizational goals when legitimate means fail. But data have shown that
the strain experienced by governmental actors is significantly different than the strain experienced by corporate organizations in that it does not appear to manifest itself in the form of choosing legitimate or illegitimate means. While the grounded theory appreciates the possibility that criminality may arise from the failure or ineffectiveness of more traditional methods of goal attainment, it does not presume actors hold clear definitions of criminal and non-criminal behavior. In other words, the data and theory point to the fact that there may be no conscious choice on the part of the actors to engage in criminality. Organizations are most likely aware of the possible criminality of certain actions, while governments are usually ignorant of, or do not have to consider, the legal status of their actions. Governmental crime does not result from the conscious selection of illegitimate means, because subjectively, such means are not defined as illegitimate—instead they are regarded as the most effective or appropriate means. This is facilitated by the considerably higher degree of secrecy and lack of accountability which can be maintained by governments. Thus the selection of means which may be defined as criminal depends more on the ability of governmental actors to conduct their activities in secret.

The third dissimilarity between the grounded theory and the organizational approach is the attention devoted to the decision-making process. Few organizational theorists have attempted to isolate and diagram the precise flow of the process of decision-making which may lead to governmental crime. The grounded theory charts the
course of decision-making with a peculiar degree of specificity, and pinpoints the precise flow of events which most likely lead governmental crime. Extant theories tend to address the process in generalities, while the grounded theory proposed here isolates key points and paths in the decision-making process.

Theories of Political Economy

The third theoretical view on organizational crime is the political economy perspective (Barnett, 1981; Box, 1983; Chambliss, 1988, 1989; Messersmith, 1986; Michalowski, 1985; Young, 1981). The primary assumption of this perspective is that the structure of corporate capitalism provides an incentive for organizations to use illegitimate means toward achieving profit, if legitimate means are blocked. This perspective extends the rational goals blocked model offered by the organizational theorists by considering the dynamics of capitalism, and how this mode of production generates illegal activity.

Michalowski (1985, p. 314) has suggested that the various criminal acts that are usually referred to as white collar crime can be brought together in the more theoretically informed concept of "crimes of capital," which are "socially injurious acts that arise from the ownership or management of capital or from the occupancy of positions of trust in institutions designed to facilitate the accumulation of capital." He argues that corporate crime, governmental crime, organized crime, and occupational crime all arise from the
particular forms of social relations associated with the processes of capital accumulation, concentration, and centralization.

The political economy theory shares some similarities with the grounded theory. Like the organizational theories, the chief unit of analysis is not the individual, but the corporation; structural goals and means are considered central to explaining organizational crime; and both theories point to the importance of an institution's desire to advance its economic and political status. Rather than standing in direct contradiction, however, the theories differ in focus in one chief manner.

The structural level goals identified in the grounded theory are considered more of a reflection of general ideological and political interests than of strictly economic concerns, the chief focus of political economy theories. While there is no question goals such as containment and preventing communist expansion are to some extent based on the protection of economic markets and the control of capital (Chomsky, 1987), the structural level goals assumed by the grounded theory reflect a concern with larger ideological concerns, such as global political legitimacy, stature in the world community, and military supremacy. Thus, it is not that the political economy theories are in complete incongruence with the proposed conceptualization, but that they do not place primacy on solely economic factors.

Discussion

An attempt has been made to explain United States threats to use nuclear and atomic weapons against the countries of North Vietnam
and North Korea. Abstracting from this interpretation, a general theory of the origins and causes of international governmental was offered. A diagrammatic model was then employed to explain the precise flow of governmental decision-making processes which most likely to lead to international governmental crime. Finally, the grounded theory was generally compared to extant theories of organizational criminality.

