

strated how great a danger Spanish democracy faces. But ETA's military wing and GRAPO soon resumed their campaigns, and with each new murder the arguments of the coup's leader, Guardia Civil Colonel Tejero, grow stronger: The government is too weak and ineffectual to control the terrorists, he says; Spain needs a military government to take effective action.

The government, now under conservative Leopoldo Calvo Sotelo, has been buying time by yielding where it thinks it must. Since this has been notably in the stationing of troops along the Basque border and a startling leniency toward Colonel Tejero and his co-conspirators, journalists have begun to suggest that the coup actually succeeded.

The conclusion is probably exaggerated. A transition such as Spain is experiencing is certain to have difficult moments, and of course the whole problem has been exacerbated by the world economic crisis, for which Spain was ill prepared. Yet the outlook is unmistakably dark. It might well be impossible for the government to take the brave step of removing the Guard from the Basque region; it is unlikely even to try. And the Guard, whose members have been most often the targets of terrorist guns, is understandably outraged.

Not far from my home in the southern province of Almeria three young men were shot dead the other day by Guardsmen who were taking them to Madrid for interrogation as suspected Basque terrorists. The three turn out to have been on vacation from Santander, which is not a terrorist center. Friends and relatives deny vigorously that they were terrorists, and workers in the factory at which they were employed held a protest strike. Conflicting and unconvincing statements have come from official sources, and the Guard may suffer a considerable public relations setback if it turns out, as it now appears to some, that they shot three unarmed and innocent youths.

Still, the lesson is there. Historically a trigger-happy force, the Guardia Civil is smarting under the humiliation of seeing its members killed and remaining—in its view—impotent to do anything about it. And sympathy for them grows. The graffiti on the walls say "Viva Tejero"; and the colonel, "imprisoned" in a luxurious apartment, where he entertains guests and receives hundreds of letters of support, is complacently unrepentant. With each new political murder his cause grows stronger and democracy weaker.

What can be done? The terrorists seem locked into their suicidal absurdities. The government is locked into its own impotence and probably will give the military increasing authority to deal with the situation. If real help is to come to what was recently the world's most promising new democracy, it must come from outside, especially from the United States and the European Economic Community.

The role of the U.S. has not been one in which Americans can take much pride. The money it poured into the country during the Franco reign was principally for military purposes; there are Spaniards who say that the only U.S. interest in the Iberian Peninsula is as a military base in southern Europe. More important, U.S. political figures have been markedly reticent in expressing support for the beleaguered democracy, especially after the February coup. Values that many Americans have thought central to their political system are at stake in Spain today. Their government should be sending the strongest possible signals of support for Spanish democracy and unqualified statements of opposition to a military government. Such signals would carry weight.

At least as important is the attitude of the EEC. Through the Franco years its member countries refused Spain

admission because of its undemocratic government, an attitude that gave comfort and encouragement to Franco's victims and enemies. When the dictatorship finally fell, Europe's politicians and press were jubilant and congratulatory. Spain's application for admission to the EEC was encouraged and, when presented, approved. But approval was the first stage and implementation, with all the complexities of trade and tariff agreements to work out, was a few years down the line.

Today actual membership in the EEC might well be the strongest single measure of support Spanish democracy could receive. One would assume that the wise men and women of Brussels and Strasbourg (read Paris, London, and Bonn) would take steps to speed up the process. The reverse is the case. Hit by recession, Europeans are having second thoughts about admitting new competition to their club. Spain makes excellent wine cheaper than its French counterparts, so the French wine makers lobby against Spain's membership. Spanish laborers still work very hard for lower wages than northern European workers, and there is unemployment in EEC countries. And so on and on.

Time is running out for Spain, and for the world. The Spanish Civil War, which began forty-five years ago, was a watershed in world history, and not a happy one. A collapse back into dictatorship will be another, no less damaging.

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## EXCURSUS 2

### Robert F. Drinan on TEN YEARS AFTER MYLAI

In the fall of 1971 the nation was perplexed, anguished, and angry over the March 29 conviction of Lieutenant William Calley and the acquittal on September 22 of Captain Ernest Medina in the case of the Mylai massacre.

I, like everyone else, should be happy to forget this melancholy chapter in our history, but my memory is constantly jogged by an event that occurred in 1969. I was in Saigon then as a member of a team sent by the Fellowship of Reconciliation to investigate the number and nature of political prisoners. One day I visited an attorney recommended by some Buddhist monks as a person knowledgeable in the area of human rights. The lawyer was careful not to reveal his thoughts about the propriety of American forces being in his country but told me quietly about the extensive files he had accumulated on what he said might be war crimes. He pointed to two long walls of his office along which hundreds of manila envelopes reposed. Each of these files, he explained, contained evidence of acts by Americans which, in the opinion of the Vietnamese who reported them, violated the rules of war set forth in the Geneva Conventions. I recall well the Vietnamese lawyer's words, though scarcely audible over the noise of a window air conditioner:

After the war is over and you Americans have left Vietnam, we will have our own Nuremberg. You will dismiss it as sheer Communist propaganda, but the one-half of

humanity that lives in Asia will believe that Americans acted like barbarians when they were in Vietnam.

