

NYTimes
Debacle of Military Justice

When the horror of the events at a South Vietnamese hamlet named Mylai 4 was first disclosed two years ago, the sickening story of women, babies and old men murdered by American soldiers jolted the nation's conscience. President Nixon called it a massacre. Lieut. Gen. William Peers, who conducted a careful inquiry into the Army's preliminary handling of the charges, described Mylai as tragedy of major proportions."

The Army's announcement, following the Peers report, that it would try sixteen officers and nine enlisted men in connection with the massacre renewed the faith of those who wanted to believe that the American military still distinguished between war and criminality. The conviction of Lieut. William Calley briefly reinforced that faith—although President Nixon's unwarranted intervention promptly undermined it.

But the conclusion of the trials without the conviction of any officer or man allegedly involved, except Lieutenant Calley, shatters the hope that the military establishment is truly capable of policing and judging itself. The clearance of all defendants except Calley does not prove, as some now claim, that the lieutenant was framed to buy immunity for the higher ranks. Calley's personal guilt, proved to the satisfaction of a battle-tested jury, remains unquestioned.

But it is also clear that Calley did not commit a solitary crime. The military chain of command, far from being ignorant of criminal actions in which so many participated so publicly, obviously devoted much effort to covering up rather than to reporting, investigating and exposing the crime. This would be inexcusable even had the Mylai story been kept from public view. After its disclosure, a trial procedure which failed to come to grips with the nature of the high-level cover-up suggests the absence of a command policy to prevent such war crimes. The Pentagon's unwillingness to respond to those other charges of atrocities made more recently by Col. Anthony Herbert raises serious questions about the civilian as well as the military leadership in Washington.

The tribunal which brought down the curtain on the Mylai trials argued that Colonel Henderson had been kept in ignorance of the massacre by the lies of his own officers. It is difficult to believe that it was beyond the Army's investigative capacity to identify the liars and track down the conspiracy of silence.

Americans who refuse to surrender the nation's honor and ideals can only see this debacle of military justice as proof that the military apparatus has lost its sense of accountability. If the White House is unwilling or unable to act, as seems to be the case, it is up to Congress to re-establish civilian controls over the policies and practices of the military. The first step might well be to insist that the Peers report, which virtually forced the Army to bring some of its own personnel to trial, be made public. It never has been, nor has the report on the Herbert case. Both these reports would surely throw some light where light is sorely needed.