The grounded theory created here has been generally devised in the format prescribed by Glaser and Strauss (1967). Their model has guided not only the general approach of the study, but also the specific manner in which theoretical concepts emerge from the analysis of data. It seems reasonable to suggest the grounded theory created here, while having noticeable deficiencies, does shed considerable insight into the manner in which governmental crime may commence, continue, and flourish. On a fundamental level, this is what was envisioned when the research was initially designed: To begin the theoretical understanding of governmental crime via data pertaining to governmental crime. The theory thus draws its strengths and limitations as a result of its close association with data.
CHAPTER VIII

CONCLUSION

In this study, a journey has been made from discourse on general epistemological and definitional issues of criminality, to empirical documentation of a particular type of criminality, to theoretical reflections on the etiological factors involved in international governmental crime. It now seems appropriate to summarize this journey, pointing out both the strengths and weaknesses of the study. The positive qualities of the endeavor are first reviewed within the context of the general research objectives outlined in the first chapter. Definitional, methodological, and theoretical limitations of the study are discussed, which then leads to proposals for future research. The chapter ends with some general reflections on the study.

The Research Objectives

The first objective of this study was to demonstrate that socially deleterious governmental actions can be studied criminologically through the epistemological framework of international law. I believe this goal was met, principally in the second and third chapters of the study. It was established that many harmful activities of states are not necessarily beyond the domain of criminology. Indeed, there are many laws which outlaw state behaviors such as threats to the peace, use of disproportionate force, and general...
disregard for humanity. But most criminologists have not studied such events because they appear to be outside the parameters of the discipline. However, if we propose, as Sutherland (1949) did, that criminology is devoted to the study of lawbreaking, lawmakers, and the reactions to criminality, criminologists must acknowledge that all events which are illegal are subject to criminological inquiry, not simply acts which violate domestic law. Through relatively detailed argument, it was established that violations of international law, particularly nuclear weapons threats, are illegal acts, and thus can be studied criminologically. The general goal, then, of establishing that international law can be used as an epistemological framework in the field of criminology has clearly been met. It is hoped that this epistemology is not only valuable in an academic sense, but also in furthering the social awareness of the serious problem of state violence.

The second research objective was to document the existence of governmental criminality in the area of nuclear weapons. This goal was accomplished through detailed case studies of U.S. threats to use nuclear weapons against the countries of North Korea and North Vietnam. It was deemed inadequate simply to discuss the threats without reference to the historical context in which they were made. Thus, both case studies noted the military and political history of United States involvement in these regions, as well as the general ideological and military climate of the Cold War. On a strictly academic level, few historians, and of course no criminologists to
my knowledge, have investigated these threats in any comparable degree of detail. Thus, the goal of demonstrating that international laws prohibiting atomic and nuclear threats were violated was clearly met, but also these illegalities were for the first time documented in significant detail.

The third goal of the study was to describe and compare the patterns of United States' violations of international laws during the Korean and Vietnam wars. This goal was partially met in the fifth and sixth chapters of the research. In these chapters, conclusions were drawn regarding the structural and institutional conditions which facilitated or generated the illegalities. The objective was further realized in the first part of chapter seven, in which the similarities and differences between the threats were examined. Many structural similarities were found between the circumstances faced by the Administrations of Eisenhower and Nixon. Dissimilarities were found, but generally, these were disparate in content, not form. In general, the comparison revealed noticeable threads of congruency in the behavior of the U.S. government.

The final objective of the study was to inductively generate a theoretical framework in order to shed insight into the structurally located etiological factors involved in both instances of U.S. threats to use nuclear weapons. This goal was met in the seventh chapter where an explanatory model of international governmental crime was developed. On a presuppositional level, the grounded theory directs our attention to the highly instrumental nature of
governmental decision-making, the importance of organizational analysis, and the lack of legal controls over governments. On a more institutional or structural level of analysis, the theory posits that ideological and historical constraints, projected social reaction, and the opportunity for secrecy play key roles in the decision-making process leading to international governmental crime. While the theory is quite compatible with the data on which it is based, and thus sheds insight into factors likely to facilitate a certain type of governmental criminality, its degree of explanatory power relative to other instances of governmental crime is difficult to gauge. Presumably, it's value can only be gauged by future study.

