

Ronald L. Haeberle

The Honorable Ambassador Ha Kim Ngoc
Embassy of the Socialist Republic of Viet Nam
In the United States of America

December 11, 2019

Dear Ambassador Ha Kim Ngoc,

I appreciate that your staff invited me to your Embassy to alert you and the Government of the Socialist Republic of Vietnam to a serious infringement of my rights and to the defamation of my character by Phạm Thành Công, the former director of the Son Mỹ Memorial Museum, (Khu chứng tích Sơn Mỹ) located in Tư Cung Hamlet, Tịnh Khê Commune, Quảng Ngãi City, Quảng Ngãi Province, Viet Nam; by Ms. Phan Thị Vân Kiều, the current director; and by a team of their associates, who have unleashed a libelous and inexplicable smear campaign against me. I am writing to you and visiting the Embassy in an effort to resolve this fairly, and without escalation.

This campaign of vilification – to treat me as an enemy of the truth and of the Vietnamese people – is particularly disturbing and shameful given the role that I played, at considerable personal cost, to make sure that the crimes at My Lai came to light.

I am the one who took the photographs of the massacre in real time on the fateful day of 16 March 1968. I was the first to tell the story of these crimes against innocent Vietnamese civilians to the U.S. Army Criminal Investigation Division in 1969. And when it appeared that the U.S. Army was covering up this human rights crime, I brought the photos to my hometown newspaper, the Cleveland Plain Dealer, and eventually to Life Magazine, so that the American people and the world would learn what happened.

For refusing to tolerate the coverup, and for taking the photographs that proved the crimes against humanity, I was vilified and subject to threats for years in the United States. The harassment continued in April 1970 when, along with Hugh Thompson and Lawrence Coburn, I was hauled before an investigative subcommittee of the U.S. House of Representatives that was chaired by Congressman F. Edward Hébert of Louisiana, who suggested that we should be tried for treason.

Congressman Hébert, whose attacks on me the museum directors now find so credible was, by the way, the same member of Congress who had advocated bombing Hanoi with nuclear weapons. It was a lie when this Congressman claimed that I had exposed the My Lai Massacre to enrich myself and it is a lie when those associated with the Son Mỹ Memorial Museum say so today.

I can assure you that I have spent more money on legal fees and for travel expenses to regularly return to Vietnam than I ever received from the sale of my photographs. From that fateful day in 1968 I have shown my respect for the surviving heroes and those killed by American troops by dedicating myself to a lifetime of friendship and solidarity with the people of Vietnam.

What is the basis of the directors' quarrel with me? It is quite simple. In fact, they have been involved in a dispute for more than a decade, not with me but with Duc Tran Van, an

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individual who is featured in one of my photographs.

The photo showing the bodies of two children on a path at My Lai was one of many photos that Life Magazine published in its December 5, 1969, issue. The entire set of photos played a key role in undermining American public support for the U.S. war against Viet Nam by revealing the true nature of the war. At the time, I told Life Magazine that to the best of my knowledge the two children on the path in that photograph had been shot dead by American combat troops, along with 502 of their fellow villagers.

In 2011, I met Duc Tran Van for the first time when he made the effort to visit me at my home in the U.S. At that time, he told me that he was the boy in the photograph. I was skeptical of his claim because I am concerned about historical truth and about my own reputation as a serious photojournalist. I spent considerable time with Duc, assessing the veracity of his story.

Duc described in detail the activity surrounding the moment when I took the photograph of the two children. I then reconstructed the sequence of events by closely examining my color slides – slides that he could not have known of. My examination confirmed his story. I was then and I am still convinced that this man was indeed the boy on the trail. His account, that he and his sister got up after I turned and left that location, is entirely credible. Their mother had just been slaughtered and they ran in terror to his grandmother's home in a nearby hamlet, after having feigned death to escape being murdered.

This story is extremely significant for two reasons. One, as a photojournalist I am committed to portraying and labelling my photographs with complete historical integrity. Once I realized that the description that I gave to Life Magazine and which was used for the captions at the Son Mĩ Memorial Museum and the War Remnants Museum in Ho Chi Minh City was wrong, I approached both museums and requested that they revise the captions they were using to reflect the accurate description as I had determined it to be.

Obviously, correcting this error in no way undermines the fact that U.S. soldiers committed atrocities that day. On the contrary, to continue to display my photograph in a misleading manner can only provide ammunition for those who deny the larger truth of the massacre.

