

## A Proposal to the President **Vietnam Amnesty**

by James Reston, Jr.

The figures on what the war in Vietnam has done to a generation of Americans are staggering. Beyond the 347,214 killed and wounded (as of September 18, 1971), there are over 50,000 American exiles in Canada. Members of the Canadian Parliament expect this figure to reach 150,000 before the war and the draft are over. The FBI received 146,554 draft violation complaints between 1960 and 1970, and needless to say, the Bureau does not receive the name of every draft evader. Over 89,000 American soldiers deserted the military in 1970. In 1968, 723 men were in federal prisons for draft related convictions.

There is no way to compute the psychological casualties. Beyond the despair all around us, we now have a new, sad element: the bitterness of those who offered themselves up as soldiers in 1965-66 for patriotic reasons, and now find out they were lied to by their President. Thus for the Vietnam generation, the country must prove itself worthy of respect, not as some would have it, the other way around.

The immediate issue, however, is restitution to a generation that has both fought the war abroad and been the vanguard of protest at home. This must come in the form of major concessions to the dissident young, concessions which should in no way demean the sacrifices of those who fought in Vietnam.

What is needed is a program of universal amnesty for all who are or have been subject to prosecution by the United States government for crimes relating to opposition to the war in Vietnam. This is the logical end result of a domestic application of Vietnamization, which is simply the national recognition of a mistake couched in bureaucratic language. Amnesty can come either by presidential or congressional action, either as the Amnesty Act, or the Amnesty Proclamation of 1971. The President is authorized under Article I, Section II of the Constitution "to grant reprieves and pardons for offenses against the United States". In numerous cases in the post-Civil War era, Congress acted to relieve persons whose civil rights had been taken away, before it finally passed the Universal Amnesty Act in 1898.

Universal amnesty is appropriate in the case of political exiles and political prisoners today, and is distinguished legally and historically from general amnesty. General amnesty has conditions and exceptions,

whereas universal amnesty contains none. President Lincoln made the first Civil War Amnesty Proclamation on Dec. 8, 1863. It was a general amnesty for all who would sign an oath of allegiance to the Union except six classes of individuals: civil or diplomatic officers of the Confederate government; judges who defected to the Confederacy; military men above the rank of colonel in the Army or captain in the Navy; legislators who left Congress to aid the rebellion; commissioned officers in the US military who resigned to become Confederate officers; and those who sold black escapees back into slavery across the battle lines. President Andrew Johnson declared three general amnesties: on March 29, 1865, Sept. 7, 1867, and July 4, 1868 - all requiring an oath of allegiance.

A President with a sense of history might choose Christmas Day 1971, the 97th anniversary of President Andrew Johnson's declaration as a fitting time for a Vietnam Amnesty declaration. If President Lincoln could declare a general amnesty one year and a half before Lee's surrender at Appomattox, President Nixon can declare a universal amnesty this year.

The way amnesty is declared is nearly as important as the proclamation itself. A sanctimonious tone taken toward misguided, errant young will miss the point. The country has erred; the instinct of the exiles and the prisoners has been right. Amnesty must come as an honest and courageous attempt at national expiation. The majority of exiles are not waiting for their country to forgive them. Rather, I've been told by a counselor of hundreds of Americans in Toronto, it is a question of whether they can forgive their country. The terms "draft dodging" and "desertion" have lost their old flavor, especially as the facts of US involvement become more widely known. These offenses are, after all, not treasonous in the sense that the offenses pardoned under the Civil War amnesties were. The exiles in Canada or the prisoners at home have refused to participate in their country's intrigues; they have not actively joined the enemy. I suspect that draft refusal, and even draft evasion and desertion will be overlooked by most Americans, and indeed admired by many after the war, just as today a jail sentence during the Southern civil rights campaigns of the early 60s is a badge of honor.

Historically, the shortness of the country's memory is borne out. Dr. Evan Thomas, Norman Thomas brother, who has perhaps the best pacifist credentials of any American alive today (draft refusal, 1917, chairman, War Resisters League in World War II)

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told me a story which shows this. After he was released from military custody in 1919, nearly a year after he had been sentenced in a military court to 99 years for "refusing to eat," the outcome of a hunger strike, Thomas tried to get into a number of medical schools. None would have him, including New York University. Ten years later, NYU sought him out and begged him to attend their medical school. He did and some years later was a resident physician at the NYU Medical Center.

