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Judgment at Fort Benning

The Government prosecutor in his summary remarks told the six-officer jury trying First Lieut. William Calley: "You gentlemen are the conscience of the United States Army. You are the conscience of this country. Your duty is clear . . . to find the accused guilty as charged."

The military court at Fort Benning, Ga., has discharged its duty in finding Lieutenant Calley guilty of premeditated murder in the hamlet called Mylai 4 in South Vietnam on March 16, 1968. The court had little room for choice after hearing months of testimony pinpointing Lieutenant Calley's role as a platoon leader and an active participant in a massacre that shocked the world. But the conviction of Lieutenant Calley, which reaffirms moral standards that the United States invoked against German and Japanese war criminals at Nuremberg and Tokyo, cannot alone clear the conscience of the Army or the nation.

Although Lieutenant Calley's personal guilt is beyond question, there remain grounds for the complaint of his attorney that Calley has been made a scapegoat—"the pigeon—the lowest officer on the totem pole." There is ample precedent at Nuremberg and Tokyo for a much broader assignment of responsibility at higher levels of command for the war crimes committed at Mylai and elsewhere throughout Indochina, as Prof. Telford Taylor, former chief prosecutor at Nuremberg, has pointed out. The Army and the nation so far have backed away from demanding the full accounting that justice and conscience require.

Of 25 officers and men originally charged either with crimes at Mylai or with attempting to cover up those crimes, nineteen have been cleared without trial, two have been acquitted and only three more relatively low-ranking officers await court martial.

Gen. William C. Westmoreland, the Army Chief of Staff, recently recommended demotion for two high officers who had been accused of cover-up by a military panel of inquiry but who had been subsequently freed of criminal charges. They are Maj. Gen. Samuel W. Koster and Brig. Gen. George H. Young Jr.

If the two officers are innocent, obviously they should not be punished. The recommendation for "administrative action," i.e., demotion to brigadier general and colonel, respectively, still to be acted on by the Secretary of the Army, clearly represents punishment. But if the officers are guilty of any command decision, or omission, intended to prevent disclosure of the murder of civilians—with the inevitable implication to the lower echelons that such conduct might be officially condoned—then they ought to be brought to trial.

By penalizing these officers without establishing specific wrong-doing General Westmoreland fosters the suspicion that the punishment is intended to avoid embarrassing questions about high-level responsibility for company-level behavior.

Beyond Mylai, and in spite of the Mylai disclosures, this nation still has not faced up to the moral and legal implications of tens of thousands of additional civilian deaths caused by widespread bombing and shelling of Vietnamese hamlets in so-called free-fire zones, a practice that has been extended to Cambodia and Laos. General Taylor has said that he considers these continuing violations of the rules of war to be "far more serious" than Mylai.