



A FACE RAVAGED BY THE WAR

Aged woman lived near site of reported massacre

—UPI Photo

Army Rule Gag on Calley Charges

WASHINGTON — (AP) — Army spokesmen say regulations prevent them from clarifying whether First Lt. William L. Calley Jr. is accused of pulling the trigger or issuing the orders in the alleged murder of 109 Vietnamese civilians.

The Army said yesterday Calley will be court-martialed on charges of premeditated murder in the 1968 raid on the village of Song My. He will remain free until his trial.

The Pentagon said, in effect, Calley could be tried for premeditated murder whether he actually pulled the trigger or issued orders to men of his platoon to slay the Vietnamese villagers.

One of the legal considerations that will come into play is the same one used in the Nuernberg war crimes trials — that obeying a lawful order is no excuse for murder.

That principle has been adopted by the Army. But the Army also holds that issuing an order to kill can amount to premeditated murder, even if the person who issues the order takes no part in the actual slaying.

The Pentagon avoided taking a public stand on which basis Calley stands accused.

Flexibility

Pentagon sources said it is part of the Army's legal strategy designed to give Army lawyers wide flexibility in their prosecution of the case.

The specifications were explicit in saying that Calley did "with premeditation murder . . . Oriental human

beings . . . by means of shooting them with a rifle."

The six specifications listed a total of 109 victims including a 2 year old child.

"It means that he did these things," defense spokesman Richard Capen initially told reporters.

Army officers later said privately, however, Calley also had been charged on the basis of orders he had issued and was not necessarily the triggerman in each of the alleged instances.

Pressed by newsmen, the Army finally issued a legalistic statement saying it was unable to resolve the question at the headquarters level:

Possibilities

"Whether Lt. Calley is alleged to be the actual perpetrator of each of the murders charged in the specification, or whether he is charged as an aider and abettor, or as one who counseled, commanded or procured the commission of the offenses would require a rather detailed discussion of the evidence in the case."

Regulations prohibit this, the Army said.

Nevertheless, the Army said that under the Uniform Code of Military Justice, Calley would be liable for conviction on charges of premeditated murder "under any of the three theories mentioned above."

If convicted, the Waynesville, N.C., man would be sentenced either to death or life imprisonment since the case is being treated as a capital offense, the Pentagon said.