**Limitations of the Study**

While the research objectives may be confidently viewed as realized, there are both endogenous and exogenous limitations of the study. Some of these limitations are simply the result of the grounded theory method, which requires extremely close association between data and theory. Others have their genesis in the decision to employ nuclear threats as examples of international governmental crime. Along with suggestions for future research, these and other limitations are outlined below.

The most obvious definitional limitation of this endeavor is that socially harmful actions of governments are envisioned as criminal only if the act violates a law. While in an general academic sense this does not seem to be a major drawback, it is if we consider
the fact that some harmful activities of governments cannot be studied by criminologists if such a legalistic strategy is mandated. While I have gone to great pains to illustrate the value of a legalistic, or neo-legalistic epistemology, one can not ignore the negative implications. Most prominently, the approach requires criminologists to maintain a reactive posture toward their subject matter. Rather than selecting their own criteria for judging what constitutes crime, criminologists are forced to accept state definitions of their subject matter. As Sellin (1938) pointed out, this compromises the autonomy of the criminologist. Despite this problem, which has been noted by many scholars, I do believe that the definitional framework proposed in this study, while limiting criminological analysis, nevertheless represents a compromise which acts to increase disciplinary autonomy. The proper subject matter for the discipline of criminology has certainly not been established in this study; but the study has presented a reasonable path by which to expand that subject matter. The debate over the definition of crime has and will continue to hover over the discipline.

Methodologically, the study suffers most from the decision to employ U.S. nuclear threats as the empirical illustration and theoretical foundation. First, the obstacles to collecting data were often times acute. Even though many governmental documents concerning threats to use weapons of mass destruction have been declassified, many of these documents have been noticeably censored. On many occasions, presumably when quite sensitive discussions were
taking place, the documents abruptly end without full documentation or elaboration on more specific issues. This problem was most acute in the case study on atomic threats during the Korean War. Data-collection on the nuclear threats against the North Vietnamese was made problematic by the general lack of declassification. While there were instances in which the authors obviously censored portions of the documents, the quantity of governmental documents concerning nuclear deliberations during the Vietnam War was significantly less than those available for the atomic deliberations in the Korean War. Thus, because of the apparent sensitivity of the whole atomic and nuclear age, access to the full range of documents was somewhat limited. While I do not believe full access to these documents would significantly alter the general thrust of the case studies or the grounded theory, the degree of specificity found in the case studies would have been enhanced. If this is the case, the grounded theory would also be characterized by a higher degree of exactness. Future research on the threats must employ those documents unavailable for this study.

Another methodological problem with the study is that it focuses on one of the more extreme forms of governmental criminality: Deliberations and threats to use weapons which hold the capacity for omnicide, or the complete obliteration of the globe. While the threats did not result in the actual use of these weapons, it is clear that even the consideration of using such weapons is an example of drastic and radical methods of achieving international foreign
policy goals. Thus, to what extent does the grounded theory reflect this severe form of governmental criminality? It is reasonable to assume that since data and theory are so closely connected in this study, the theory's applicability to less serious, but still harmful, governmental activities must be questioned. Again, however, because there is such little attention given to the phenomenon of international governmental crime, the theory's applicability to other instances of criminality must be gauged through future research. Thus, it is proposed that only by the investigation of other forms of international governmental crime can the explanatory strength of the theory be measured. In order for research to be conducted on similar phenomena, however, the definitional and epistemological framework of international law outlined earlier must first be accepted by criminologists.

The grounded theory created in chapter seven also has limitations. First, the theory may place too much importance on the ability of social control entities to form independent conclusions on the appropriateness and inappropriateness of governmental actions. Recall that the theory postulates that the anticipated reaction of social control audiences plays a significant role in whether a government chooses more radical or more conventional methods of goal attainment. It is theorized that if social control entities are envisioned to react negatively to a governmental method, it is more likely that the method is criminal, or at least more radical in nature. It could be argued, however, that domestic or international audiences are
incapable of forming truly independent conclusions on the morality of an action because of what Gramsci (1973) called hegemony. This means that just as governmental decision-makers are subject to pre-existing definitions of the morality of goals and methods (e.g. containment, domino theory, nuclear weapons), so are the opinions and judgments of others dictated by structural-level ideologies beyond their control. Thus, individuals may believe radical methods of goal attainment are necessary in order to prevent communist expansion or the death of a capitalist country. This is not because actors have formed independent conclusions, but rather because they have been politically socialized to accept such a position. But the grounded theory’s reliance on the perception of how social control agencies may react is indeed appropriate, given the facts of the two case studies. Nevertheless, the notion of hegemony must be considered in future attempts to theoretically explain the relationship between social control entities and international governmental crime.

