

NYTimes APR 8 1971
The Calley Issues

The extraordinary letter of Capt. Aubrey M. Daniel 3d, Army prosecutor in the Calley case, is at one and the same time a magnificent expression of American idealism and a stark and stunning indictment of the role played in this affair by Richard M. Nixon, President of the United States.

Captain Daniel's letter, the full text of which was published in this newspaper yesterday, ought to be read in every schoolroom of America as a courageous statement of what this country is really all about: respect for human freedom, for individual rights and for impartial justice under law.

Captain Daniel makes two major points, both of which need to be affirmed again and again in the face of the hysterical outburst from those attacking the verdict against Lieut. William L. Calley Jr. for the murder of at least 22 South Vietnamese civilians in the village of Mylai. The first of these points is that Lieutenant Calley was convicted, under the most scrupulously fair procedure, of having committed a specific and despicable crime in direct violation of the laws of the United States and the rules and policies of the United States Army.

* * *

The issue in this case is not whether the Vietnam war is good or bad, not whether the United States is in a morally indefensible position in having pursued it for these half-dozen years. The issue is not whether large-scale aerial bombing or artillery fire or naval bombardment in which many thousands of innocent civilians have lost their lives is just as reprehensible as the incident which President Nixon at another time called the "massacre" of Mylai. The issue is not whether the enemy guerrillas who have eviscerated or crucified or decapitated hundreds or thousands of innocent South Vietnamese civilians are as culpable as Calley. Nor is the issue whether or not other American soldiers who may have participated in similarly brutal killings of Vietnamese civilians have gone scot free. Nor is it even whether higher officers in the Army chain of command should be brought to trial for having concealed knowledge of the Mylai affair.

There can be no doubt that most of these issues raised by the hawks and doves who have expressed their horror over the Calley verdict are worth raising. They are valid questions; but they are not the issue here nor do they in any way whatsoever affect the justice of this

trial. Calley is not "all of us," Dean Sayre of Washington Cathedral to the contrary. Calley is a convicted murderer who deserves pity, perhaps, but neither exculpation nor adulation. To have exonerated this wretched lieutenant would have degraded the Army and made a monumental farce of American efforts to secure humane treatment of American prisoners now in enemy hands. The Army would be saying it was permissible to murder civilians under American control; and in fact the witless uproar over the Calley conviction is giving precisely that impression even now throughout the civilized world.

* * *

And here we come to the second major point made by Captain Daniel: the outrageously political intervention of his Commander in Chief, to whom Captain Daniel addressed his remarkable letter. The judicial procedures of the United States Army have been unconscionably subverted by the White House statement that the President would personally review and decide the case before the final sentence is carried out. Mr. Nixon's public entrance into this matter before the normal and automatic review procedures had even begun was an affront to the American judicial process, and has already done untold damage to respect for American law as well as justice, civil as well as military.

Captain Daniel and the rest of us had a right to expect from the President an expression of moral leadership, of reverence for the law, of honor to those millions of members of the armed forces who have not engaged in atrocities but who have done their duty just as the prosecutor, the judge and the jury did theirs in the trial at Fort Benning. Instead, the President of the United States, failing to stand up to his responsibility, has yielded to momentary public clamor and to illusory political expediency.