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The Medina Acquittal

After President Nixon abruptly intervened last April in the case of Lieut. William C. Calley Jr., convicted of murdering Vietnamese civilians in Mylai, the Army prosecutor wrote an anguished letter to the President. In it the prosecutor, Capt. Aubrey M. Daniels, said: "You have subjected a judicial system of this country to the criticism that it is subject to political influence. . . . What will be the impact of your decision upon the future trials, particularly those of the military?"

It is difficult to escape the conclusion that the impact Captain Daniels feared is reflected in the astounding acquittal this week of Lieutenant Calley's immediate superior, Capt. Ernest L. Medina, of all charges of involvement in the killing of civilians at Mylai.

To be sure, there is no evidence that Captain Medina participated directly in the mass slaughter of civilians at Mylai, as Lieutenant Calley unquestionably did. Testimony was fragmentary and inconclusive as to the nature of his involvement in two killing incidents with which he was originally specifically charged. But the court martial's finding that the company commander had not been aware even hours after the assault was launched that his men were "improperly killing noncombatants" raises questions of the most fundamental character. If there was no command responsibility in this situation, if Captain Medina was indeed innocent, then the Army itself stands condemned. An army cannot function unless command authority and responsibility go hand-in-hand.

The Medina acquittal apparently concludes the Government's effort to bring to justice the men involved in the immediate combat situation of one of the most shameful episodes in American military history. Of thirteen officers and enlisted men originally charged with the killings at Mylai—a handful of those who took part—only Lieutenant Calley has been convicted; and his life sentence has already been reduced to twenty years by a first-level review officer operating under the shadow of Presidential intervention.

That record is no credit to the Army, or to its Commander-in-Chief. It casts fresh doubt on the depth of the United States commitment to international rules of warfare, especially in light of the Army's harsh treatment of Lieut. Col. Anthony Herbert, the much-decorated professional soldier, who was railroaded out of a combat command in Vietnam and now faces early retirement because he tried to persuade his superiors that battlefield atrocities could not be ignored.