Another limitation of the theory, or at least an area which needs elaboration, is the precise manner in which legitimacy for governmental actions is obtained. According to Habermas (1973), the state must establish itself as a legitimate system of governance or face the possibility of either insurrection or profound opposition. The case studies clearly illustrate that attempting to legitimize either a method or goal is important because of the state’s interest in maintaining legitimacy. In Korea, it was Eisenhower’s attempts at erasing the distinction between atomic and conventional
weapons, and in Vietnam, it was Nixon’s attempt to solicit approval for the entire U.S. campaign in Southeast Asia. Thus, the theory does include the notion that approval, or legitimacy, is needed by the state in order to maintain popularity, but does not specifically address methods of solicitation. Future inquiries into international governmental crime must consider this process in detail.

Another area of the grounded theory which requires elaboration is the whole notion of who defines international governmental crime as crime. Recall that the theory presumes that methods of goal attainment are not typically viewed by governmental actors or important social audiences as subject to legal or juridical control. Thus, it was deemed improper to speak in terms of the traditional criminological bifurcation of illegitimate/legitimate means, or illegal/legal means. In relative objectivity, i.e. from a pure legalistic point of view, the legality of certain methods can certainly be discerned. But this is from a more academic point of view, a view which does not appear to hold significant popularity in either a government’s or general public’s consciousness. For most, it seems, the notion of a criminal government, or a government which engages in criminality, appears to be peculiar, perhaps even nonsensical categorization. In order for theoretical progress to be made, more attention needs to be given to this subject-object relationship—the relationship between those who have the power to define objective actions as appropriate or inappropriate, and the subjective interpretation of those definitions by social audiences and other control entities. This requires
considerably more emphasis on the social construction or phenomenology of governmental crime, and thus points to the necessity of employing a multi-paradigmatic approach to the theoretical understanding of the phenomenon. The study conducted here has not delved into such matters. Future research on international governmental crime should consider these more subjective elements.

Finally, we must realize the inherent limitations of theoretically abstracting from only two case studies. While the two cases reviewed are the only instances in which explicit nuclear threats were relayed, such a limited empirical base is less than ideal for theory-building. And while I do not believe that the reliability and validity of the conclusions are suspect, future research into implicit or tacit nuclear weapons threats could add important insights to the theoretical understanding of international governmental crime. Such research could also shed insight into whether nuclear weapons threats are anomalous acts of international governmental crime. That is, can there be a theory of nuclear crimes which stands presuppositionally distinct to a general theory of governmental crime? Moreover, can the instances in which a country threatens to use nuclear weapons be explained by the same or similar factors as a country's illegal nuclear contamination, testing, or experimentation? Furthermore, are criminal nuclear weapons policies ontologically distinct from other acts of state violence such as the denial of civil and political liberties, police violence, and racist and sexist state policies? Questions such as these cannot be
adequately answered here. They will remain unanswered unless criminologists begin to understand the value and appropriateness of studying the crimes of the state.