The War Remnants Museum complied with my request. The Son Mĩ Memorial Museum refused to do so. That is bad enough, but in recent months the Son Mĩ Memorial Museum's former and current directors and their associates have unleashed a virulent, libelous campaign against me on Facebook. (Corroborating documents accompany this letter.)

In addition to the historical distortions and personal attacks against me, the Son Mĩ Memorial Museum and its officials are perpetrating a significant legal wrong. After consulting with legal experts, I have concluded that the directors are infringing on my exclusive rights as the copyright holder, including the right to publicly display these photographs. Before mentioning the remedies I seek, let me spell out the legal wrongs that have been done.

As the copyright holder I have contracted with Getty Images to handle all licensing

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agreements. Neither I nor Getty Images have given the Son Mĩ Memorial Museum the right to display these photographs, let alone the right to incorrectly label the copyright-protected photograph of the two children on the path. Getty has the rights to these images because I never surrendered my rights. Now I and Getty retain those rights.

Officials of the Son Mĩ Memorial Museum claim that they have the right to display my works publicly because they purchased copies of the photographs from an unnamed foreigner. But as any copyright authority will confirm, the purchase and ownership of copies of a work of authorship does not – without a license from the copyright holder– transfer any of the copyright law rights of the author, nor does it authorize the purchaser to display the photograph publicly, even assuming the copy is an authentic and lawful one.

Moreover, even if the museum had been granted any limited right to display the photos at some point in time, the museum still has no permanent right to do so, and any such tolerance could be – and is – revoked.

Further, the display of the work in connection with a demonstrably false caption certainly is infringing on my moral rights under copyright law as the copyright holder to prevent the work from being mutilated by misrepresentation.

Let me insert here the relevant clause from my Getty Images agreements:

How licensing relates to copyright protection, ownership and infringement

Every file you download from Getty Images comes with a license, which allows you to use your image, illustration, video or music clip for specific uses over a certain amount of time, depending on the type of license. You do not own the file, but you have the right to use it.

If you use a file in a project without licensing it, you are infringing on the copyright and can be held liable.

Another serious wrong for which liability can be asserted is that the directors' false assertions about me are unquestionably injurious to my reputation and give rise to meritorious claims of defamation and intentional infliction of emotional distress.

Finally, the Son Mĩ Memorial Museum is exhibiting my photographs without attributing or crediting them to me, which also violates my moral rights under international copyright law.

Let me now state my bottom line concerning this assault on historical truth. Though I could request that the Son Mĩ Memorial Museum purchase license rights from me and my agency, I am not seeking to use this dispute to enrich myself, and at this point I have not responded in a public way to the attacks on me, because I want to resolve this matter without harm to Viet Nam's reputation.

I am seeking these specific remedies:

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- One: I insist that the Son Mỹ Memorial Museum adhere to the recognized standards of historical truth. I will not allow a photograph of mine to continue to be presented with a false caption. While it is true that I once thought this caption was correct, I now know that it is inaccurate. The museum must change the caption to one that I approve and know is correct.
- Secondly, the former and current directors and their associates must cease their campaigns of libel and slander against me and against Duc Tran Van. I don't know if Mr. Công's animus towards Duc is solely because of this dispute over the caption or if it has deeper roots. But I will insist that any license that I grant to the Son Mỹ Memorial Museum will include a clause that the license will be revoked in the event that the caption is altered against my wishes, or if campaigns of slander and libel are renewed at any point in the future.
- Thirdly, I also insist that my copyright and credit must be displayed on labels of all of my photographs on display in the museum: as below:

Copyright and photograph by Ronald L. Haeberle

In addition to meeting with you today, I am also meeting with my U.S. Senator, Sherrod Brown, and with the Pulitzer Prize-winning journalist Seymour Hersh, who exposed the My Lai Massacre.

I will explain the situation to both Senator Brown and Mr. Hersh. I will, however, ask them to hold off on any action or publicity until the government of Viet Nam has an opportunity to step in and assert control over this miscarriage of justice.

Thank you for your hospitality and your attention to this matter.

With kind regards,

Ronald L. Haeberle

Attachments

1. Ronald Haeberle open letter to leaders of Quảng Ngãi Province
2. Front page of Cleveland Plain Dealer dated Nov. 20, 1969
3. Life Magazine excerpt dated Dec. 5, 1969
4. Recent slanderous Facebook posts
5. English translations of Facebook posts