Amnesty for political exiles abroad should be only one aspect of a general program of restitution. It would be irresponsible to grant amnesty to the exiles without attending to the whole pattern of harassment.

The campaign might start with the investigative machinery that has been created during the Vietnam years to track down the subversives and to report on the dissidents. This system is a hangover from the Johnson era when victory in Vietnam was a national goal, and the refusal of participation was considered treason. But still in 1971 the FBI and the military investigating agencies work on directives set under Johnson, and the bureaucratic ball is rolling more smoothly than ever. Department of Defense Directive 1325.2, entitled Unauthorized Desertion and Absence, directs the services to turn over to the FBI the names of all AWOL soldiers after 60 days absence. In FY '69 the FBI received 51,000 such names and apprehended 14,000 of them. An FBI spokesman proudly told me that this constituted a higher apprehension rate than in FY '68 when 38,885 soldiers deserted. The FBI has also received from Selective Service an average of 28,000 draft evasion complaints a year since 1966, but in 1970, the second year of Vietnamization, the bureau could point to 923 convictions, the highest yet.

**T**he combination of a well-oiled investigative machine, the talk of an end to the war, and court decisions strengthening the pleas of conscientious objectors creates tremendous uncertainties. Should he who demurs flee to Canada before the FBI picks him up? Should he stay and try to win in court? — but what if he loses? What device will stall the induction process for two years when a draft call may be eliminated, and there may be a different President?

I know a 22-year-old who refused induction over a year ago and has waited ever since to be picked up. He has honorably tried to face his moral obligation as he sees it, has spent over a thousand dollars in legal fees, and has stayed in the town of his refusal, delaying a career he wished to pursue elsewhere. He has adjusted himself to the thought of prison, but not to the reality of waiting. I told the fellow to remove Vietnam from his life now as best he could, and continue about his business. He has paid his dues.

The Congress acted to remove the uncertainty of the draft by limiting eligibility to 19-year olds. It could eliminate uncertainty about arrest also, either demand-

ing a stop to further prosecutions of draft evaders and draft refusers, or at the very least, by limiting eligibility for arrest to a set period, say six months after which the individual would be immune. Of course, the President could obviate this need, by simply freezing further Justice Department action. There is historical precedent for this. In late 1865 after Appomattox and after Andrew Johnson's first amnesty proclamation, Judge John C. Underwood of the Federal District Court of Virginia in Norfolk, continued to order arrests and treason indictments of paroled prisoners of war. Ulysses S. Grant appealed to President Johnson to restrain Underwood. Johnson at first refused, as initially in his presidency he espoused a tough line against the rebels. But when Grant threatened to resign over the issue, the President relented, and the prosecutions ceased.

Finally, there are some 500 persons in prison convicted on draft refusal charges. To them an amnesty is also due, for they are perhaps the most hopeful breed of all draft resisters. They've stayed, which may indicate that they feel the country is worth fighting for.

Draft refusal or draft evasion questions have largely been an issue for the college educated. This is reflected in the exile population: the impulse to flee for the evader is abstract, political, whereas the impulse to flee for the deserter is often a gut reaction of outrage at what he sees in the military. What sort of amnesty is due the latter?

The main area for concern here is the proposed All-Volunteer Army. In the two summers I worked in the Neighborhood Youth Corps in New York City, I saw time and again poor youngsters take the military option as the only escape from the streets. The Pentagon is perfectly aware of this opportunity. If you travel around the country, you notice the heavy advertising for the services in the rural areas or in poverty neighborhoods. The so-called combat skills get the biggest push, because the Army has the hardest time getting volunteers for these jobs. Thus recruiters armed with Madison Avenue techniques, appeal to the *machismo* of the 18 and 19 year old for whom virility is something to be proved. I will never forget an 18 year old I met in basic training who had volunteered to be a helicopter gunner, one of the most dangerous jobs in Vietnam, because his recruiter said the job was like riding shotgun on the pony express.

The poor youth of this country deserve an amnesty from the military dupe. The Army must cease to be a primary escape from the Appalachias, the inner cities and the small towns of America. A system of humanitarian alternatives of equal stature, duration, and sacrifice to military enlistment should be devised. The streets of Brooklyn or the roads of Eastern Kentucky provide infinite possibilities for regional service if youth were mobilized for social programs. The goal must be to change our national emphasis: to admit error and get on with useful work, so that young people will again freely want to serve their country.