Reflections on the Study

Despite the limitations of this study, I think it that it can be maintained, to some degree, that this endeavor not only advances the criminological understanding of governmental crime, but in two ways illustrates the promise of a discipline commonly depicted as myopic or ontologically and methodologically closed. First, the study demonstrates how seemingly disparate phenomenon such as crime and nuclear weapons can be conjoined. Unfortunately, academic disciplines tend to be quite compartmental, and this often times tacitly prohibits research of an inter-disciplinary character. It has been shown here that one does not need to be a political or military scientist to study nuclear weapons policies, presidential behavior, or war. Criminology does have its substantive limits, but one suspects that if criminologists eschew territorial convictions, these limits as are far from being exhausted. I also believe the study illustrates the value of employing an inductive approach to theory-building. While deductive studies are clearly valuable for determining the explanatory power of extant theories, and are quite necessary for cumulative scholarly understanding, criminologists have generally disregarded inductive approaches. Other than the work of Cressey (1953), Glueck and Glueck (1950), Sutherland (1937; 1949) and
Wolfgang (1972), I am unaware of criminological studies which have exclusively relied on induction. Moreover, I have never seen a criminologist cite the work of Glaser and Strauss' (1967). I believe that the grounded theory created in this study does have distinct qualities, qualities which would not have been manifested had I employed a deductive method. In sum, while I believe this endeavor makes a contribution to the understanding of a certain type of criminal behavior, it also illustrates the value of inter-disciplinary research and inductive reasoning.

To conclude, the seeds of this research were planted several years ago in discussions with colleagues interested in moving criminology in a more inclusive direction. The underlying inspiration for this endeavor, then, was to make the case that the harmful activities of states, or illegalities committed by governmental agents and agencies, should not be ignored by criminologists. Throughout this study, both on quasi-scientific and humanist levels, I have attempted to express the merits of this proposition.

It seems to me a mistake to dismiss these arguments as merely moral entrepreneurism. How can one of any political or ideological perspective escape the fact that international law holds dominion over the behavior of states? How can it be contested that international laws, some of which were developed prior to modernity (and thus are quite established), are not legitimate guidelines for state behavior? And what is the value of international law if it cannot be employed to gauge the lawfulness of governmental actions? Moreover,
what should we think of a discipline devoted to the study of illegal behavior, but which refuses to investigate certain kinds of criminal actions? I hope that in the future, questions such as these will no longer be required. It is time to end arguments about the appropriateness of the study of governmental crime to the discipline of criminology, and move to more substantive questions about the construction, nature, and dimensions of the phenomenon. I hope that in some way this endeavor has facilitated such a movement.
ENDNOTES

1 There have been some moderately important works on governmental crime outside the discipline of criminology. Examples include Chomsky (1987; 1988), Roebuck and Weeber (1978), and various journalistic accounts.

2 For the past twenty years, the published literature on the legal status of nuclear weapons has been nearly uniform in its conclusion that the use and threatened use of these weapons are illegal (see Meyrowitz).

3 His argument has been repudiated several times. Especially damaging is the decision in the Shimoda case which in fact did find the U.S. bombings of Hiroshima and Nagasaki illegal under the laws of war. This case is explored in the next section of the dissertation.

4 This is also the official position of the government's of the U.S. and Soviet Union. See Meyrowitz (1990) for a comprehensive analysis of this issue.

5 The formal title of the resolution was "Declaration on the Prohibition of the Use of Nuclear and Thermo-Nuclear Weapons."

6 The official title of this resolution was "Limitation of Armaments, and Conclusion of an International Convention on the Prohibition of Atomic, Hydrogen, and Other Weapons of Mass Destruction."

7 The Supreme Court of the United States in Filartiga v. Pena-Irala also has accepted this interpretation of the legal status of U.N. General Assembly resolutions. In the judgement, the Court
stated "A declaration creates an expectation of adherence, and insofar as the expectation is gradually justified by State practice, a declaration may by custom become recognized as laying down rules binding upon states" (quoted in Citizens Petition to State and Federal Authorities, 1991, p. 53).

8This conclusion has also been reached by a RAND corporation study published under the authorship of Builder and Graubard (1982). This U.S. Pentagon affiliated corporation even called for a less political approach to the question of the legality of nuclear weapons and urged "defense intellectuals outside the government, in universities and corporations, to appreciate the essentials, if not the details, of the international laws of war" (Builder & Graubard, 1982, p. 48), and to conform their behavior and policies to the law (Falk, 1983).