I became personally involved in Mylai when, in March, 1969, I received a letter from a soldier who was not there but who had pieced together the story of the massacre. This letter, which went to several members of Congress, may have helped to bring about Lieutenant Calley's indictment in September, 1969. The indictment for four counts of murder received little press notice until November 24, when Seymour Hersh of the *New York Times* brought Paul Meadlo, a member of Calley's platoon, to CBS for a nationally televised interview. Meadlo claimed that 370 villagers had been murdered systematically at Mylai and that he himself was responsible for 35 or 40 of their deaths. With these revelations—amplified in Hersh's 1970 book, *My Lai Four: A Report on the Massacre and Its Aftermath*—the tragic story became another gruesome chapter in America's Vietnam nightmare.

The army, under intense pressure from Congress and public opinion, eventually charged twenty-five officers and enlisted men with Mylai-related offenses. In due course charges against nineteen of the twenty-five were dropped, and of the remaining six all but Calley were eventually acquitted.

Calley had only two possible defenses: that his mental processes were so impaired the day of Mylai that he was incapable of the premeditation necessary to commit murder, or that he was only following orders. Once he had been declared mentally competent, he claimed that he had committed no crime: Captain Medina ordered him to "kill everything that breathed"; "I acted as I was directed, and I carried out the orders I was given...."

Calley testified that he never had been told he was required to make a determination of the legality or illegality of an order, and added that he and everyone in Vietnam had been instructed that all Vietnamese—men, women, and children—were potential enemies. In fact, children, because of their "unsuspectedness," were "even more dangerous."

All through his testimony Calley referred to the pressure placed upon him by his superiors' insistence on a higher body count from his platoon. He noted that when he came to his company, it had no body count and that Captain Medina told him to "try to catch up with everybody else." Calley also stated that when he failed to follow the captain's orders promptly, Medina "chewed me out a couple of times."

The jury in the Calley case knew that the entire world would be evaluating its verdict. Acquittal or a lenient sentence would proclaim, in effect, that the United States does not follow the rules of war accepted by all civilized nations or was so determined to win the war in Vietnam that it would somehow render those rules inapplicable. After the longest court-martial in history, Calley was convicted of multiple murders and sentenced to life at hard labor.

The conviction brought forth a tidal wave of protest and sympathy. A Gallup Poll revealed that 79 per cent of the American people disapproved of the Calley verdict, only 9 per cent approved, and 12 per cent had no opinion. The *New York Times* on April 8, 1971, tried to calm the waters, editorializing that "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." The *Times* also stated that any other result would have "made a monumental farce of American efforts to secure humane treatment of American prisoners now in enemy hands." Dean Francis B.

Sayre of the Washington Cathedral, writing in the *Times*, felt that the outcry for leniency came from "the lurking sense of sin that pervades our whole society over the war and that citizens realize that every one of us was tried and convicted in the Calley case."

Calley's appeals lasted several years and, after three-and-a-half years' imprisonment, he was released. The trial of Captain Medina ended differently. He was charged with three counts of murder and two of assault. The critical issue that emerged at the trial was whether Medina could be held accountable for the actions of his troops. The Army Field Manual is clear on this issue. It makes the officer "responsible for acts of subordinates if he has actual knowledge or should have knowledge...that troops...subject to his control...have committed a war crime." The trial judge erroneously instructed the jury that actual knowledge was required. Strangely, the prosecution made no objection and Medina was acquitted of all charges. This acquittal seems inconsistent with the law set down by the U.S. Supreme Court in the case of General Yamashita: that a commander is liable for the crimes of his subordinates if he knew, or should have known, they were being committed and failed to do what he could to prevent or punish them.

No one is urging a presidential pardon of Lieutenant Calley, but one might do so with a certain logic. The claim can be made that for a wide variety of reasons Calley was a scapegoat, now required to carry a burden that could have been imposed on any of the three million Americans sent to Vietnam. Furthermore, who can say that Calley's acts against those he faced directly were more heinous than the acts of others from the air against people they could not see? Of course one could argue as well that to pardon Calley is symbolically to absolve the entire nation of complicity in the horrors of the Vietnam war.

Mylai may be a chapter in our history that Asians will remember and Americans will forget, but I am haunted by the fear that the files collected by the Saigon attorney may eventually be utilized. I say "fear," but perhaps I should say "hope." Humanity and history should pronounce a measured moral and legal judgment on America's conduct during its longest war. America refused to do so when it declined to accept as just the decision on Lieutenant Calley. America reasoned that war is hell—especially a guerrilla war—and Calley had done nothing that would not have been done by many others, themselves included. But if this is so, America waged a war in contravention of all the solemn restraints mandated by international law for the conduct of warfare. And if it did, America owes apologies and—more important—restitution, to the 35 million people of Vietnam.

Why is there virtually no sentiment in America today for giving reparations or even medical assistance to the people of Vietnam? When I visited with the highest leaders in Hanoi in the summer of 1979, they were almost begging for recognition. But then, as now, the U.S. was adamant in stating that we will not think of helping Vietnam until it withdraws its 200,000 Russian-financed troops from Cambodia. For similar reasons nonrecognition was our policy toward Peking in 1949 and toward Cuba in 1959. Did any good come of our intransigence?

The tenth anniversary of the Calley case should remind us that the moral revulsion we felt toward America's participation in the war may not yet be fully exiated or extinguished in our souls.

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