9While the Shimoda case is the only instance in which individuals have been found legally culpable in violating laws regulating nuclear weapons, a 1991 Michigan Citizens' petition has been filed against the operators of Williams International Corporation and the U.S. Wurtsmith Air Force Base for conspiracy and planning to violate international law. The case, yet to be granted certiorari, goes much further in its charges against those involved in nuclear weapons decisions in that not only is the use and threat to use nuclear weapons questioned, but also the manufacture, production, and development of these weapons.

10Despite the court's decision, the plaintiffs were not
awarded damages. This is not because of a lack of evidence pertaining to the harms incurred, but rather because of the Japanese government's agreement in the 1951 Treaty of Peace to waive the right of grievance against the Allied powers.

11It is unreasonable to argue that nuclear weapons have any other purpose than to threaten an enemy state. This has been noted by many commentators as the "doctrine of nuclear deterrence" as well as a policy of "mutual assured destruction (MAD)." These doctrines "discourage attack, not by proposing to ward off that attack, but by promising to retaliate in decisive fashion in response to it" (Bialer & Mandelbaum, 1988, p. 57).

12In December 11, 1946, the U.N. General Assembly unanimously adopted the Nuremberg Charter as legitimate set of international laws.

13Since the Nuremberg Principles were largely based on existing conceptions of international laws, there have been no published challenge to the relevance of the Principles to the nuclear weapons issue. Most arguments, as mentioned earlier, against the interpretation offered here, are based on the express prohibition argument. As we have seen, however, this line of reasoning fails to appreciate the important international judgments which have clearly declared that legal inference is an acceptable practice for determining questions of legality.

14"Atomic" weapons are distinguished from the much more destructive "nuclear" weapons in that they operate under the fission principle, while nuclear weapons are based on the principles of
fusion. The U.S. stockpile during the Korean War consisted only of fission weapons and thus this chapter employs the term "atomic" rather than "nuclear" weapons. Production of atomic weapons halted in 1954 when the U.S. launched production of fusion hydrogen bombs.

15Kissinger's article is regarded by some as the first and most succinct statement on the policy of containment. Ironically, he rejected the policy of directly threatening adversaries. Thus, the Eisenhower and Nixon strategies of threatening to use atomic and nuclear weapons were incongruent with the early theory of containment.

16Unlike the battle lines in the Korean War, in which the 38th parallel clearly designated communist versus capitalist regions, North Vietnamese troops were scattered throughout both North and South Vietnam, as well as Cambodia. Thus, the U.S. expanded the bombing zones to include the geographic areas it was ostensibly protecting.

17In a December 11, 1969 visit with then-President Nixon, Johnson recalled feeling that "all the bombing pauses were a mistake and that he had accomplished nothing" (Nixon, 1978, p. 431). Johnson reasoned that he had been misled by Soviet and Vietcong inferences of a forthcoming armistice.

18Ironically, massive U.S. public uproar ensued over U.S. actions in Cambodia. While air attacks were kept secret, the April 1970 ground invasion of Cambodia was publicized. This lead to massive student protests across the country and the infamous Ohio
National Guardsmen killings of four Kent State University students.

18 Of course the projected social response can be deliberated at any point, or contemporaneously, during general considerations of the methods. But because of the power of social control is theorized to have, it is treated as a separate stage.

20 This assumption is also based on the belief that despite the hegemonic power that ideologies such as militarism and interventionism hold on social control entities, these entities also possess moderately humanistic and situationally ethical perspectives as well. Since we are speaking of governmental acts which most would define as immoral, principally because of their gravity and radicality, it seems reasonable to assume most social audiences, domestic or international, would have significant objections to such methods.

21 It should be noted that decisions concerning the projected success or failure of an action can be made by reference to the success or failure of an action under a past Administration or President. Thus, the knowledge of the effectiveness of past methods may well instruct a decision-maker’s conclusion to employ, eschew, or complement methods for contemporary dilemmas. Most illustrative of this was Nixon’s decision to threaten the use of nuclear weapons because he believed the method was instrumental in the U.S. victory in Korea.
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